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# Standing Committee on Justice and Human Rights

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EVIDENCE

**Thursday, November 18, 2010**

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**Chair**

**Mr. Ed Fast**



## Standing Committee on Justice and Human Rights

Thursday, November 18, 2010

• (1530)

[English]

**The Chair (Mr. Ed Fast (Abbotsford, CPC)):** I call the meeting to order. This is meeting number 36 of the Standing Committee on Justice and Human Rights. For the record, today is Thursday, November 18, 2010.

We are going to be continuing our study of Bill S-6. However, before we do that, members, I want to go through a couple of housekeeping items.

First of all, at our next meeting we will be hearing at least one more witness, if not two. We're just trying to line up the final witness. We're waiting to confirm that. Then we will move to clause-by-clause.

At the following meeting we will have the minister appearing on Bill C-4, you may recall. Then we will be dealing with Bill C-21.

Mr. Comartin, you had asked about witnesses on Bill C-21. The one witness you asked for was Statistics Canada. They have indicated that they don't have any additional information to add to what's already on the record. Also, incidentally, they're not available on the two dates we made available to them.

We haven't received any other witnesses from our members here. I just want to make sure that you're aware of that, because our timeframe now is pretty short.

Go ahead, Ms. Jennings.

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** Did I understand you correctly that the committee would be moving to clause-by-clause on Bill S-6 on Tuesday afternoon?

**The Chair:** Yes.

**Hon. Marlene Jennings:** The notice we received previously did not have clause-by-clause on Tuesday, I believe.

**The Chair:** What kind of notice would you have received?

**Hon. Marlene Jennings:** It would be the calendar of what the committee would be doing.

**The Chair:** Actually, the steering committee report was adopted, and it showed Bill S-6 for clause-by-clause.

**Hon. Marlene Jennings:** We will do clause-by-clause on Tuesday.

**The Chair:** Yes.

**Hon. Marlene Jennings:** So we would have to have any amendments in by when?

**The Chair:** We want to have the amendments in by Monday noon, if that works for you.

**Hon. Marlene Jennings:** It is Monday noon. Thank you.

**The Chair:** I note that we're planning to have a steering committee meeting on Tuesday, November 23, at 11:30. I understand that we've inquired about your availability, and the three members of the opposition are available at that time.

Finally, you should have before you a budget for the Bill S-6 study. It's not a big budget. The amount requested is \$3,800 to cover witness expenses.

It's moved by Mr. Lee.

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

**The Chair:** We'll go to Mr. Comartin.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** With regard to Bill C-21, there had been some discussion between the clerk and my office earlier today about an additional witness because of the case that surfaced earlier this week, the Ponzi scheme case, where the charges were all dropped. I would like to have some indication....

For me, and I'm not being overly political here, if we are going ahead with Bill C-21, and we have that kind of process going on, which I don't think is occurring just in Ontario, you wonder why we bother with the legislation. It's actually going to expand the number of potential offences for white collar crime. You have charges under existing law, and then they're stayed, and not only stayed but dropped, without any proceedings.

I would like a witness who could give us some sense of what in fact is occurring in Ontario.

**The Chair:** Who are you proposing to bring?

**Mr. Joe Comartin:** The Attorney General in Ontario is actually conducting an investigation into this right now, so I am afraid that we're not going to get anybody directly from the government, while that's going on, who will take any kind of position.

There are several lawyers in Toronto who have been acting for a number of the victims who have experienced this consequence. It's clear that there's been fraud and other illegal activity. Then the charges either get dropped or stayed or there are very minimal fines as penalties—rarely jail time, usually—simply because the prosecutors do not have enough resources to take the trials on.

**The Chair:** Could I leave it to you, then, to identify any witnesses?

**Mr. Joe Comartin:** Yes. I didn't want the record to be left on the basis that I was conceding that there weren't going to be any witnesses.

**The Chair:** No, I would never make that assumption. It's just that the one witness you had proposed basically indicated that there was not much to add. I would be glad to consider one more.

•(1535)

**Mr. Joe Comartin:** With regard to the information that we got from Statistics Canada the last time, from Juristat, I'm assuming we will be able to look at that information in our consideration of Bill C-21 at this time.

**The Chair:** It should be part of the record, I would imagine.

Ms. Jennings.

**Hon. Marlene Jennings:** To come back to the issue of the future calendar of this committee and the steering committee report, may I ask when the steering committee report was presented to the committee of the whole and adopted?

**The Chair:** I'll have the clerk look into it while we carry on with our witness, and then maybe we can discuss it at the end of the meeting. Is that all right?

**Hon. Marlene Jennings:** Thank you.

**The Chair:** Okay, let's go back to BILLS-6. We are actually dealing with two items. We have Bill S-6 and we also have a review of an order-in-council appointment under Standing Orders 110 and 111.

We'll begin with the review of the OIC appointment. We're considering the order-in-council appointment of Susan O'Sullivan to the position of federal ombudsman for victims of crime. During the second hour, as requested, Ms. O'Sullivan will make herself available to answer questions on Bill S-6. We'll also have with us Mr. Howard Sapers, the correctional investigator, and his executive director and general counsel, Ivan Zinger.

This is what I'm proposing to do. Typically we allocate one hour for the order-in-council review. If we don't need all that time, I'll take the balance of the time for our meeting and split it in two. Half of that would go to Ms. O'Sullivan, and half to Mr. Sapers. Is that acceptable to the committee members?

All right, we'll proceed on that basis.

We have Ms. O'Sullivan with us.

I think you know the drill. You have ten minutes to present, and then we'll open the floor to questions.

The floor is yours.

[*Translation*]

**Ms. Susan O'Sullivan (Federal Ombudsman for Victims of Crime, Office of the Federal Ombudsman for Victims of Crime):** Good afternoon, Mr. Chairman, committee members. I am delighted to be here this afternoon and to have this opportunity to meet with you and to discuss my appointment as Federal Ombudsman for Victims of Crime.

Allow me to begin by saying that I was both honoured to be chosen and extremely enthusiastic at accepting this appointment and in so doing in putting my passion to use through serving the victims

of crime. I believe that this organization is truly capable of changing things for the better and of raising the awareness level of some of the difficult challenges confronting victims in Canada.

You invited me here today to discuss the qualifications and skills that will allow me to carry out my work as ombudsman. Let me begin by saying that I believe that the selection of the leadership for organizations such as ours is important and that I fully support, without any reservation whatsoever, the measures taken to this end.

In order to facilitate your examination of my appointment, I will provide you this afternoon with a brief outline of my background and experience, including the skills and abilities that I will be applying to the fulfilment of my duties in this position. I will also share with you a bit of the specific passion that drives me in this area and my management style.

[*English*]

I would first like to take a minute to tell you a little bit about who I am and where I come from.

I was born and raised here in Ottawa, and I come from a family of six children. My parents instilled in each and every one of us the basic sense of right and wrong, the importance of honesty, integrity, and treating people with respect and ethics. Their golden rule was simply that if you could help someone, you helped them.

Why I share this with you this afternoon is that these are the core values that guide me in both my personal and professional life. I describe my leadership style as principle-centred; in other words, do the right thing for the right reason.

My career experience dates back almost 30 years. I graduated from Carleton University in April of 1981, and I started as a police officer with the Ottawa Police Service one month later. I joined the service because I wanted to help people and make a difference in my community.

I started my career walking the beat, and I've worked in patrol services, the criminal investigation division, and operations support. I have had the opportunity to see first-hand the devastation crime can wreak on victims: to see parents told that their child has been killed by a drunk driver; to interview children who have been sexually assaulted; to investigate crimes where the victim has special needs and may not be able to communicate; to see a victim of domestic assault have to pick up her children, her belongings, and go to a shelter for her safety and the safety of her children; to see families and victims try to navigate the complex and complicated criminal justice system.

In those roles I have also had the opportunity to see how meeting the needs of victims requires a multi-agency approach, one that will support victims from the initial contact through the criminal justice system and beyond.

Following that experience, I moved to patrol services, where I became the district and then duty inspector. As inspector, I was responsible for attending and assuming command of major and high-risk incidents. This position helped me learn to be strategic and collected in a crisis and, most importantly, to be flexible. It taught me the importance of thinking outside the box and evaluating all the possible options and outcomes before taking action.

In the early 1990s I was seconded to the Canadian Police College, where I had the opportunity to work for a year in the communications skills unit and another year in the executive development unit. But I also had a unique opportunity—and some of you may recall the Rix Rogers report on child sexual abuse—to be the lead working on a national police prevention of family violence training initiative, and was able to co-author and contribute to over ten national reports in the area of vulnerable victim police training.

In 2001 I was appointed the deputy chief of operations support, and was able to achieve and work on some significant areas, including emergency management. I worked on the city's five-year emergency management plan. I was co-chair of the original chemical, biological, nuclear explosives program here in the national capital region.

I was executive sponsor of the respectful workplace program for the Ottawa Police Service, which was five years in the making and really helps to address what is one of the largest struggles that organizations must deal with, having a healthy and safe work environment. I was also involved in information sharing among government partners to mitigate security threats, and in crime prevention and the development of the Ottawa Police Service youth strategy. And I also had the unique opportunity, as a result of some tragedies within our organization, to be part of the redevelopment of the critical incident stress management as a result, sadly, of numerous officers' suicides within our organization.

In 2006 I moved into the post of deputy chief for patrol operations, where I was able to provide further leadership in the area of strategic planning, in particular as chair of two of the Ottawa Police Service's business plans.

I finished my career as the deputy chief of operation support, where I was instrumental in developing and implementing a program called "operation intersect", playing a leadership role as president of the leadership in Counter Terrorism Alumni Association, an international network of senior police leaders committed to addressing issues regarding leadership, intelligence, and operations in relation to terrorism, issues that are increasingly important in both our city and our country.

Beyond management skills and leadership, the position of deputy chief requires someone who is unafraid to tackle tough issues. There's often no road map for some of the decisions that have to be made. In this position, and throughout my career, I was an advocate for progress to keep pushing forward and finding new and effective ways to deal with the increasingly complex challenges.

