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Chair

Mr. Ed Fast

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• (1545)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order.

This is meeting number 47 of the Standing Committee on Justice and Human Rights. For the record, today is Wednesday, February 9, 2011.

You have before you the agenda for today. We're continuing our review of Bill C-54, An Act to amend the Criminal Code (sexual offences against children).

I've asked the clerk to distribute the steering committee report for approval at the end of our meeting, so we'll leave maybe 10 minutes' time at the end. Monsieur Ménard also has a comment to make about our Monday meeting at that time.

To help us with our review of Bill C-54, we have three parties. First of all, appearing as an individual, we have Mr. William Marshall, director of Rockwood Psychological Services.

Welcome to you, and my apologies for us being late. We had a little bit of a delay with our bus. Thank you for staying around.

We also have, by video conference from Charlottetown, Prince Edward Island, representing the office of the Attorney General of Prince Edward Island, Randall Fletcher, sexual deviance specialist.

Welcome to you.

We also have, by video conference from Brantford, Ontario, representing the Canadian Criminal Justice Association, Stacey Hannem, who's the chair of the policy review committee.

Welcome to you as well.

I think you've been told about the process here. Each of you has 10 minutes to present, and then we'll open the floor to questions from our members.

Mr. Marshall, perhaps you could start.

Dr. William Marshall (Director, Rockwood Psychological Services, As an Individual): I'm accustomed to being held up, because I've just spent the last two days in court, and you know what that's like, so no apology is necessary.

Let me just briefly tell you what I do and why I'm here. I was a professor at Queen's for 28 years. The law required me to retire in 2000 when I turned 65, but I've continued to do research and clinical work with sexual offenders. In fact, it's a bit broader than that, with a

variety of offenders now. I presently run programs in two federal prisons for sexual offenders.

I'm also the director of treatment groups at a mental disorders institution in Brockville, which is a combined institute of provincial corrections and provincial mental health services. I provide the treatment groups for all of the offenders in that 100-bed institution, including the 25-bed sex offender unit.

I've been doing research on and treatment of sexual offenders for 42 years and set up the first treatment program in Corrections Canada in 1973 after a dreadful offence by a released offender.

I'd have to say that from the late 1980s, when Ole Ingstrup became the Commissioner of the Correctional Service of Canada, federal corrections was transformed into, in my view, easily the best correctional service in the world. Its goals were not only to properly protect the public by having secure facilities so that these fellows didn't escape—or at least very few of them—but also were about providing funding for a whole variety of rehabilitation programs that over the years have been shown to be remarkably effective.

I'm sorry to say that Corrections Canada have reversed their strategies over the last year and have markedly reduced the range of programs. In particular, they've removed all of the psychologists from providing treatment for sexual offenders, in spite of the fact that their programs for the very highest risk, high risk, or moderate risk have all been shown to be remarkably effective. As a matter of fact, they're the most effective programs in the world. I used to boast wherever I'd go. I consult in 26 countries around the world and I would boast about the remarkable facilities and the effectiveness of Corrections Canada.

So I'm very sad to see the efforts at rehabilitation being significantly diminished. I would say, from what evidence we have, that the programs as they are now going to be constituted will probably have little or no effect in reducing recidivism. And we have to keep in mind that the victims of these fellows are innocent women and children, for the most part.

I think when you're proposing to change the sentences for sexual offenders you have to consider what the goal is and whether it's just punishment, which is certainly the American model—and we only have to look at their prison system to see how remarkably ineffective and costly that is—or whether it should include the possibility of rehabilitation.

In regard to length of sentences, from the work by the Carleton University criminologists, led by Don Andrews, the evidence and the large numbers of meta-analyses we have indicate that increasing the length of sentences has a remarkably small effect, but it's in the wrong direction. It actually increases recidivism. I can refer you to that literature—not right off the top of my head, but I can provide you with references to that literature if you're interested.

I think if we're going to increase the length of sentences we have to be cautious about considering the details of why we're doing this. Given that we have a neighbour to the south that's readily available—having done just this—we have to look at the effects of that.

As for the effects of increasing the length of sentences, as I've said, not only does that appear to increase recidivism, it inevitably leads to—and is already leading to—overcrowding in our prisons, which has never been a problem, really. But it is becoming one, and it will become even more so. What this effectively does, even if you provide the resources to do rehabilitation work, is that it eliminates the possibility of doing any.

I've visited countless numbers of American prisons and they are so overcrowded that you couldn't possibly do treatment under those conditions. It's just an impossibility. As a matter of fact, the majority of the states just give up and make no efforts at all. But they at least admit that they can't do it, so they don't bother to try. That of course unfortunately ends up with a majority of sex offenders—or a large number, anyway—in sexually violent predator programs because they haven't been offered the opportunity to reduce their risk before they appear before those.... It strikes me that the Americans have a strange constitution, really; how that gets past their constitution is beyond me. Anyway....

I think you need to keep in mind that increasing the length of sentences is inevitably going to lead to overcrowding. It will reduce any possible efforts at rehabilitation. Corrections Canada has already gone down the road of seriously damaging their international reputation in effectively dealing with offenders of all kinds and, in particular, sexual offenders.