I would never feel comfortable taking credit for the good work of the Ottawa Police, because the truth is that the work is only as strong as the team behind you, and I have had the privilege of working with some of the best teams. I will say, however, that the skills I developed in working with and managing these teams will be invaluable to me in my new role.

● (1540)

Our time together is limited, so perhaps I can best illustrate my leadership style and experience through two specific examples.

The first I would like to tell you about—and I mentioned it earlier—is Operation Intersect. This came about as the result of my work with leaders in the field of counter-terrorism.

Within the national capital region there was a need to develop a tri-government framework, a framework that allows municipalities, provinces, and the federal government to work together to share information; in other words, to ensure that when difficult decisions had to be made in times of threat, people were making those decisions based on the best information available and information that could be shared among agencies.

We dealt with six different threats, and it allowed for a planned approach by all responders to mitigate the effect in a manner that alerts rather than alarms and enhances public safety and awareness during times of instability and uncertainty. Operation Intersect is in practice now and has been used to support many major events within the national capital region and it has been deployed through major terrorism trials such as Khawaja. I could go on.

Operation Intersect involves over 32 organizations.

● (1545)

[*Translation*]

The program is also available in both official languages.

[*English*]

The success of this program was seen, I think, when I was invited to represent the organization to present at an international counter-terrorism conference this spring in London, England, the kind of work this community was doing to break down those silos when having to deal with those multi-agency environments.

The second one I'd like to highlight for you—and why I mention Operation Intersect—is because the program that has been developed is built off the five years of great work. The governance structure was to better coordinate responses for victims of crime here in the city of Ottawa, a program that has come to be known as the coordinated victim assistance program. It was born of the recognition that if we are truly going to meet the needs of all victims, they cannot be met by any one agency, and we must be working together strategically to leverage all the organization's responses to be able to support victims and all their unique needs.

If I may say, CVAP also uses all the lessons learned from Operation Intersect and brings together, as I mentioned, representatives from all three levels of government to address the proper support for victims in the community here in Ottawa. This program is still in its early stages. I am confident that the work that has been done will result in positive change for victims locally and beyond.

When the opportunity for this position arose, I saw it as a perfect fit. I felt that my experience working in law enforcement for the past 30 years had given me an incredible respect for the immediate and clear impact that crime has on victims. The trauma, devastation, strength, and resilience of victims I have seen and assisted has always been a source of inspiration for my work in the community and will continue to inspire me as ombudsman.

I am excited to have the opportunity to use my hands-on experience and all that I have learned from the victims we assisted to make a difference for all Canadians. For me, it is the chance for my work to come full circle and to help those who are most affected by crime, the victims. There is no doubt that as ombudsman I have a much wider responsibility to victims of crime in Canada. For that reason, I have worked very hard to get up to speed and learn the ins and outs of the boundaries, capacities, and role of an ombudsman in the federal government. I will continue to strengthen that knowledge as we move forward.

I would like to conclude by sharing with you my vision for this office and the work we can accomplish. As ombudsman, I see it as my job to bring about positive change for victims. I have a responsibility to both victims and the government to ensure that our office is responsible to victims, that we listen carefully to the issues victims raise, and ensure that their voices are heard at the federal level.

There are many ways to accomplish this, but my preferred approach is by keeping open lines of communication and providing everyone involved the opportunity to become part of the solution. We need to find common ground among governments, NGOs, and victims to ensure we are able to make that change happen.

I will not always agree with government, and where I disagree I will make my views known. However, I am not concerned with being critical for the sake of... What I am concerned about is doing the right thing for the right reasons and making things better for victims of crime in Canada.

Mr. Chairman and members of the committee, I hope this afternoon I have provided you with the information you need to feel confident in my appointment as ombudsman for victims of crime. I believe I bring to this position a proven track record of solid work, integrity, and leadership.

[Translation]

I was drawn to law enforcement because of my desire to help people. Today, in this new position, I will continue to work to serve the public and it is my hope that I will be able to continue to do this over the course of the next three years.

[English]

Given my 30 years of hands-on experience, my leadership style, and my vision for this office, I feel I have what it takes to build on the success of this office and to help balance the scales for victims.

I would be happy to answer any questions you might have. Thank you.

[Translation]

Thank you.

[English]

**The Chair:** Thank you very much.

Before we go to questions, I want to remind committee members that an appointee who is called before us for examination.... If it's an order-in-council examination—and I am quoting O'Brien and Bosc—the committee "is limited by the Standing Orders to examining the individual's qualifications and competence to perform

the duties of the office sought". So I seek your cooperation in complying with that. But as always, we'll be reasonable in terms of the questions that will be permitted.

We'll begin with Ms. Jennings.

[Translation]

**Hon. Marlene Jennings:** Thank you, Mr. Chairman.

Ms. O'Sullivan, I thank you for your presentation and I congratulate you for your appointment. I find your vision of the role of Federal Ombudsman for Victims of Crime to be a laudable one.

You said that you would not hesitate to state publicly that the government is wrong if you are of the belief that it is mistaken in its practices or policies.

What do you think of a government that allocates a budget to provide services to victims leaving close to half of that money on the table and at the same time launches an advertising campaign aimed...?

• (1550)

[English]

**The Chair:** We have a point of order.

Go ahead, Mr. Dechert.

**Mr. Bob Dechert (Mississauga—Erindale, CPC):** Mr. Chair, I think Ms. Jennings may not have not been able to hear your opening remarks about the tenor of the questions to be asked to the witness in respect of her appointment. Perhaps you could repeat them for her, because I think where she was going with that question was clearly out of line with the rules you set out.

**The Chair:** She probably heard it. It's just that we want to make sure that we comply.

[Translation]

**Hon. Marlene Jennings:** I wish to respond. Before going into politics, I sat on a selection committee for senior officers. I can tell you that part of the exercise and process involved in determining if an individual is qualified to fill the position is to place that individual in a hypothetical situation and to observe his or her reactions, conclusions and suggested solutions.

I am in the process of describing a hypothetical situation in order to determine how Ms. O'Sullivan will act in her role as Federal Ombudsman. I believe that this is perfectly appropriate and fits the mandate and the Standing Orders that you mentioned and read out loud to all the members of this committee.

[English]

**The Chair:** Mr. Comartin, go ahead.

**Mr. Joe Comartin:** Anticipating that I may breach your comments, I'm not sure that I'll classify it as a ruling.

It's clear that the ombudsman's role has an advocacy component. I think, in part, what Ms. Jennings is getting at and what I would like to get at is the perspective this particular ombudsperson has with regard to the advocacy role.

I'm a bit concerned about your comments at the start, Mr. Chair, in terms of limiting our ability to question—I was going to say this candidate—this ombudsperson for victims of crime in this country on her perspective on the role she's supposed to be playing with respect to advocacy on behalf of victims of crime.

**The Chair:** First of all, the comments I made, which limit the scope of this examination, were straight out of O'Brien and Bosc, and they reflect the Standing Orders. Certainly it wasn't my opinion that I quoted to you. I quoted directly from O'Brien and Bosc. Those are the terms within which this examination takes place. I have flexibility, as the chair, to allow a fairly generous interpretation of that, but we don't want to go too much outside of that. Let's just keep that in mind.

What you couldn't ask Ms. O'Sullivan is what kinds of policies she would adopt. She certainly shouldn't be prejudicing decisions she'll be making in the future. That's the whole purpose of having these limitations. I think all of us understand that. Pretty well everyone, except one, is a lawyer, so we understand that.

We'll go back to you, keeping those comments in mind.

[Translation]

**Hon. Marlene Jennings:** Thank you, Mr. Chairman.

I perhaps forgot to clarify that the case I was putting to Ms. O'Sullivan was hypothetical.

I come back now to the government's program. For example, an amount of \$10 million is allocated to supply and provide direct services to victims of crime for one fiscal year. At the end of that fiscal year, only half of that amount has been spent, but during the same period, the government spent more than half of the budget for an advertising campaign based on the premise that certain...

•(1555)

[English]

**The Chair:** One moment, Ms. Jennings.

Mr. Petit, is this a point of order?

[Translation]

**Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC):** Yes. On a point of order. You explained the Standing Orders to Ms. Jennings. However, she is, in an indirect way, doing exactly what you just told her not to do. She is playing politics, and I do not like that.

Your story about a hypothetical example just does not fly. All you want is to target the Conservative party. That is all you are doing, and that is not appropriate. That is not why our guest is here. That is what I would like to have you understand. The Chairman...

[English]

**The Chair:** Mr. Petit, order.

Listen, I'm going to allow Ms. Jennings to carry on. If I feel at the end of her question that she's not coming within the rules, the Standing Orders, I will let her know.

I want to be fair with everybody, but let's move along. If she's outside the Standing Orders, I will call her on it.

Mr. Woodworth.

**Mr. Stephen Woodworth (Kitchener Centre, CPC):** I hope you don't mind my speaking to the point of order, although you seem to have made a ruling on it already.

I think there's wisdom in not asking a witness to try to prejudge a particular decision. If you put a hypothetical case to someone in this witness's position, you're inviting her to prejudge it. That's where the point of order has force. We might ask about general beliefs and opinions. But to suggest a hypothetical question and ask a witness what he or she would do in such a case is to invite an official to prejudge. This is what the rule is seeking to avoid.

Thank you.

**The Chair:** The problem is that she hasn't actually completed her question yet. Once it's complete, I can assess whether it's in order or not.

Ms. Jennings, carry on.

**Hon. Marlene Jennings:** As an aside, I'm going to open a parenthesis. Although I'm not sure Mr. Petit is aware of it, he just stated that my hypothetical case was not hypothetical but factual. I guess I'm going to have to change examples. I would not wish to put Ms. O'Sullivan in the difficult position of having to comment on an actual event that took place under this Conservative government. It had a budget of close to \$10 million to provide services to victims of crime, but it didn't spend it. Instead, it let half of it lapse and then turned around and spent \$6 million on an ad campaign called "Victims Matter", in which it claims that certain pieces of legislation are enforced when they are not.

**The Chair:** Ms. Jennings, order.

Let's get back to the witness.

**Hon. Marlene Jennings:** Thank you.

Given that the sensibilities and sensitivities of the Conservative members are so high, I will leave the hypothetical case aside.

I have only one point. Your CV is impressive, and I think you've demonstrated on paper that you have the qualifications for the job. It's probably simply an oversight, but on your CV you mention that you were deputy chief, operations support, and deputy chief, patrol operations, from October 2001 to August 2010. However, you neglected to state which police department you were working for. I'm assuming it was the City of Ottawa.

**Ms. Susan O'Sullivan:** Yes, sorry, it was the Ottawa police department.

**Hon. Marlene Jennings:** Congratulations on your excellent career. Judging from this, I think you have the qualifications, and I'm looking forward to seeing you work.

**Ms. Susan O'Sullivan:** Thank you.

[Translation]

**The Chair:** Mr. Ménard, you have the floor.

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** Thank you, Mr. Chairman.

I too am impressed by your resume.

I do not know much about your office. I would like you to familiarize us with it in a few words, very quickly. I have three short questions. How many employees do you have?

**Ms. Susan O'Sullivan:** There are approximately 600 civilians and 1,400 officers. There is therefore a staff of 2,000.

• (1600)

**Mr. Serge Ménard:** There are 2,000 individuals.

**Ms. Susan O'Sullivan:** Yes. There are 2,000 employees with the Ottawa Police Services.

**Mr. Serge Ménard:** The Services?

**Ms. Susan O'Sullivan:** Yes.

Oh, you wanted to talk about the new office?

**Mr. Serge Ménard:** No. I would like to know how many people are there to help victims. You are the Ombudsman for Victims.

**Ms. Susan O'Sullivan:** In truth, the services as a whole are responsible for these people.

**Mr. Serge Ménard:** We are therefore essentially talking about 2,000 individuals.

**Ms. Susan O'Sullivan:** There are the 2,000 individuals working for the Ottawa Police Services. All of its members have a responsibility towards victims. For example, there are officers that answer calls.

**Mr. Serge Ménard:** I do not understand. I would like to know how many people there are in the new service that you joined in the month of August, namely the Office of the Federal Ombudsman for Victims of Crime.

**Ms. Susan O'Sullivan:** There are 11 people.

**Mr. Serge Ménard:** Very well. Where are these 11 individuals assigned?

**Ms. Susan O'Sullivan:** To the same office, here in Ottawa.

**Mr. Serge Ménard:** They are in Ottawa, but they obviously move about, depending on the complaints they are dealing with.

[English]

**Ms. Susan O'Sullivan:** There are two ways we assist victims through the office: collectively, and individually. Collectively we reach out throughout the country. People call the office or e-mail us. We deal with any complaints from federally registered victims.

The mandate also allows us to address and review complaints, promote awareness of the needs and concerns of victims, and identify emerging issues and make recommendations to government.

[Translation]

**Mr. Serge Ménard:** We have very little time, Ms. O'Sullivan. I do not think you will have any objection to answering my next question.

Do you consider that this number is sufficient, given the immense task that you have decided to take on?

**Ms. Susan O'Sullivan:** I am presently working on a strategic plan in order to define the office's priorities. I am doing a review of the office, and it is not yet finished. In direct response to your question, I would say that this review must be completed and that the discussions with victims and victim support groups, nationally,

must come to fruition. Once the review has been completed, it will have to be determined if the office's staff is sufficient to carry out its mandate.

**Mr. Serge Ménard:** As far as your work is concerned, it mainly consists in receiving victims' complaints, but I imagine that you would also foresee presenting each year to the government a list of things that should be changed, in the interest of victims. Is that correct?

**Ms. Susan O'Sullivan:** Yes. Today, for example, I am making presentations to committees. There is also an annual report that is [English]

tabled here with government.

[Translation]

I started in my new position last August, and I have made numerous statements aimed at the public. For example, the second week following my appointment, I spoke about the gun registry. It was entirely public.

**Mr. Serge Ménard:** On what?

[English]

**Ms. Susan O'Sullivan:** The gun registry.

[Translation]

**Mr. Serge Ménard:** Very well.

**Ms. Susan O'Sullivan:** I contacted the media. I sent a letter to minister Nicholson. I was speaking out against the government's position. That is just one illustration of the way in which the office is able to make itself heard. We can indeed make presentations before committees such as this, as well as use the media.

**Mr. Serge Ménard:** Do you have at your disposal the necessary funding to be able to commission studies that you might deem necessary, pertaining, for example, to the care to be provided to victims or to the best way of dealing with victims? I am thinking among other things about the police services, obviously, because your 11 employees will never be able to take care of all of the victims alone. You will have to call upon local organizations.

[English]

**Ms. Susan O'Sullivan:** I think everything has to be looked at as a big picture. The office has a certain amount of money, and that process is under way. It also has operating costs and it has costs for salary.

Do I have money in the budget to undertake massive studies? No, I do not.

As I indicated, what we're doing is setting a strategic plan for the next three years for the office. We're looking at visioning five to ten years out. We're conducting a review. And I talked about the style of open communication. There are many agencies involved in the service of supporting victims, and as this committee is very much aware, the provinces and territories are largely responsible for the actual hands-on delivery of services to victims. So this office's mandate does deal with federally registered victims, but we also take a tremendous number of calls from people and refer them over to appropriate services, either at the provincial or territorial level.



To answer your question, we will be looking at all of that. I have had the opportunity in the last 12 weeks to meet with a tremendous number of people across this country, to engage in consultations with victims, to have a meeting with other federal agencies, such as Correctional Services Canada and the parole board, to meet with many other regional contacts for these services, to present to over 90 judges on issues. So we are taking all opportunities to utilize and keep those open lines of communication to deliver the mandate of the office. This early on, as I said, I think anyone standing here could tell you that to have more money and be able to complete—

• (1605)

[Translation]

**Mr. Serge Ménard:** Your resume is impressive, but I see that you have always worked in policing.

Do you not feel the need to be supported by people with training in human sciences, for example in psychology or sociology?

[English]

**Ms. Susan O'Sullivan:** As indicated, I've had the opportunity to work with academics throughout my career. I do have a list available should you require it. I am doing and have done substantive research with academics such as Julian Roberts, who's very well renowned for his work, and Professor Skoog. I do rely on research and academics, absolutely, in looking at what some of these issues are and in consulting with them. So I do have a background.

You may have noticed in my CV as well that I had the opportunity to co-chair the POLIS committee, which is the police information and statistics committee. So it is very much evidence-based, because most of the time our most valuable asset is our people, and if we're going to use those resources to support victims, we want to look at a lot of evidence-based....

Through my four years with the POLIS committee, I had an opportunity to be very much involved with data as it relates to crime, in particular uniform crime reporting. I was very proud of our committee, as chair, to be involved in the development of the crime severity index. As you're all well aware, there are really three tools now available to us in Canada that allow us to really say how safe our communities are. One of those is crime rate. The crime severity index was implemented, and it was a four-year process in order to ensure that we had data. And the other tool, of course, is the general social survey.

I do have a lot of experience and background working with academics and do very much believe in evidence-based....

Thank you for that question.

**The Chair:** Thank you.

We'll go to Mr. Comartin.

**Mr. Joe Comartin:** Thank you, Mr. Chair.

Thank you, Ms. O'Sullivan, for being here. Like the prior questioners, I was quite impressed by your CV as well.

I have a couple of concerns, and I thought I would have heard this from my colleagues from the Bloc. You're obviously fluently capable in the English language, but from today I have a sense that you're not

fluent in the French language. In terms of your fluency in reading, writing, and speaking French, how would you classify yourself?

[Translation]

**Ms. Susan O'Sullivan:** I am comfortable in both languages. I take advantage of every opportunity I get at the office to communicate in French with my colleagues as well as with stakeholders and victims groups. For me, it is very important that people be able to receive services in the official language of their choice. I sometimes have trouble with grammar and verb tenses, but my understanding of French is good. If I am passionate about an issue, I choose to speak English.

**Mr. Joe Comartin:** Are you going to be receiving training in French?

**Ms. Susan O'Sullivan:** I took courses in university. When I was with the Ottawa Police Services, I took a private course with a teacher.

**Mr. Joe Comartin:** Are there any completely bilingual individuals working with you?

**Ms. Susan O'Sullivan:** Yes, absolutely.

[English]

**Mr. Joe Comartin:** The other concern I have, quite frankly, gets back to an issue you have already raised, the gun registry. I must admit I have been fairly intimately involved in that at the time your name was first floated as being the ombudsperson. Your initial response I think distinguished you from your predecessor; in fact, you were criticized by your predecessor for not taking a position immediately on the gun registry. In fact at that time, Ms. O'Sullivan, you indicated an uncertainty—I'll put it at that, at least that is the way the media reported it—as to whether the ombudsman should be taking a position on an issue like that. I know subsequently you in fact did. It's clear that you have an advocacy role. Do you agree with me on that?

• (1610)

**Ms. Susan O'Sullivan:** I don't know if we would use the word "ombudsman", but we would use the word "advocacy", definitely advocacy for fairness for victims.

**Mr. Joe Comartin:** Specifically, in the booklet that you hand out it says you make recommendations to the federal government on how to change its policies or laws to better suit the needs and concerns of victims. That clearly puts you in a position where from time to time you are going to have to make recommendations based on what you've heard from victims of crime around amendments to the law and the legal process.

**Ms. Susan O'Sullivan:** Yes.

**Mr. Joe Comartin:** And do you not see that as being an advocacy role?

**Ms. Susan O'Sullivan:** You are putting the voice for victims forward, yes.

**Mr. Joe Comartin:** And you will be that voice for them?

**Ms. Susan O'Sullivan:** Yes.

**Mr. Joe Comartin:** Just on one final area, the British have gone quite extensively beyond anything that we are doing in Canada now in terms of assisting victims of crime. I don't know if you saw that article in the last few months where some of the victims of crime really felt that they were almost being harassed, that the police were trying to be overly helpful. Have you looked at the system in the U.K.?

**Ms. Susan O'Sullivan:** Actually, twice. I was over in the spring on a totally different subject to my other role, and I took the opportunity to attend the U.K. London support office and to look at their strategic plan, and particularly the white paper. I was recently in Scotland, looking at their business plan, "Do you know how supporting victims of crime is helping Scotland?"