I don't think I have anything specific to say about any of the particular offences. I suppose some of them strike me as a bit unusual.

I think incest is rather unusual descriptor, really, because it encompasses adults who presumably have consenting sex with each other—siblings, for example—and who will get penned up as being viewed in the same light as someone who's molesting their daughter, even if their daughter is 17 years of age. I think that's a quite a remarkably different kettle of fish. I don't know how you can convey in the law those kinds of differences. It's in the hands of judges, I guess, and what decisions they come to is open to interpretation.

I think also exhibitionism.... Some exhibitionists, but remarkably few, graduate to more dangerous acts. I think we need to distinguish exhibitionists who offend against adults from those who offend against children, and of course you do, but for exhibitionists who offend against adults, remarkably few of them graduate to anything more dangerous. It seems to me that a minimum sentence of 90 days for a first-time exhibitionist is pretty stiff.

Already being an exhibitionist and getting his name in the paper is going to have remarkably serious consequences for his life, his family, and his children. Sending him to prison for 90 days is so trivial...what can happen in 90 days, of any value, is beyond me. That just seems to add a burden that seems fairly useless to me. So I would just discourage you from those minimums for exhibitionism even on summary conviction of the 30 days, so what drives that....

What we need as a minimum for rehabilitation efforts, and I know that your concerns are with more than just that...what we need for most of the serious sexual offenders, and I mean by that men who molest children at whatever degree of molestation it is.... That strikes me as a serious offence, and I would certainly like everybody who molests children to go directly to jail. I don't have any reservation about that. The question is, how long is useful?

What we need is for them to be in a prison for three years where we can provide treatment. Three years is the minimum requirement to provide satisfactory rehabilitation. That's because most of these men not only have problems relating to their sexual dispositions, but many also have problems of anger or substance abuse. So we need to get them into other programs, and I must say that those other programs have markedly diminished in scope and adequacy in the federal corrections system.

• (1550)

Then, of course, there's all the processing at the front end and moving them about from institution to institution. So we need at least three years. I would recommend that for sexual assault of adults and sexual assault of children it should be a minimum of three years. It would make more sense, in my view.

I've handed out some of those copies on the effectiveness of sexual offender programs in the federal system. I hope you have them.

• (1555)

The Chair: We do. Unfortunately, they weren't translated. We're going to have them translated and then we'll circulate them to our members.

Dr. William Marshall: I'm sorry about that.

The Chair: That's fine.

Dr. William Marshall: I grew up in Australia. The only language you need to learn there is the Australian version of English—

Voices: Oh, oh!

Dr. William Marshall: —and I don't speak French.

The Chair: Actually, you've run out of time. If there's anything else you want to say, you can do that as questions are being asked.

We'll move next to Mr. Randall Fletcher.

Please proceed.

Mr. Randall Fletcher (Sexual Deviance Specialist, Office of the Attorney General of Prince Edward Island): To give you a little of my background, I am employed by the Office of the Attorney General in Prince Edward Island. Basically, I see anybody and everybody charged with a sexual offence in Prince Edward Island.

P.E.I. is perhaps a little unusual in that we are able to offer treatment to everybody who's convicted. In addition, the majority of people who either plead guilty or are found guilty undergo a comprehensive assessment prior to sentencing, which means that at the time of sentencing the judge has access to expert opinion regarding the person's level of dangerousness, the nature of their offence, what's needed in order to reduce the risk of recidivism, and what's needed in terms of external controls and treatment.

In preparing for this, I actually thought that I probably couldn't say anything better than to quote from a position statement that was created by ATSA, the Association for the Treatment of Sexual Abusers. It has approximately 3,000 members worldwide, made up largely of people who do research and clinical work. Dr. Marshall, who you just heard, is a past president of ATSA.

In November of 1996 they published a position paper. I'm going to quote some of that. They said:

It is important to understand that sex offenders are not all the same and, in fact, this heterogeneous group of individuals includes a tremendous variety in age, psychological profile, and history of offending.

...Many people's awareness of sex offenders has been formed by media descriptions of the most serious offenders, frequently offenders who also murdered their victims. Certainly these offenders have committed very heinous acts and merit society's attention and censure; however, it is important to realize that this type of offender does not represent the typical sex offender.

They state that people who commit sexual offences "differ greatly in terms of their level of impulsiveness, persistence, the risks they pose to the public and their desire to change their behavior". They also say that "[e]ffective public policy needs to be cognizant of the differences among" people who sexually offend "rather than applying a 'one size fits all' approach".

That kind of reiterates Dr. Marshall's comment about the difficulty in drafting legislation that's going to recognize those differences. I think when you start imposing minimum sentences you're taking away from judicial discretion and from being able to tailor both the sentence and such things as probation orders to what's needed.

To touch a little on what Dr. Marshall was saying about the effectiveness of incarceration, I was fortunate to listen to a presentation by Paul Gendreau, a Ph.D. who is with the justice institute of New Brunswick. What he said is that in the 1950s and 1960s, when Canadian prisoners spent more time in prison, the recidivism rate was actually 2% higher. In a comparison between a brief period of incarceration and no incarceration at all, he found a 0% difference in recidivism. In other words, two people with the same offence are equally likely to reoffend where one goes to jail and one doesn't.