I also had the opportunity to meet with several of the leaders over there just several weeks ago, particularly Owen Sharp, who is the executive director of operations for Victim Support England and Wales. There, as you know, England is facing some unique issues in relation to their cuts. There is a lot of similarity, of course, with the U.K. They have taken a national approach. Really the message I received from Victim Support Scotland was that this was the business case that brought about a lot of victim support for Scotland. I think the other thing that is very interesting in the U.K., in particular Victim Support EU, is they are all working right now on a manifesto. I have been assured through my contacts there that as soon as that is ready, they will be able to share that with our office. That manifesto has gone beyond victims' rights. Their discussions are now around how do we implement...

So thank you for that question. I think they are doing some fantastic work over there, and we will continue to work with them.

**Mr. Joe Comartin:** In the course of your three-year appointment—I guess closer to two and a half years now, before your three years are up—do you see yourself as being in a position to be able to make recommendations to the federal government about expanding services for victims of crime?

**Ms. Susan O'Sullivan:** Yes.

**Mr. Joe Comartin:** That's all, Mr. Chair. Thank you.

**The Chair:** Thank you, Mr. Comartin.

We will move to the government side and we have Mr. Norlock.

**Mr. Rick Norlock (Northumberland—Quinte West, CPC):** Thank you very much, Ms. O'Sullivan. You have a very impressive CV. Your answers to the questions have impressed me.

I guess I share a thirty-year history with the police force, very much in the Ottawa Valley for the first half of it, and I am from a family of six. And from there I want to start my questioning.

You indicated you learned some core values from your parents. I would suggest to you, and you can confirm if I am right, that when you come from a fairly large family, in this day and age six seems to be a larger type of family, you learn to share. You learn to prioritize, because families have limited incomes, especially when it comes down to six children who demand a lot of things. And you also learn to live within your means, but that doesn't mean to say that you don't aspire to better. So using those core values, how do you see your management of your department, in that you share with other departments, in that you learn to live within your means? I think as a

member of a police department you can comment on whether you have ever been in a position where you were limited by the resources you were able to utilize. I think you would agree with me that there is never enough, but that sometimes you have to make do with what you have.

So I wonder if you could make some comments in regard to that, and then specifically how you see your role as an ombudsman reflect those values and some of the limitations, but not limiting your ability to represent those who police officers first handle, and that's the victims. We are the first contact victims have with society. How do you manage all those things rolled up into one? Perhaps you could just make some general comments along those lines.

• (1615)

**Ms. Susan O'Sullivan:** First of all, the office of the ombudsman is only three years old, so I have the privilege of building from the foundation of the former ombudsman and the staff.

Some of my priorities would be outreach and awareness, risk management, roles and responsibilities, and consultation. I'm going to reflect on Mr. Comartin's comments. I have a lot of opinions, and I have a lot of experience as a police officer. I bring that to the table.

One of the commitments I have is to be a voice for victims. When I speak for victims, I really want to be their voice. One of the priorities for our office is to continue to develop a framework for consultation dialogue around this country, so that we can connect. In 12 short weeks, I have talked to a lot of people in different provinces and territories. We talked about the need for national consultation dialogue. I am cognizant that there are different advisory committees.

I'll use one example. Correctional Services Canada has invested for several years in the National Aboriginal Advisory Committee, which has some of the most iconic people in this country addressing these issues. Is there an opportunity for this office to leverage when that committee meets, and, by having open lines of communication, to be able to participate?

We don't want to reinvent wheels. Victims have been telling us what the issues are. What we want to do is construct a broader framework for dialogue and bring those issues to bear. Everyone in this room knows that victims have different needs, that those needs may be unique, and that there probably won't be consensus on all priorities based on a victim's experience and needs.

You hear about problems such as human trafficking, terrorism, Internet luring, victims affected by immigration and deportation, the need to strengthen the CCRA and some of the information that's allowed to go to victims. These are some of the priorities we're looking at. In looking at them, we need to have that dialogue and consultation. We need to be a reasonable reflection of what victims are telling us in Canada. And we need to continue to work on the iconic reports and strategies that are already out there. We know what legislation is on the table. By ensuring that we have that framework, we'll be able to leverage in a better way.

**Mr. Rick Norlock:** Thank you.

You mentioned your consultation with victims of crime, and you mentioned some of the areas they pertain to. Future governments will be bringing in legislation on crime and social order that you may want to have input into. Do you feel that you would be comfortable working with the Department of Justice or the public safety minister on proposed legislation? Would you feel comfortable letting ministers know how victims of crime, based on your conversations with them, would feel about a particular piece of legislation?

**Ms. Susan O'Sullivan:** At that stage, I would be cautious about the words “working with”.

This office has, for example, one report in which we are actually making recommendations. These are recommendations for changes to the CCRA, 13 of them. So we have tools to discuss some of the things we believe are required for change, to better support victims needs.

One of the biggest issues is communication. There are a lot of people doing a lot of great things with the victims, including governments. I have met with many members from different parties, and I am getting input from them. On top of that, we have the tools we need to make those recommendations.

In this office, because of the nature of our mandate, a lot of our complaints involve CSC and the parole board. Within the last three years CSC has launched a victims initiative. It is important to have open lines of communication and to look at some of the commonalities that will allow us to listen to each other and identify the challenges. I've been heartened by the conversations I've had with different agencies about their commitment to do more for victims of crime.

• (1620)

**The Chair:** We've completed the first round. There appears to be some consensus developing here. Ms. O'Sullivan is also here on Bill S-6. We could go into that part of our meeting right now, if you wish. It gives you more time for that.

**A voice:** *Non, j'ai une question.*

**The Chair:** You have another question?

**A voice:** *Oui.*

**The Chair:** Okay. We have about ten minutes left. We'll start with the Liberals.

Mr. Lee, is it? Five minutes.

**Mr. Derek Lee (Scarborough—Rouge River, Lib.):** Thank you.

Ms. O'Sullivan, your résumé and career with the Ottawa force are very impressive. I'm sure you'll have no difficulty on the management side.

When you got to your desk, I'm sure it had its share of administrative matters and press clippings and files in progress. I'm just curious, was there any legacy issue left over from your predecessor that was passed on to you on your desk?

Secondly, you've been there for about three months. Do you have a pet project yet? I know you're consulting and scoping into the future, but I'm just wondering if you had one that would relate to victims.

One, do you have any legacy matters that you're going to pursue? Two, do you have any pet projects?

**Ms. Susan O'Sullivan:** To your first question, obviously the recommendations to CCRA and Bill C-39 are a legacy issue. Looking forward, the former ombudsman was looking for support for the CACs, the child advocacy centres. That was achieved. The government did assist that way.

I think if you're asking me what the pet project is, it really is about the future strategic plan, the consultation, to make sure that we continue to build on this foundation so that we can start to build. It's not just bringing recommendations forward in consultation. One of the things we often fail to do is to complete that loop and that feedback to victims about what this office is doing, where those priorities that we're setting with them are, and to keep them in the loop about where we're going with that, how we're succeeding, to be able to answer and come before you at the end of my three years and say here's what we delivered on. So the project is really about the health of this office. There are hundreds of issues that victims have, and it's necessary to set those priorities and to work and use the energy of this office, the victims' organizations, and the victims in this country to help achieve those.

**Mr. Derek Lee:** Thank you.

I'll share the balance of my time, if I can, with Mr. Kania.

**The Chair:** Mr. Kania.

**Mr. Andrew Kania (Brampton West, Lib.):** Thank you, Mr. Chair.

Congratulations and welcome.

On page 3 of your CV, you have “Membership—previous”, and then after that you indicate “Since my appointment as Federal Ombudsman for Victims”, etc., “I have resigned...”

Have you ever been involved with or a member of any political party?

**Ms. Susan O'Sullivan:** No.

**The Chair:** First of all, that's not a question that's permitted under the rules, believe it or not. Stay away from any questions about political donations or membership in political parties. It's straight out of O'Brien and Bosc.

**Mr. Derek Lee:** As a point of order, I don't want to take any time on this right now. I'm not so sure I understand the chair's suggestions. However, we don't have to deal with that now, and—

**The Chair:** It has been answered. Just review page 1012 of O'Brien and Bosc. It's there in black and white.

**Mr. Andrew Kania:** Okay. In terms of your role, I have a two-part question. First, how do you envision your role federally with helping the actual victims' services groups and organizations on the ground locally? For example, there's a victims' services group in Brampton, where I am, and I'd like to know how you will be helping them directly.

On the second part of this, one of the major problems for victims would be, in my view, restitution orders and either the failure to get them or to get them in a reduced manner. So I'd like to know whether you're familiar with those issues and that problem, and at least whether you'd be willing to think about this and seek to do something, and if so, what that might be.

**Ms. Susan O'Sullivan:** I'm very familiar, having spent 30 years dealing with the issues at the front line and around providing those supports. That is the responsibility of the provinces and the territories, for the actual direct support and the delivery of those services.

What we can do is this office can work with key NGOs in different provinces. As you're well aware, there are national organizations, such as the Canadian Resource Centre for Victims of Crime, Victims of Violence, and in different provinces and territories. So we can link those national voices.

I have actually been in contact with some people in the provinces, and I'm being very careful not to step on or to try to do the job the provinces and territories have been equipped with. I think this office can play a strong role in linking voices among provinces and territories to bring some common strength and synergy to the main issues victims are coping with and dealing with.

You've highlighted an issue that, although not in the purview of this office, certainly is one I've been hearing about in every province I've been in.

•(1625)

**The Chair:** Thank you.

We'll move on to Mr. Lemay.

[*Translation*]

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** Congratulations, Madam, I think you are going to have a lot of work to do. I have three questions.

First of all, this is a three-year mandate. Is this mandate renewable?

**Ms. Susan O'Sullivan:** It is up to the government to decide.

**Mr. Marc Lemay:** But in your contract, is it stipulated that it is renewable or is there no mention made of that aspect?

**Ms. Susan O'Sullivan:** It is not a contract; it is an appointment for a three-year period.

**Mr. Marc Lemay:** Very well. You come under the Department of Public Safety?

**Ms. Susan O'Sullivan:** No, the Department of Justice, Mr. Nicholson's department.

**Mr. Marc Lemay:** I beg your pardon. The Department of Justice and...

**Ms. Susan O'Sullivan:** The department of Mr. Nicholson.

**Mr. Marc Lemay:** What approach do you intend to adopt? I am very concerned by victims, not just in general, but also among Aboriginals. There is an enormous pan-Canadian crisis within the Aboriginal population. It is extremely difficult to work with victims in Aboriginal society.

Have you already established a policy? Have you already begun to think about a specific approach in this regard?

**Ms. Susan O'Sullivan:** Yes, absolutely. I want to organize a meeting with Sisters in Spirit. I also had a meeting with Chief Stan Grier, who represents the aboriginal police services in Canada, of which there are 38. Mr. Grier is co-chair of a committee of the Canadian Association of Chiefs of Police. A meeting was held in Vancouver because one of the CACP's committee's priorities is to work with the office. I have held numerous meetings with other services, with the Inuit here, in Ottawa, but these are national services. So this is a priority for the office as well.

**Mr. Marc Lemay:** Thank you.

[*English*]

**The Chair:** Thank you.

We're at the end of our first hour, so I'm going to bring that part of the meeting to a close. We'll now open it up for questions to Ms. O'Sullivan on Bill S-6, as per Ms. Jennings' request.

I am going to continue the questioning here with Ms. Jennings.

**Hon. Marlene Jennings:** Is this committee going to make a report?

**The Chair:** Yes, and thank you for raising that.

There is a standard customary motion that this committee could adopt, which would be that this committee has examined the qualifications and competence of Susan O'Sullivan to the position of Federal Ombudsman for Victims of Crime and finds her competent to perform the duties of the position and fully endorses her appointment.

Is that your will?

**Hon. Marlene Jennings:** I'll move it.

(Motion agreed to)

**The Chair:** Thank you. Shall I report that to the House?

**Some hon. members:** Agreed.

**The Chair:** We'll now continue with questions on Bill S-6.

Before we go to questions, I believe, Ms. O'Sullivan, you have an opening statement.

**Ms. Susan O'Sullivan:** I have.

[*Translation*]

Mr. Chairman, ladies and gentlemen, thank you for giving me the opportunity to appear before you today to discuss Bill S-6 and the faint hope clause. I have become aware of the statements made by various important witnesses who appeared before the committee and dealt with the issue from numerous different angles.

It is clear that the issue is not simple and that a vast array of valid arguments for or against the clause can be provided. However, I am not here to analyze these arguments. I am here as Federal Ombudsman for Victims of Crime, to play the role which is our *raison d'être*: to give a voice to victims.

I am going to share with you what victims say in order that you be able to take this into account in your deliberations.

•(1630)

[English]

I have had the chance recently to talk to some victims and victim advocacy groups about the issue. Unfortunately, I have not conducted exhaustive consultations at this stage, as time did not permit. As such, the information I am presenting here represents those groups I did have a chance to talk to but cannot be taken to represent all victims as a whole.

During my discussions it was made abundantly clear to me that there is strong support for Bill S-6 based on three main areas it addresses: accountability, transparency, and compassion.

The first, accountability, is a big one. People who have lost loved ones to horrible, brutal acts of cruelty want to be sure that this person who did it is brought to justice and serves time. Depending on their individual outlook, victims may see that time as a means to rehabilitation and to assisting the offender to become a reformed and productive member of society. From another point of view, the victim may just want to ensure that the offender who did this isn't roaming the streets and that he or she has been required to pay for the life that they took. Either way, no matter your outlook, it would be important to you that the offenders serve their time and that this accountability be maintained.

Based on this, you can understand that it would be difficult for a victim to understand why, when given a sentence of 25 years, an offender would be given the opportunity to get out early, to pay a lesser debt to society for the crime they have committed, and essentially to pay a discounted rate for the life they have taken.

That is not to say that there are not compelling arguments for the impact this loss of hope might have on offender rehabilitation. That is an important discussion, and I am sure you will delve into that here, but I bring to you the victims' point of view.

My second point, transparency, has to do with how well victims are informed of the faint hope clause generally, when or if an offender applies, and what their rights are in terms of participating in the process. As members are aware, the notification process and requirement are a provincial responsibility. For example, in Ontario we understand that victims do not have a legislative right to be informed when an offender makes an application for faint hope, nor when their application is heard by the jury. This isn't to say that in practice it doesn't occur, but it is discretionary and without a right. Victims have no form of recourse if they are unable to participate in the process in any meaningful way.

I will not touch on this too much, as it is handled at the provincial level. I will say, however, that all victims deserve to be kept informed and to play a meaningful role in the criminal justice system should they wish to.

My third point is compassion, and it cuts to the heart of the matter for victims. The grief victims experience is devastating, and for those strong enough to try to move forward in life, having to rehash the crime and the trauma at a hearing can feel like reliving the worst time of their lives over and over again. Yes, victims can choose not to attend a hearing, but like anyone, victims often feel a strong compulsion to be there in person and to stand up for the very person who cannot—the victim.

Even before a hearing, the uncertainty can wreak its own havoc. Some victims will say that the worst feeling is simply not knowing when or if the offenders will apply, and if they do and are rejected, whether they will try again and how soon. This state of unrest causes anxiety and stress over and above what they're already coping with. In the current scheme, victims could be expected to face these hearings up to five times in any one life sentence, at 15, 17, 19, 21, and 23 years.

There are various ways this could be handled. The suggestion in the bill is to eliminate the faint hope clause completely. Another way might be to apply the provisions suggested for already incarcerated offenders to all offenders and set strict timelines on how often an offender can apply, ensuring at least five years before applications for parole.

[Translation]

In the end, all victims want is that no one else experience what they have experienced. They want the offender to be held accountable for his or her crime. They want to participate fully in the process, if they so wish, and they do not want to relive the crime over and over, so as to be able to look towards the future and healing.

The bill, in its present form, fulfills some of these wishes, but it is not necessarily the only solution to the problem.

On behalf of my office, I reiterate my support of the victims we represent and I encourage members to support the bill as quickly as possible.

Thank you. Merci.

•(1635)

[English]

**The Chair:** Thank you.

Members, here's what I'm proposing to do: five minutes for questions, maximum.

We'll start with Mr. Woodworth to continue on the rotation, and then we'll go to the Liberals and then we'll go to Monsieur Ménard. This is only a half-hour. I'm seeking your cooperation. Then I will go to Mr. Comartin; otherwise, he would be shut out if we kept on going, because the next would be Liberal and then three Conservatives, right?

**Hon. Marlene Jennings:** Chair, as far as I'm concerned, this portion of our meeting is a completely new portion and therefore the rules determining the questioning apply. Now, I have no problem with reducing the amount of time to question to ensure that each one of the four parties has an opportunity to question this witness on Bill S-6, but this is not a continuation of the previous portion.

The fact that Ms. O'Sullivan is being heard directly subsequent to her hearing, her appearing before us with regard to her appointment, has absolutely nothing to do with her appearing as a witness on Bill S-6. Therefore the proper order of questioning is Liberal, Bloc, NDP, and then Conservative; and given the total amount of time, I've no objection that you divide it equally in four parts, but it begins with the Liberals.

**The Chair:** Great, I think we've solved the problem.

Yes, Mr. Lee.

**Mr. Derek Lee:** Under the agenda for today's meeting, it shows Mr. Sapers making a submission as well. Couldn't that happen now as well?

**The Chair:** No. He has requested that he appear on his own. It was a specific request; otherwise we would—

**Mr. Derek Lee:** At another meeting?

**The Chair:** No. Well, yes, a separate panel, essentially, at today's meeting.

**Mr. Derek Lee:** So this we're going to do in 55 minutes.

**The Chair:** Well, there are two witnesses—

**Mr. Derek Lee:** Okay.

**The Chair:** Typically we have two witnesses.

So we'll do that, then, because the effect is the same. If each of us takes five minutes, then each party will have a chance to question.

So who's starting, then, for the Liberals?

Ms. Jennings.

**Hon. Marlene Jennings:** Thank you, Chair.

Thank you very much for your presentation, Ms. O'Sullivan.

I would ask, are you aware of the latest statistics on the number of inmates, offenders, currently serving life sentences in our penitentiaries? Yes or no.

**Ms. Susan O'Sullivan:** I was just speaking to Correctional Service Canada. My understanding is there are 680 who may be subject to the faint hope clause. That may not be correct, but that's my understanding. There are approximately 3,000, however.

**Hon. Marlene Jennings:** Yes. Are you also aware of the actual statistics that have been provided to us by Correctional Services as to the number of inmates who actually proceed to ask for early parole under the faint hope clause, the number of cases that have actually been sent to review as of October 2010, and the results, etc.? Are you aware of those statistics?

**Ms. Susan O'Sullivan:** I have them available. I don't have the exact numbers here. I am aware that the numbers are small and that the....

**Hon. Marlene Jennings:** Okay, but you're not aware of the latest statistics.

Are you aware of any scientific study that has been done on victims, families of victims of murder, as to their experience with the faint hope clause, their experience with the justice system when the offender was brought to justice, was found guilty, was sentenced to life—25 years if we're talking about first-degree murder—their experience then, their experience between that point and the actual application for faint hope, and their views, whether they remained the same or not? Are you aware if any such study exists?

**Ms. Susan O'Sullivan:** I'm not aware of a study. I have talked to victims, though, with regard to—

**Hon. Marlene Jennings:** No, I understand. Do you not believe that as an advocate for victims part of your role is to ensure that you

have the best factual scientific evidence in hand so that you can properly advise victims and the government as to policy?

• (1640)

**Ms. Susan O'Sullivan:** I think the academic research is important, but I think at the same time there has to be respect given to the victims' personal experiences as—

**Hon. Marlene Jennings:** Definitely, but one of the ways one gives respect to victims is to ensure that they have the facts before them—

**Mr. Stephen Woodworth:** Point of order, Mr. Chair.

I think the witness deserves an opportunity to answer the question rather than to be cut off in mid-word, as was just the case by Ms. Jennings. I think that's incredibly offensive to the process of the committee. Once a witness begins to answer a question and clearly only gets a few words out of her mouth, she should be allowed to try to answer it.