One study found that if you incarcerate low-risk offenders with high-risk offenders it produces a 1% increase in recidivism for the high-risk offenders and a 6% increase for the low-risk. That's the problem you get when you have overcrowding in prisons.

In the mid-1970s it was found that intensive supervision with little or no treatment again resulted in a 1% increase. Fines alone, with no incarceration, produced a 3% decrease. Boot camps produced a 1% increase; drug testing, a 1% decrease; electric monitoring, a 3% increase; and counselling of any type, an 11% decrease.

Similar effects were found by Don Andrews, who reviewed existing studies for common factors about what works and what doesn't. He looked at over 30 studies and found that punishment alone results in a 7% increase in recidivism, which increases further with the severity of the punishment. Punishment plus treatment produced a 15% reduction.

Clearly, what works does not fit with what people might think, and efforts to make communities safer need to be based on research-based knowledge. Dr. Gendreau concluded that in the Correctional Service of Canada there is sometimes an inverse relationship between what is being done and what is known to be effective.

• (1600)

To look at the recidivism rates for people who commit sexual offences, again, the common perception in the public is that everyone who commits a sexual offence will eventually reoffend. In fact, it's just the opposite. Canadian research has found that, overall, the rates for sexual recidivism, expressed as either new charges or convictions, were 14% over five years, 20% over 10 years, and 24% over 15 years.

It's equally important to understand that in terms of recidivism, sex offenders are not a homogenous group. Child molesters who offend against unrelated boys recidivate at 35% over 15 years. At the other end, incest offenders reoffend at 13% over 15 years. Child molesters who molest unrelated girls fall in between.

It is also important to note that those who have prior sex offences recidivate at approximately double the rate of first-time offenders. The majority of people in Canada who are charged with a sexual offence do not have a previous record.

In terms of the effectiveness of sex offender treatment, there was a problem in early studies that had to do with the need to achieve statistical significance. In simple terms, it means that if I were to flip a coin ten times and it came up heads eight times, you could get that result purely by chance. If I flipped a coin 100 times, and it came up heads 80 times, that would be statistically significant.

When I started in this field 23 years ago, the consensus I was getting from the literature and from talking to other people was that, to be effective, treatment took between two and five years in an open-ended approach, with no clear content or criteria for termination.

Studies using a sample size of 100 and a base rate of 50% untreated who reoffend and 40% reduction in recidivism produce a result that's not statistically significant. This problem was resolved through an ATSA collaborative data research project headed up by Karl Hanson, who is with corrections research at Public Safety Canada, which defined standards for treatment outcomes and did a meta-analysis of all the old studies.

The study found that on average across all studies treatment produced a reduction in sexual recidivism: from 16.8% to 12.3%. When you sifted out current treatments, those that were known to be the most effective at the time, the reduction went from 17.4% untreated to 9.9% treated. And community-based treatment programs tended to be more effective than institutionally based treatment. That has to do with the problem of providing treatment in a setting that's basically hostile to individuals, that does not encourage openness or change.

So what is now known is that whereas shorter periods of incarceration alone produces a zero per cent difference from no incarceration, and longer periods of incarceration produce an increase in recidivism, incarceration plus treatment produces significant decreases. This holds true for sex offenders, the same as it does for the general criminal population. We also know that most effective sex-offender treatments make use of what is known through research and is based in the community.

In passing any legislation, you have to be aware of unintended consequences. Increasing minimum sentences also results in a need for more jail cells and more correctional staff. This is likely to be particularly true in provincial correctional systems, where treatment resources are already limited. More money then goes into what is known about what doesn't work and less into what does.

There's also increasing difficulty among sex offenders in adjusting to release in the community the longer they've been incarcerated. One of the things I have found with the people I treat is that those who are able to obtain employment upon release into the community are primarily those whose employers held their jobs open for them. With a relatively small period of incarceration, that becomes possible. With longer periods, employers are either unwilling or unable to do so.

You also have to take a look at the increased feelings of alienation and of being singled out as less trustworthy, more likely to reoffend, and less acceptable than people who commit other forms of crime. That, in turn, can lead to social and emotional isolation, both of which are factors that seem to increase the risk for reoffending.

•(1605)

One of the advantages of P.E.I. being a small province is that sometimes we're able to approach things more comprehensively. People who are incarcerated here can start their treatment while they're incarcerated. They're escorted by correctional officers into the community to where my office is and attend group treatment sessions there. We try to time it so that at least one third of their treatment takes place after their release into the community. What this means is that they begin to learn how to change their behaviour while in a secure setting and start to apply it once they're out, with the support of their treatment groups.

My concern is that increases in minimum sentences will limit correction dollars that are available for the extra shifts that are needed for correctional officers to escort the sex offender into the treatment sessions. I can't emphasize enough the value of their being able to get out of that correctional setting and into a setting where they feel safe, where they feel they can be open, where they can express themselves and begin to look at their problems.

That's all I have to say for now.

The Chair: Thank you. Could you clarify something?

Is the position you've just stated the position of the Attorney General of Prince Edward Island?

Mr. Randall Fletcher: Yes. This was gone over regarding a previous presentation I was going to make and there was agreement with this.