**The Chair:** Well, committee members, generally the rule is the person questioning does have control over their own questioning. Now, that has to still be done within the bounds of courtesy and decorum, and generally I think we do want to allow witnesses to answer. But in the end, when we give someone their five minutes or their seven minutes, they're in charge of it. and I will certainly treat each of you respectfully in that sense. If it gets out of hand and you can't hear what's being said any more, of course I'll call you on it.

Ms. Jennings, continue.

**Hon. Marlene Jennings:** Thank you, Chair.

Ms. O'Sullivan, if I cut you off when you were answering, I apologize. It was not my intention. I understood that you had in fact answered my question; therefore, I was going on to another question.

Do you not believe that one of the ways to show compassion to victims is to ensure they have all the pertinent facts before them? If their views continue notwithstanding, that's fine, but in some cases their views may change.

**Ms. Susan O'Sullivan:** Our office did some research to prepare for this appearance, and we found that there is very little data relating to the impact of the faint hope clause on victims. So we did attempt to look at that—obviously to arm ourselves with the best information possible—but we found very little data with regard to that.

**Hon. Marlene Jennings:** Thank you.

Would you not then think that possibly one of your recommendations or statements would have been that there is very little research into that, and that possibly the government might have wanted to ensure it had all of the facts to back up its justification for this bill before bringing forth legislation?

**Ms. Susan O'Sullivan:** Part of the issue here, as you indicated, is the small numbers, and the other is getting information from victims on these difficult topics. For one thing, are they able to provide this information? Do they wish to provide this information? I don't believe, as you've indicated, the numbers are very large.

I did speak to some people and got their permission. One such example is Priscilla de Villiers, who is probably well known to this committee. She has spent many years addressing this issue and talking about the impact of having people go before that. I can tell you that in my former career I had members who lost loved ones and who spoke to me about the impact of having to go again, and to relive....

From what I've read and according to the information that was provided by Correctional Services Canada as well, those numbers are small. It's very difficult when you're trying to look at impact.

Interestingly, I was in Regina a few days ago. I was looking at and listening to—again, respecting confidentiality—a woman who had lost two of her children to homicide. The person presenting was looking at data around victim-offender mediation and talked about the kind of work that has to go into that kind of gathering of data and looking at impact.

It is long-term. Any data that can help people, assist with decision, or inform is valuable. The question I would have is whether there is enough and how long that would take. Is it appropriate? I'm not an academic or a scientific person, but just listening to the number of years that were invested in trying to gather over 500 cases on that.... Usually some of these are quite long-term.

**The Chair:** Thank you.

We'll go to Monsieur Ménard for five minutes.

[*Translation*]

**Mr. Serge Ménard:** I understand your sympathy for the victims, and be assured that I share it.

However, I have nevertheless observed that there are truly very few prisoners serving a life sentence for murder who seek to use these provisions.

Certain dangers have been outlined to us, and you have repeated them. In particular, victims believe that, every two years, they can be called upon to appear to challenge an application for early parole. We have learned, based on the statistics, that there has never been a case of an individual applying every two years, as many times, etc. It was also explained to us — others did this before you — that the preparation of a file with a view to benefitting from the provision is very lengthy. Furthermore, the jury that hears the first application is free to determine that the next application will only be able to be made later than two years down the road. And, in the end, we would be amending the act to resolve a situation that has never arisen.

• (1645)

[*English*]

**Ms. Susan O'Sullivan:** As I indicated in my opening statement, I know you've heard from many witnesses who have a lot of experience in offender management and the impact of that. I am before you with that voice for victims. So as I indicated in my opening comments, I balanced those comments with the recognition that there are issues on the offender management side.

What I can tell you is that some of the comments that have been made by victims I have spoken to.... First of all, these are the people who have committed some of the most horrific crimes, and they have been given 25 years. They also speak to their concern about

lessening the confidence in the justice system when people who are given life sentences don't receive the actual 25 years.

So again, in my comments I certainly wanted to recognize—and I did—some of these other issues that are very much out there and that you, as a committee, are looking at. But again, I'm here to be that voice for victims.

[*Translation*]

**Mr. Serge Ménard:** Upon hearing you, in the beginning, I very honestly had the impression that all victims are opposed to the faint hope clause.

[*English*]

**Ms. Susan O'Sullivan:** I can't say that, and that was my opening comment. I have, in the brief time since I was asked to come before this committee, done as much consultation as I can. I have consulted with, for example, not only the Canadian Resource Centre for Victims of Crime, which I know this committee is very familiar with, but also the Canadian Police Association and Mr. Charles Momy. I have spoken individually with people like Priscilla de Villiers and Sharon Rosenfeldt—again, with whose permission I use their names. I have also spoken to FACT, which is Families Against Crime and Trauma, in B.C. I've also spoken to Mr. Joe Wamback.

So I've taken every opportunity I can to speak to that, but as I said in my opening comments, I can't say that this consultation represents all victims in Canada. I cannot say that. I have taken every reasonable effort to come before this committee with as much consultation and dialogue as I can to represent that voice for victims. And again, those balanced comments I recognized, and I'm sure Mr. Sapers will speak to those other issues, as have many of your other witnesses.

I come to you with the comments of people who have been very involved in the national scene. They talk very much about being worried about the confidence in the criminal justice system when people who are given life sentences aren't serving them, when we are dealing with first-degree murder and we are dealing with people who have been handed those life sentences.

I know this committee is looking at other options, or the option on the table of retrospective versus retroactive issues. So that's what I come before you with.

[*Translation*]

**Mr. Serge Ménard:** You acknowledge that the Criminal Code should include provisions allowing for people condemned to life in prison for murder to be able to be released from prison before having served 25 years if they demonstrate good conduct and if they are, indeed, rehabilitated. We were told of cases where even the family of a victim of murder, for example, was in favour of that.

You therefore recognize that we must retain, in our laws, faint hope clauses.

[*English*]

**The Chair:** Could we have a short answer, please?

**Ms. Susan O'Sullivan:** No, no, I can tell you there's a consensus among the people I've consulted with that there is strong support for Bill S-6.

**The Chair:** Thank you.

Mr. Comartin.

**Mr. Joe Comartin:** Thank you, Mr. Chair.

Ms. O'Sullivan, I'm not surprised, because we've heard a number of the witnesses and some of the people you've actually mentioned already. But the lack of knowledge that remains about how this system works is amazing to me. You repeated it today. Speaking on behalf of the victims, you mentioned the fear that at the 15-year mark, the 17-year mark, the 19-year mark, the 21-year mark, the 23-year mark, and the 25-year mark they're going to be faced with an application. That's just absolutely false. I'm just going to share some information with you, as ombudsperson for Canada for the victims of crime, and ask that somehow your office assist victims to get this knowledge, to counter a good deal of the fearmongering that has gone on and been whipped up into really highly passionate levels.

There have been only four cases in which somebody has applied a second time. Last year, 25 years was in fact what people served, even when they applied for the faint hope clause. So we can say to the victims' families and their friends and their loved ones, "You don't have to worry about that". I really would ask you to do that. That's a comment.

I do have a question. I strongly support your comments about the importance of communication to the families of the victims of murder in this country. What came out at the last hearing from Mr. Head, who is the Commissioner for Corrections, was that at the year before the person is eligible to apply for early release—just to apply for it—they consult with that person. Now, we know from the figures we have and the history we have that only 18% apply. So 82% of the victims' families could be told that at that time. Would you support an amendment to this bill that would require Corrections Canada to advise the families of the victims of murder in this country at that time—mostly at the 14-year mark—that in fact the person is not going to be applying for early release, so they won't have this trepidation, this fear of having to go through the process again?

•(1650)

**Ms. Susan O'Sullivan:** I think there need to be a lot of things put in place to ensure that victims get information, not just in relation to the faint hope clause.

I mentioned the Corrections and Conditional Release Act and section 39. There is a lot of information. There is some information that must be supplied, and there's some information that may be supplied. The other thing is that these are policies in many cases, and I know Mr. Head indicated that there's no requirement. So I think we have to go beyond that.

I think there have to be some changes so that victims can be informed with regard to.... And again, in the report we've tabled there are 13 recommendations there. Obviously victims need information. They need to have that information, and they need to have rights to have some of this. I'm cognizant of some of the other challenges around that, so I would go one step further and say that we need to ensure that the needs of victims are met, when we're dealing with federal systems, in relation to their being informed on many issues.

**Mr. Joe Comartin:** I'm assuming that answer means you would support that being a mandatory provision in the statute, which would

require Corrections Canada to provide that information to the families of the victims of murder in this country.

**Ms. Susan O'Sullivan:** Anything that is going to provide more information to victims' families to assist them in that communication process is going to be helpful.

**Mr. Joe Comartin:** Thank you.

**The Chair:** Thank you, Mr. Comartin.

We'll go now to Mr. Woodworth.

**Mr. Stephen Woodworth:** Thank you very much, Mr. Chair.

I'll begin by thanking you for your presence here, Ms. O'Sullivan.

I want to say that I've been on this committee only about 15 or 16 months, but during that time I have pondered some of the recurring issues we face. In my opinion, one of them is that sometimes the needs of victims are not consistent with the needs of offenders.

I'll step back a bit and say that I suppose in a grand general philosophical way, every offender we can rehabilitate helps victims. So in that grand general way, the needs of victims and the needs of offenders converge on the issue of rehabilitation. But in other specific ways, victims have needs that are not always consistent with the needs of offenders. So I was very pleased to hear your earlier evidence, because you articulated that very well when you categorized these needs as accountability, transparency, and compassion. I couldn't agree with you more, although I would have elaborated on that by saying that victims need closure, certainty, protection from further victimization, and a sense of equitable treatment weighed against the treatment of the offenders. And of course sometimes they also have some interest in denunciation.

Time and again we sit at this committee, and we always hear the voice of the offenders. You have to read between the lines, and not every member seems to have caught the same message that I have. So I was very grateful for your evidence here today.

I understand that sometime in the early 2000s the former government amended the faint hope provision so as to exclude multiple murderers from it. After listening to my colleague's comments earlier about how that party always insists on having evidence, I wondered if perhaps your search might have found any evidence from around 2003, when the former government, that party, made this change, I suppose somehow in support of victims, that they generated to support that change?