The Chair: So the attorney general concurs with your presentation.

Mr. Randall Fletcher: He's aware of what's in the presentation and concurred with my presenting it, yes.

The Chair: Okay.

We'll move on to Ms. Hannem.

You have 10 minutes.

Dr. Stacey Hannem (Chair, Policy Review Committee, Canadian Criminal Justice Association): Thank you.

I'm speaking today on behalf of the Canadian Criminal Justice Association. I am chair of the policy review committee. I am also a professor in the criminology program here at Wilfrid Laurier University. I've spent the past nine years working and researching within circles of support and accountability, which is a community-based reintegration program for released sex offenders.

My perspective today is representative of the viewpoint of the Canadian Criminal Justice Association and it's also based on my own experience in my work and my research.

We'd like to emphasize that the CCJA sincerely supports the efforts being made to protect children from sexual abuse. Our comments today are not reflective of our disagreement with the spirit of this legislation, but we do have some very real concerns with some particular measures that it contains.

We believe very strongly that any changes made to the legislation need to be based on research, research that demonstrates that these changes are going to work, that they are actually going to give the effect of preventing child sexual abuse or reduce the recidivism—or for any other crime, for that matter.

We have some concerns with Bill C-54. Our concerns rest on three basic fundamental problems with this legislation.

Number one, as has already been alluded to, there is a lack of evidence in research to support the idea that mandatory minimum sentences will deter crime; that is, the preponderance of research has found that regardless of the length, the severity of the sentence, we are not seeing real deterrence from these types of measures.

In fact, in 2002, Gabor and Crutcher did an analysis of existing research and literature for the Department of Justice, which found only very marginal deterrent effects for drunk driving and regulatory firearm offences. This...[*Technical Difficulty—Editor*]...deterrent effects for more serious or violent crimes. Furthermore, the longer the sentence, as has been suggested, as has been stated, the more potential there is in fact for a reversal of the reduced recidivism that we want to see.

What we do know is that mandatory minimum sentences cost taxpayers money. They result in more people being sent to prison for longer periods of time. In some cases, they result in sentences that are fundamentally unjust, that is, they do not address the specifics of the case, and as Dr. Marshall eloquently pointed out, the very wide variety of offences that might fall under the category of incest, for example.

We are very concerned. Historically, we have taken a stance as a committee, as an association, against the use of mandatory minimum sentences because we simply don't see any reason for this expenditure of public funds with very little result.

The second major problem we have with Bill C-54 is the potential within the changes to the judicial order which restrict access to technologies such as the Internet and computers needed for ex-prisoners on parole. We feel there is a potential there for this change to have a detrimental effect on an ex-offender's ability to reintegrate, to obtain employment, or to pursue education.

We find that the change in the wording to say that they can't be using computers or technology for any reason at all except in an express judicial setting is simply just beyond the pale in terms of the impact it could have on these individuals' ability to be able to function in a society that depends so highly on technologies. As you can see, here I am talking to you from Brantford.

Anecdotally, I've worked with an ex-offender who did federal time. When he got out he went back to school, pursued an undergraduate degree, and is now pursuing a master's degree, none of which would have been possible if he had not been able to use a computer or the Internet.

I would very strongly urge the committee to consider maintaining the original wording of that clause, which states that computers and technology are not to be used for the purposes of communicating with individuals under the age of 16. It seems to me this is a fair restriction of that liberty.

• (1610)

The third problem we have with Bill C-54 is the new offence that is being created of making available sexually explicit material to a minor for the purposes of facilitating the commission of a sexual offence. We find that this particular offence category is very broad and in fact is probably too broad to be appropriately enforced. To ensure that miscarriages of justice do not occur, in the written brief that was submitted to the committee, we point to the fact that in watching the news we see numerous incidents of parents who are concerned about sexually explicit content provided to their children in sex education classes. I ask you, is there a potential here for a parent to perhaps suggest that a teacher is luring students...? It has to be up to the courts to sort out what the intent of that teacher was, but by that point an individual's life and career might have been utterly destroyed.

It is unclear why this providing of explicit material wouldn't fall under existing child luring legislation. It's also unclear how this legislation is going to protect children. Because research tells us that the majority of adolescents have already encountered pornographic or sexually explicit material on the Internet, either on purpose or by

accident. I don't think that this provision is going to protect children in the way that it is suggested that it will.

In addition to these individual problems I've mentioned, the CCJA is also concerned with the cumulative impact of passing ineffective criminal justice legislation. Every time we pass a new law that does not deter, that does not reduce recidivism, money and effort are put into enforcing ineffective legislation, thereby taking money away from programs that might actually be effective. So you're claiming to be protecting Canadians from victimization and abuse, but in some cases the legislation that has been passed may in fact have the opposite effect by undermining various things might work.

As has been suggested already today, we need to put more money and more resources into appropriate programming and treatment for individuals who have been convicted of sexual offences. Over and over again, this has been demonstrated to work. As has been stated, at one point for Canadian programs, as Dr. Marshall suggested, Canada was on the world scene, and other countries were emulating our approach. Now I'm afraid that the resources have been so stripped that this is no longer the case.