•(1655)

**Ms. Susan O'Sullivan:** I'd have to check. I know there were some changes, I believe in 1997.

**Mr. Stephen Woodworth:** I won't disagree with you about the date, as I'm not sure myself.

**Ms. Susan O'Sullivan:** I apologize, as I haven't actually looked through...but yes, it was 1997.

**Mr. Stephen Woodworth:** Did you discover any evidence in relation to encapsulating the victims' point of view that the former government used to support that change in 1997?

**Ms. Susan O'Sullivan:** I don't have it in front of me. I can't answer that question.

**Mr. Stephen Woodworth:** All right.



So simply beyond thanking you for articulating so well the needs of victims today, I don't have any further questions or comments.

**The Chair:** Thank you very much.

Everyone has had a question. I'm proposing that we now have Mr. Sapers appear.

Thank you, Ms. O'Sullivan, for appearing. We wish you very well in your new position. I know you've been in it for a couple of months, and we certainly do wish you well as you become the voice of victims in our country.

**Ms. Susan O'Sullivan:** I would like to thank the committee for both opportunities before you here today. Merci.

**The Chair:** We'll suspend for two minutes.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
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**The Chair:** We're back in committee reviewing Bill S-6.

We have with us Mr. Howard Sapers, correctional investigator, as well as Mr. Ivan Zinger, executive director and general counsel.

I welcome you both.

You have an opening statement to make, and then we'll open the floor to questions.

- (1700)

**Mr. Howard Sapers (Correctional Investigator, Office of the Correctional Investigator):** Thank you, Mr. Chairman, and thanks for accommodating us. I'm pleased to be back before the committee and to have this opportunity to assist you in your deliberations on Bill S-6.

As you mentioned, Dr. Zinger is with me. I'll make a few comments, and then Dr. Zinger will join in.

Also, I understand that the committee has received transcripts of our previous evidence given before the Standing Senate Committee on Legal and Constitutional Affairs back in June. That being the case, I am very respectful of your time, and I just want to quickly summarize some main points from that previous testimony and then move right into your questions.

From the perspective of my office, this bill needs to be placed in the context of other recently enacted and proposed legislation that will result in a significant increase in both the offender population and the length of sentences being served. Cumulatively, these measures will impact on the rate, cost, length, and distribution of incarceration.

The average time served for a murder conviction in Canada currently exceeds that in most other advanced democracies. Imposing an automatic parole ineligibility period of 25 years for all offenders sentenced to life imprisonment will create additional infrastructure and care challenges to meet the needs associated with aging in a federal penitentiary. The cumulative and increasing cost of incarcerating more offenders for longer periods of time prior to parole eligibility will be incurred over several years.

Using today's numbers, each additional year of federal incarceration costs an average of \$100,000. By contrast, supervision in the

community, when that is appropriate, is about one-quarter of the expense of prison.

I will now ask Dr. Zinger to provide a bit more context and perspective to these points before we move on.

[Translation]

**Dr. Ivan Zinger (Executive Director and General Counsel, Office of the Correctional Investigator):** As Mr. Sapers pointed out, the average time served in prison for first-degree murder in Canada is longer than that of other democracies.

In Canada, the average time served in prison for first-degree murder is more than 28 years, whereas in other democracies, similar to Canada, such as New Zealand, Scotland, Sweden and Belgium, the average time spent incarcerated for the same offence is under 15 years.

Furthermore, offenders serving a life sentence in Canada automatically spend at least two years at a maximum security institution, regardless of their assessed risk.

In Canada, a life sentence does in fact mean a sentence for life. One must not forget that life sentence offenders granted parole under the Correctional Service of Canada are supervised until the time of their death.

If enacted, Bill S-6 will impose an automatic parole ineligibility period of 25 years for offenders sentenced to life imprisonment for murder in the first degree.

For offenders convicted of second-degree murder, the parole ineligibility set by the sentencing judge, which varies between 15 and 25 years, will no longer be subject to reconsideration pursuant to Bill S-6.

Of the 13,800 men and women incarcerated in a federal penitentiary today, close to 20% are serving a life sentence. These offenders, the average age of which is 33 years, will likely become elderly before they are eligible to apply for parole.

The percentage of older offenders — those aged 50 years or older — has grown by 50% in the last decade alone. This segment of the offender population has different and often expensive accommodation, health, programming and palliative care requirements.

The Correctional Service of Canada will have to address limitations in an aging infrastructure that was initially designed for a different profile and younger generation of offenders.

Mr. Sapers, you have the floor.

- (1705)

[English]

**Mr. Howard Sapers:** As members of the committee are aware, my office's 2009-10 annual report was tabled in Parliament about two weeks ago. My report documents an environment inside our federal penitentiaries that is increasingly harsh, tense, crowded, volatile, and stressed.

As I reported, current conditions inside our federal penitentiaries are challenging the ability of the Correctional Service of Canada to provide safe and effective custody. Access to programs addressing factors contributing to crime, in particular substance abuse, family violence, histories of abuse, and trauma remain an issue when only approximately 2% of an annual \$2.5 billion expenditure is spent for this purpose.

Effectively increasing the incarceration rate by curtailing or eliminating parole eligibility needs to be carefully considered in the context of the capacity, intervention, and programming challenges already facing Canada's correctional authority.

The faint hope clause is tied to the abolishment of capital punishment in 1976. It was intended to motivate offenders serving long-term sentences. It does not guarantee that the offender will be granted parole. The concept of faint hope expressly recognizes the capacity of an individual offender to change, to be rehabilitated, and to become responsible and law-abiding, even after committing a most serious offence.

Bill S-6 will likely increase the period of time long-term offenders will wait before receiving correctional programming. Extended periods of idle time will most definitely impact on motivation levels and the ability of long-term offenders to participate in programs, especially as they age in custody and their health inevitably deteriorates.

Holding more inmates for longer periods of time and then releasing them without the benefit of effective intervention is not only expensive, it is ineffective.

To conclude, it seems to me that we need to consider proposed criminal justice legislation in the context of striking an appropriate balance between measures designed to incapacitate and deter against the equally important principles of reintegration and rehabilitation.

I look forward to your questions.

Thank you.

**The Chair:** Thank you.

We'll move to Ms. Jennings. You have five minutes.

**Hon. Marlene Jennings:** Thank you, Mr. Sapers and your colleague, for your presentations.

I have one question. When you have answered it, I'll turn the rest of my time over to my colleague, Andrew Kania.

The four principles on which our criminal justice system and our Criminal Code are based are clearly enunciated. Given your experience with the corrections system, is it your considered view that with Bill S-6 the current government has struck an appropriate balance between measures designed to incapacitate and deter against the equally important principles of reintegration and rehabilitation?

**Mr. Howard Sapers:** The provision for first a judicial review and then a parole board review of parole consideration was expressly put into legislation to try to achieve that balance. I have seen no evidence to suggest that the intent behind the existing provisions was not realized.

**Hon. Marlene Jennings:** Therefore, the conclusion would then be that Bill S-6, which would change that balance, does not strike an appropriate balance between the existing measures that were designed to incapacitate and deter against the equally important principles of reintegration and rehabilitation.

May I take it, then, that your considered view is that Bill S-6 does not strike that balance?

**Mr. Howard Sapers:** I think that the current provisions are serving the purpose for which they were designed.

**Hon. Marlene Jennings:** Thank you.

**Mr. Andrew Kania:** Mr. Sapers, I've heard you testify previously, not on this particular committee but before the public safety committee, which I'm on. You pointed out, in terms of the various pieces of criminal justice legislation going through, essentially that we have undercapacity, that we don't have appropriate mental health care programs in prisons, and that there are various funding issues.

To be fair to the government on this particular bill, I looked at statistics for 2008-09. In 2008, of the persons who applied, only 109 were successful. In 2009, it was only 131.

In terms of this bill and how many people are actually granted this parole early who would presumably be prevented now, this isn't really the problem in terms of the overall structure, because we're really talking about a handful of prisoners.

● (1710)

**Mr. Howard Sapers:** We're talking about a small number of prisoners in any given year, but we're also looking at the cumulative impact over years.

**Mr. Andrew Kania:** That's fair enough, and I appreciate that. In terms of that, in this analysis, because there will be some impact, are you aware of...? When I look at these statistics, for example, they show reoffending rates for 2008, and there was a handful of people who were sent back to jail for breaching parole conditions.

I'm trying to find, on an empirical basis, the problem we were trying to solve by coming up with this legislation. You have to balance that with the other problems that will be created, such as the capacity issue, and such as, I would argue, the greater risk to prison guards, who I understand posed this, because it detracts from the motivation of inmates to rehabilitate themselves and act properly in prison. So this is actually putting prison guards at risk.

I'd like you to comment on that, and to tell me whether there's anything on an intellectual basis or an empirical basis that you could point us towards that would justify this legislation.

**Mr. Howard Sapers:** I'll share just a couple of facts with you. The most current information I have is that 0.2% of offenders convicted of murder have had their day parole revoked due to the commission of a violent offence. Approximately 500 offenders serving a sentence for murder are released annually on day parole. It's about 0.2%.

Over the last five years, the successful completion rate for day parole offenders convicted of murder has exceeded 90%, and of those that we could consider failures—the other 10%—8.2% failed for technical violations of conditions of release, as opposed to being charged with a new offence.

**The Chair:** Thank you.

**Dr. Ivan Zinger:** I think you've quoted the statistical overview that was published by Public Safety Canada. I just want to make sure that it's clear here. That publication mentions that there were 173 court decisions with respect to the faint hope clause, of which only 130 were successful in the end. What's important is that those 130 have been since 1987. So there's a very small number every year. I want to make sure that it's not seen as 130 every year. That's not the case. It's been since 1987.

**The Chair:** Thank you.

Monsieur Ménard, you have five minutes.

[Translation]

**Mr. Serge Ménard:** Thank you.

You have well expressed your viewpoint. Let me say, in passing, that we are convinced of what you say. However, you are probably aware that, on the government side, members are not convinced. It is nevertheless important that the public be aware.