We need to have money for counselling programs to treat the victims of sexual abuse. The money spent on prisons and incarceration, which are ineffective, could be much better placed in helping victims. We need consistent support for programs and initiatives that have been shown to be effective at reducing recidivism rates of sexual offenders. The circles of support and accountability are just one example of those types of programs that, like psychiatric and psychological treatment programs, have also been demonstrated to be effective.

We need education for parents and teachers about the warning signs of sexual abuse and sexual deviance. We need resources to support concerned adults in obtaining help for children who might be at risk of being abused or becoming abusers. We need resources and support for children's aid societies across Canada that deal with abused children on a regular basis and are often powerless to do anything.

These are the sorts of things that will actually prevent victimization. It could make a much larger difference in the long run.

It is the opinion of our association that the proposed changes contained in Bill C-54 will not have the desired stated effect of reducing victimization and deterring sexual predators.

Thank you for your time.

• (1615)

The Chair: Thank you.

We'll move to questions from our members.

Mr. Lee.

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

I thank the witnesses for their input.

Mr. Marshall, clauses 11 and 12 of the bill increase the so-called mandatory minimum punishment from 45 days to 90 days. Do you see any public policy difference or objective that would be obtained by doubling this 45-day minimum to 90 days? Do you see any purpose or benefit? Or is that a leading question?

Dr. William Marshall: No, not really. I don't know what we could do with those additional 45 days. Certainly we could not initiate anything in the way of treatment. Ninety days in itself is not enough to even get someone into the frame of mind in which they will pursue treatment once they're back in the community, so honestly, I fail to see any value to that.

Mr. Derek Lee: Is there any comment from Mr. Fletcher or the panel?

Mr. Randall Fletcher: Similarly, I can't see how it could be beneficial. With provincial sentences, which tend to be shorter anyhow, it makes it a little bit more difficult in terms of perhaps the timing of treatment.

I think the biggest thing would be a negative effect where it does probably result in increased money being spent on correctional officers, possibly increasing the number of jail cells, and taking money away from treatment.

Mr. Derek Lee: Ms. Hannem...? It's not necessary to reply if...

Go ahead.

Dr. Stacey Hannem: I concur with those opinions, although I would add that for offenders who have families, doubling that mandatory minimum could have serious impacts in terms of loss of work and their inability to gain employment upon release, which could have very serious consequences for the family unit.

Mr. Derek Lee: Okay.

Mr. Marshall, during your remarks, although this isn't directly a part of this bill at all.... I'm talking about the programming for offenders convicted of these types of sexual offences. You said that you had noticed a material reduction—or at least a reduction—in the amount of programming or the funding for programming for those types of offenders, with whom you have worked.

I'm going to put the same question to Mr. Fletcher.

Can you identify the source of those cuts or why there were cuts or reductions? Because they seem to be pretty fundamental to the treatment of these offenders.

• (1620)

Dr. William Marshall: With respect to the treatment of sexual offenders in the federal system, the cuts have been to eliminate psychologists altogether from providing treatment services. It was the background of training...I don't know that it matters that it was a psychologist, but it was someone with at least a master's degree or a Ph.D. and an educational background sufficient to implement effective treatment. They've taken them out of that loop altogether, and they're replacing them with people who will have a two-week training program with no necessary educational background to run the programs.

What we know about the treatment of sexual offenders is that if you run it like a cookbook, where people without much skill just deliver it as more or less psychoeducation, it has almost no impact at

all. If you have sophisticated therapists, then the effects are remarkable.

Mr. Derek Lee: Thank you.

Mr. Fletcher.

Mr. Randall Fletcher: I really can't comment. I have no insight into why that decision was made in the federal system. I can say that there's nothing similar in the provincial system in P.E.I.

But I certainly concur with Dr. Marshall that effective treatment requires someone with extensive training. It also requires that there be money available to keep upgrading that training. As there is new research taking place, you need to keep up with that, particularly in terms of the trends toward what are considered best practices in treatment.

Mr. Derek Lee: Okay.

This movement of these sentencing levels seems to be like some kind of public auction or a silent auction going on here now. If we, through this bill, increase the length of sentences but we don't do anything about the programming, do you have any comment about the implications for the success of our public policy change to increase the sentencing without dealing with funding for programming?

I'll go to our remote witnesses first: Mr. Fletcher or Ms. Hannem.

Mr. Randall Fletcher: If you set aside the implication of it maybe resulting in decreased money being available for treatment, then I can't see it having any impact on that. You're not talking about a very big increase in the minimum sentence. The question is whether it will actually do any good.

Mr. Derek Lee: Isn't there a likelihood that the increased sentencing will start to suck up all the money that we would otherwise be able to perhaps use in treatment?

Mr. Randall Fletcher: Yes. That's what both Dr. Marshall and Stacey Hannem have been saying. It takes money away from treatment.

The provincial systems are already struggling greatly with some of the legislation that has been passed in regard to changing sentence lengths for other types of criminal behaviour. In P.E.I. they've just built a huge addition onto the provincial correctional centre. That is creating a real financial crisis in the system. So far, it hasn't impacted on my service, but that's mainly because of the priority the province gives it. If that trend continues, then obviously there is going to be less money available.

Mr. Derek Lee: Mr. Marshall.

Dr. William Marshall: It's interesting that Corrections are cutting back on the provision of treatment for sex offenders when Pamela Yates, who works for the Correctional Service of Canada in Ottawa here, did a study examining the cost benefits of providing treatment for sexual offenders. She calculated that every dollar spent on sexual offender programs saves the Correctional Service of Canada six dollars by getting men out of the prison earlier and by failing to return them to prison as a result of recidivism.

The reason they claim... I don't think it's founded at all, but the reason that CSC claims for their moving away from psychologists is that they claim they cannot recruit psychologists. Now, that might be true in the northern part of Alberta, but it's absolutely not true in most of the other provinces. In most of the large cities, it's not true at all.

The Chair: Thank you.

We'll move to Monsieur Ménard for seven minutes.

[Translation]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Not only did studying this bill allow us to hear from other witnesses and to better understand the topic, but it also made us think things through in general; this is really about a type of crime that is considered the consequence of psychological abnormalities. Generally, we consider these people to be sick. But that does not mean they inspire pity because they are sick. Quite often, the opposite is true.

When you talk about treatment in general, are you talking about treatment that cures them of the abnormal psychological impulses that make them act the way they do, or treatment that helps them to control the urges that are still present so that they don't act on them when they surface?

• (1625)

[English]

Dr. William Marshall: The goal of treatment is to help them meet the needs that they are attempting to meet so inappropriately and so damagingly to innocent people. It's to help them develop the skills and the capacity, the attitudes towards others and towards themselves, that allow them to meet their needs in prosocial ways. So it's not so much a matter of sort of curing their tendency to be obsessed with, let's say, molesting children; rather, it's more a matter of providing them with the capacities and strengths so that they will be able to meet their needs in prosocial ways and they therefore won't need to molest children.

What he targets of treatment for these programs are derived from is research showing that these potentially modifiable features of offenders actually predict reoffending. It's only those that have been shown to predict reoffending that we address in treatment; they're called criminogenic factors. For example, one of the biggest is relationship difficulties. If you can't meet your needs in effective relationships, then you're going to look elsewhere. For some men, that means they have multiple affairs. Others drink too much. For some, unfortunately, it means they molest children or assault women.

It's a whole range of issues that would take me some time to tell you about. That's just one of the typical things that are addressed. The only reason we address it is that it is deficiencies in those skills that have been shown to predict reoffending.

[Translation]

Mr. Serge Ménard: Do any of the other witnesses want to answer the question?

[English]

Mr. Randall Fletcher: I would certainly concur with what Dr. Marshall is saying. It needs to be understood that if someone commits a sexual offence, it's not a sickness. It's not a disease

process that happens with them. They're not born with something different about them that leads to that behaviour. It's a learned behaviour. Somewhere along the way in life, they learned to try to get their emotional and psychological needs met through that type of behaviour, and they choose to do so in the absence of skills or the awareness of how to do it differently. That's what treatment focuses on.

One of the current trends in treatment is sometimes referred to as the "good life model", the idea being that if you teach someone how to lead a good life where their needs are well met, then you don't need to worry about them engaging in any criminogenic behaviour, not because they have the will not to, but because they just won't have the urge to.

[Translation]

Mr. Serge Ménard: If you received the funding you considered necessary to provide those types of treatments, what would the anticipated non-recidivism rate be?

[English]

Dr. William Marshall: Well, I'd like to have zero, just like all the rest of us.

[Translation]

Mr. Serge Ménard: Do you think you could reach the zero objective if you received enough money to develop programs? Do you think that, with the science we have today, it is possible to develop programs and to prevent people from reoffending?

[English]

Dr. William Marshall: No. It's a dream, just like the dream to cure cancer, to eliminate cancer altogether. We're not going to get there just yet.

I can tell you that what we know now is remarkably more comprehensive than what we knew when I started doing this. If you look at the effects of treatment, you'll see that they are clearly related to this more modern movement towards addressing criminogenic factors. That's what has really made profound changes.

All this research really is Canadian. There's not much outside of Canada that's made much of a difference to the ability to effectively treat. Our treatment program over a 10-year period got the recidivism rate down to 5%. I'd like it a lot lower than that, but that's substantially better than a program 10 years ago that had it down to somewhere like 9% or 10%.

• (1630)

[Translation]

Mr. Serge Ménard: Oh, okay. Now...

[English]

Mr. Randall Fletcher: If I could comment on that, I agree that obviously we'd like it to be zero per cent. When you're talking about something as complex as human behaviour, you're always going to find some people who, for one reason or another, are resistant to treatment or where treatment can't be delivered to them effectively. Not all treatment programs are the same.

In P.E.I., for the people who attend the treatment program here, if you look at the predicted recidivism rate without treatment for their risk level, it ranges from 13% to 17%. The five- and ten-year recidivism rate for people who have had treatment ranges from 3% to 4%. That certainly shows how effective it can be. I'd like to get it lower, but I don't know how much lower it can go.

[*Translation*]

Mr. Serge Ménard: I will move on to another topic. I have practised criminal law throughout my career as a lawyer, since 1966. I'm not really an expert in this area and I have not defended many cases like that, but, in general, when people convicted of crimes against children go to jail, it is very difficult to protect them because other inmates attack them. That's what we are told.