When the bill was presented by Warren Allmand, Solicitor General, in 1976, he stated the following, and I am quoting here from a summary provided to us by the Library of Parliament:

A period of incarceration, with hope of parole, and with the built-in additional incentive for the inmate, and protection for the guards, of a review of that parole eligibility after 15 years is necessarily better than a sentence of death because it removes the possibility of an irreversible error of execution.

Indeed, the system, since 1976, has fulfilled its objectives.

[English]

**Mr. Howard Sapers:** I would agree. I think the existing provisions have met their purpose.

A life sentence in Canada is a life sentence. Offenders will serve a portion of that sentence in custody and will serve a portion of that sentence, if their risk is manageable, in the community.

We have experience in this country to show that conditional release that's properly supervised manages risk very well.

• (1715)

[Translation]

**Mr. Serge Ménard:** We are not alone in the world. There are other advanced democracies with which we often compare ourselves. We have been provided with numbers. We compare ourselves with New Zealand, Scotland, Sweden, Belgium, Australia. Furthermore, I do not know why France is not included in these comparisons. Belgium is a partially francophone country. There is also the United States.

It is obvious that all civilized countries asked themselves this question when they abolished the death penalty—and most did so. What was this to be replaced by? Was it to be purely and simply life in prison? They all answered no. They opted, rather, for a long

period of incarceration and the possibility of serving a shorter sentence, after review by a judge and by a jury—that is the case for us, is it not? The jury represents the people, so I believe.

The average period of imprisonment for offenders sentenced to life in New Zealand is 11 years; it is of 11.2 years in Scotland, of 12 years in Sweden, of 12.7 years in Belgium and of 14.8 years in Australia. The United States are the world champions with regard to sentences. I believe that the rate is 7.5 years higher than it is in Canada. The rate of incarceration in Canada is aligned with that of other democracies. However, even in the United States, the average is of 18.5 years, except for those cases where there is no possibility of parole. In those cases, it is 29 years.

According to predictions, we would reach the maximum length in the United States, which is exactly 28.2 years. It would be as though we made no allowance whatsoever for the possibility of early parole.

Is it the same thing for the other civilized countries the experience of which you are aware?

**Dr. Ivan Zinger:** To give you an idea, the comparative data for the various countries were gathered twice, to my knowledge, namely in 1999 by the Department of the Solicitor General, or the Department of Public Safety, and again in 2005 by the same department. I do not know how the countries were chosen. Usually, a request is made to various countries, and we await their responses.

If we compare Canada to other countries, we see that the system is much more punitive here. You are perfectly correct in underscoring that.

[English]

**The Chair:** Thank you.

Mr. Comartin.

**Mr. Joe Comartin:** Thank you, Mr. Chair.

Thank you, Mr. Sapers and Dr. Zinger, for being here.

To follow up on Mr. Kania's question, my analysis is that this program, the faint hope clause program, has the lowest recidivism rate of any program under our parole, under our parole for murder. It has the lowest recidivism rate of any of those programs. Can you tell me whether that's a correct conclusion?

**Mr. Howard Sapers:** I haven't done that analysis. In my experience, lifers tend to do well when they are supervised in the community. Since the faint hope clause provision was brought in under the code—and I stand to be corrected on this—I believe there were 14 reconstructions for violent crime over that period. I don't have the number in the top of my head as to what number the 14 is out of. But as I was saying, 500 are released per year, so it's a significant history we have with this.

**Mr. Joe Comartin:** Within the population that was released under the faint hope clause, there were only two who were returned to prison because of violent or serious offences. And in fact we don't know if there was any physical injury; we don't know the facts on that.

**Mr. Howard Sapers:** Yes, that's correct.

**Mr. Joe Comartin:** All right.

On the other point—I'm feeling somewhat that I should know this—have you identified any other jurisdiction in the world that uses the faint hope clause approach? I know most countries have a parole system that allows for applications, but is there one that has this model?

• (1720)

**Dr. Ivan Zinger:** Comparisons are actually quite difficult to do, because parole sometimes is decided by the courts and in some jurisdictions it's decided by the correctional authorities. I'm more than happy to share with the committee the 1999 study, as well as the 2005 update. I think the researcher may already have it, but I'm more than happy to share it. It may give you a bit of additional information on this matter.

**Mr. Joe Comartin:** To the researcher, do we have those two studies? I don't think I've seen them. They were from 1999 and 2005.

**The Chair:** You'd better repeat the study details.

**Mr. Joe Comartin:** Dr. Zinger, could you repeat the titles on both of them?

**Dr. Ivan Zinger:** Certainly. The first study is called "Life Sentence for First-Degree Murder—Canada and the International Equivalents: Eligibility and Average Time Served". This is a document that was published by Public Safety Canada—the Solicitor General at the time—dated February 17, 1999. We just requested the update. The update is again a Public Safety Canada document called "Average Time Incarcerated for First-Degree Murder Conviction: A 2005 Update". It basically highlights some of the legal structures of legal systems in various jurisdictions.

**The Chair:** Mr. Comartin, are you asking whether that has been distributed to us, or whether our analyst is aware of those studies?

**Mr. Joe Comartin:** I'm asking whether they've been distributed. I think I've seen parts of these, but I don't think I've seen the whole study. There seem to have been excerpts, maybe in some of the briefs we've had from some of the witnesses.

**The Chair:** Certainly in the legislative summary there may have been reference to those.

He'll look into it.

**Mr. Joe Comartin:** Could you circulate those?

**The Chair:** At least get us digital copies.

All right, please continue.

**Mr. Joe Comartin:** Mr. Sapers, I think it was in your part of the presentation that you talked about how Bill S-6—I'm on the third page of the brief—will likely increase the period of time that long-term offenders will wait before receiving correctional programming.

Can I conclude that because it's going to be further down the road that they're going to get out, Corrections Canada will simply not make the programming available to them, or is it because they will not ask to have the programming made available to them?

**Mr. Howard Sapers:** Typically, your first assumption is correct. The way that CSC times programming is closer to the potential for conditional release.

**Mr. Joe Comartin:** Okay.

Those are all the questions I have. Thank you.

**The Chair:** Thank you.

Mr. Dechert.

**Mr. Bob Dechert:** Thank you, Mr. Chair.

Gentlemen, thanks for being here today and sharing your views with us.

Mr. Sapers, in your remarks you conclude by saying we need to strike a balance between measures that are designed to incapacitate and deter and measures that advance the principles of reintegration and rehabilitation.

My view of this bill, and the government's, is that this bill is not designed to incapacitate or deter. We're trying to reinforce the rights of victims and foster respect for them, their families, and their communities. We're trying to restore confidence in our criminal justice system. And we're trying to ensure that the sentences imposed by the courts are actually going to be served by first-degree murderers. That's what this bill is about.

We're not saying to anyone that this bill is going to incapacitate or deter. Obviously, it will incapacitate to the extent that first-degree murderers are going to spend a little more time in prison. They're not going to be able to commit another offence while they're in jail. But that's not the purpose.

I hope all Canadians understand the purpose of this bill: we're trying to design a system that respects the victims. You heard from the victims' ombudsman earlier about the great anxiety that victims' families go through when they anticipate having to go to a faint-hope clause hearing, and then to a parole board hearing. They may have to do this on multiple occasions, each time reliving the worst hours of their lives.

For every murderer, there is at least one victim. But for each of their victims, there are many family members and friends. There are whole communities. Some of these horrendous crimes that have happened recently traumatize entire communities. These communities are going to be traumatized again and again when these faint-hope applications are made.

Perhaps you could give that some thought.

You provided us with a list of countries that in your view have shorter incarceration periods than Canada. You mentioned New Zealand, Scotland, and Switzerland, and that's very interesting. But you didn't mention the United States, which, from my understanding of history, is the oldest democracy in modern times, our largest trading partner and closest neighbour. You didn't mention the average length of time first-degree murderers spend in jail in that country. I recognize that some states apply the death penalty, but many do not. Maybe you could inform us on that.

Also, I wonder if you could tell us about India. It's the world's largest democracy, with 1.3 billion people, and it's one of our fellow members of the Commonwealth. We have over one million Canadians of Indian heritage. I wonder if you could tell us what the stats are in India.

• (1725)

**Mr. Howard Sapers:** Thank you.

I'll take the question first and then address some of the comments.

I have to apologize to the committee. I don't have any statistics for India at my fingertips, but I will do what I can to get this information for you.

But I can tell you a bit about the United States. The average time spent for murder in the United States, taken across the board, is 18.5 years. The life for parole is 29 years. This excludes exits due to death, because people die under sentence; commuted sentences; and compassionate releases. So the United States is on one measure about the same as Canada. We're around 28 or 29 years. In another way of looking at it, there is about a decade less time served in custody in the United States.

**Mr. Bob Dechert:** I would like some clarification on the persons who serve 18.5 years. Is that for first-degree murder?

**Mr. Howard Sapers:** It is for those who have been sentenced to life. In the States, there is not always the same distinction that we have in our Criminal Code. We make a distinction in murder—first and second degree. That distinction is not carried across all jurisdictions the States.

**Mr. Bob Dechert:** First-degree murder is the most serious offence in our laws. Perhaps you could tell us what percentage of murderers who are incarcerated are first degree versus second, or—

**Mr. Howard Sapers:** I have that information and will share it with you. The numbers that I was sent from the United States are for individuals who are sentenced to life, so they are people who received a life sentence.

As far as the distribution of offenders is concerned, those serving for first-degree murder currently number 851 in custody nationally. Those serving for second-degree murder, the total national population in custody is 1,850.

The total count of those in custody yesterday was 13,863.

**Mr. Bob Dechert:** It's important that people understand that we're not talking about all murders in Bill S-6. We're only talking about first-degree murder.

**Mr. Howard Sapers:** Sure.

**Mr. Bob Dechert:** That's a relatively small number.

You've mentioned a number of other—

**The Chair:** Mr. Dechert, I'm sorry, but we're out of time. We're at 5:30.

I just want to thank our witnesses for attending. Your testimony is helpful, and we'll certainly take it into consideration as we complete our study of this bill. Thank you to both of you.

We're adjourned.

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