Mr. Marshall, you must have surely encountered situations like these. How do you go about treating them? Can you tell us how people are taken care of in those circumstances? It's strange because no one mentioned it to me until now—unless the situation in Quebec is very specific. But I think that this is what generally happens. As a result, the chance of people going back to jail after they've had a taste of prison is slim because they really don't want to go back.

[*English*]

The Chair: Monsieur Ménard, we're about a minute over.

I'll give you maybe 15 seconds to respond.

You can come back on the next round, all right, Monsieur Ménard?

If you could, just very quickly respond.

Dr. William Marshall: What I did in Ontario—and still do—was have special prisons for programs. So for offenders of any kind who volunteer for programs, they go to those prisons. The harassment of sexual offenders in those prisons is very low, because anybody who harasses a sexual offender knows they're on the next bus to what the prisoners call the gladiator prison.

The Chair: Thank you.

Mr. Comartin, you have seven minutes.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you to the witnesses for being here.

Dr. Marshall, I just want to get more of your background, because I think you were fairly modest when you said who you were. You've received the Order of Canada for the work that you've done in this area...?

Dr. William Marshall: I have, yes.

Mr. Joe Comartin: You've also published, my notes show, over 300 publications, including 16 books?

Dr. William Marshall: It's 375 now.

Mr. Joe Comartin: It's 375 now? Okay.

You did indicate that you have been advising up to 26 other countries in this area of sexual offenders.

Dr. William Marshall: Yes, that's true.

Mr. Joe Comartin: Including most recently—I think as of 2003—you've become a consultant to the Vatican for all the problems they've been having with sexual abuse.

Dr. William Marshall: Yes.

Mr. Joe Comartin: In terms of the decision—you said in this last year—to pull the psychologists out, is there any explanation for it other than the cost?

Dr. William Marshall: The claim is that they cannot recruit sufficient psychologists, and that certainly isn't true in Quebec, in Ontario, and in most of the provinces—certainly not in B.C. Maybe it is true in some remote areas in the northern prairies, but it doesn't strike me as... You know, you don't dump all the psychologists just because you can't get them in northern Alberta. That seems like a plainly stupid strategy to me.

Mr. Joe Comartin: You know where the prisons are in Canada, all the major ones?

Dr. William Marshall: More or less, yes.

Mr. Joe Comartin: And specifically the ones that host these prisoners?

Dr. William Marshall: And provide the programs, yes.

Mr. Joe Comartin: Most of those would be in major cities or close enough to major cities where there would be sufficient psychologists to be able to do the work.

• (1635)

Dr. William Marshall: That's true, yes.

Mr. Joe Comartin: Dr. Fletcher, I'll ask you to respond to this as well. We heard some evidence on Monday, and I think I'm hearing both of you saying the opposite today: that child molestation was a mental illness, that it was not curable, but that it was treatable. Would you agree with that assessment of the condition?

Dr. Marshall, you could start.

Then, Dr. Fletcher, could I have your response?

Dr. William Marshall: I just think that's an inappropriate way to look at the problem. A lot of human behaviours that are persistent are not best viewed as a disease process, but as a learned, habitual behaviour that's satisfying some kind of need. Then you look at how this person could satisfy those needs in a more appropriate way that is less destructive to himself and to others. That's a better way to think about this.

The notion of "cure" applies to things like physical diseases, quite sensibly, but I don't think it's the way to look at this. What we're trying to do is reduce the tendency to hurt others in the pursuit of the same needs that the rest of us pursue but in more appropriate and less destructive ways. That's the aim of the programs. That's the way we think about it. We don't think about it in those psychiatric terms.

Mr. Joe Comartin: I'm sorry, Dr. Fletcher, just before we go to you...

Dr. Marshall, you're a psychologist, not a psychiatrist...?

Dr. William Marshall: Yes. This is not an argument between psychologists and psychiatrists, however; it's just a different construction on the way of looking at the problem.

Mr. Joe Comartin: Okay.

Dr. Fletcher, are you a psychologist as well?

Mr. Randall Fletcher: No. I should clarify that. I'm a clinical social worker. My background was in mental health clinics and psychiatric hospitals in doing clinical work. Then, about 23 years ago, I specialized and got training in this area.

But to respond to your question, I agree with Dr. Marshall. Sometimes you get into a case of semantics. To me, mental illness is a biological process such as schizophrenia, where you can actually see that there's something biologically going on with the person. There has been no research that has identified that as being present in someone who is a child molester. Even among child molesters, if you look at the term "pedophile", in North America *The Diagnostic and Statistical Manual of Mental Disorders* is what's used primarily for diagnosing mental disorders, and a lot of the people I see who have sexually molested a child don't even qualify for the diagnosis of pedophile, which really refers to someone who has a persistent sexual preference for prepubescent children.

Sometimes the reasons for molesting a child have nothing to do with sexual preference. It's a behavioural choice—something a person has learned to do. It provides them with some sort of relief of an emotional or psychological need they're experiencing and they persist in it due to the lack of alternatives.

Mr. Joe Comartin: Ms. Hannem, I don't think the committee has heard from you before, or your association. Could you tell us about the CCJA?

Dr. Stacey Hannem: The CCJA is one of the longest-standing non-governmental organizations of professionals and individuals who are interested in criminal justice issues. The CCJA was founded in 1919. We have actually testified before both Houses at committees on numerous occasions in the past. I've been chair of the committee for about four years and have testified several times. It's not always me, but various members....

We have over 800 members across Canada, most of whom are professionals or who have some sort of educational background in criminal justice. We try to mobilize the individual collective knowledge of our members to provide some balanced research-based analysis on criminal justice policy in Canada.

Mr. Joe Comartin: What professional backgrounds would most of your members have?

Dr. Stacey Hannem: We have a range. Some of them have been correctional workers or police officers, social workers, psychologists, and criminologists, or do research or teach in university and college systems. We have a very wide range of people and expertise.

Mr. Joe Comartin: Both you and Dr. Marshall made reference to the reputation Canada had—and I emphasize the past there. Has it been recognized by international bodies that we in fact were the leading country in the world in terms of treatment of sexual offenders towards children?

• (1640)

Dr. Stacey Hannem: Absolutely, and not just sexual offenders, but offenders more broadly. Canadian programs in cognitive skills development and in various other programs are very widely recognized around the world by other countries that are emulating

and trying to copy that model. Unfortunately, the removal of trained psychologists from federal prisons leaves a huge deficit...[*Technical difficulty—Editor*]...effectively implement that type of programming.

The Chair: Thank you.

We're going to move to Mr. Woodworth for seven minutes.

Mr. Stephen Woodworth (Kitchener Centre, CPC): Thank you very much.

Thanks to all of the witnesses for being here with us today.

Ms. Hannem, I apologize: I didn't hear your professional qualifications, so I don't know whether or not you are a lawyer. Are you?

Dr. Stacey Hannem: I am not a lawyer. I have a Ph.D. in sociology and I'm a professor of criminology.

Mr. Stephen Woodworth: Thank you.

I think I heard you say you were familiar with the circles of support and accountability. Is that correct?

Dr. Stacey Hannem: That's correct. I've been working and doing research for 10 years.

Mr. Stephen Woodworth: So you are aware that our government renewed the national funding for that program last year, are you?

Dr. Stacey Hannem: That's correct.

Mr. Stephen Woodworth: My recall is that there was at least a modest increase in that funding last year. Is that correct?

Dr. Stacey Hannem: I believe so. I saw it when they announced it. I'm not privy to the numbers.

Mr. Stephen Woodworth: Thank you.

That funding comes from Corrections Canada, I think, does it not?

Dr. Stacey Hannem: Corrections Canada provides some funding, and there was some funding from the National Crime Prevention Centre.

Mr. Stephen Woodworth: I'm not sure why, but your voice seems to trail off, and I can't hear you. If you could speak a little louder, I would appreciate it.

Some of the funding I heard you say comes from Corrections Canada and other federal sources. That program is designed to assist in the rehabilitation and reintegration of sexual offenders, correct?

Dr. Stacey Hannem: Correct.

Mr. Stephen Woodworth: Thank you. I was concerned about some of the comments I've heard today about the government completely abandoning its role in that area, so I'm glad to hear that at least that program seems to have been a little strengthened.

We heard evidence two days ago from some lawyers—or a lawyer in particular—to the effect that the courts have made jail a norm in sentencing for sexual offenders, particularly in relation to offences against children. Are you aware of that?

Dr. Stacey Hannem: I would say that's correct.

Mr. Stephen Woodworth: I think I've heard you say you're a professor of criminology, a doctor of criminology, so could you tell the members of our committee why it is that the courts have felt it appropriate to make the incarceration of sexual offenders a norm?

Dr. Stacey Hannem: There are several different reasons why a court might decide to use prison as a sentence. One is for its denunciatory effect. It has long been thought that if the public—

The Chair: One moment, please. Can I stop you, please?

We have a point of order from Monsieur Ménard.

[*Translation*]

Mr. Serge Ménard: We can't hear it. We have complained about it a number of times. I began to listen to the French interpretation because it's easier for me to understand, but I realize now that the interpreter also has trouble understanding the witness in English and, therefore, is not able to translate more than half of what is being said.

Is there a way to solve the sound problem? I already had trouble hearing the witness in English.

[*English*]

That's why I switched to French, because generally I can understand English, but I—

The Chair: Yes.

I think what you're saying, Monsieur Ménard, is that at present the witness from Brantford is just not clear enough, to the point where even our interpreters aren't able to pick up the interpretation. Is that correct?

Mr. Serge Ménard: I don't think it's the witness who is the problem.

The Chair: No, I didn't say that.

Mr. Serge Ménard: I think it's the sound system.

The Chair: Yes, it might be the sound system. You're right.

Mr. Lee.

Mr. Derek Lee: Mr. Chair, I couldn't help but think that the location of the pickup mike or sound mike was relevant here.

Does the witness from Brantford know where the pickup mike is for her sound?

• (1645)

Dr. Stacey Hannem: It might be in the ceiling.

Mr. Derek Lee: Oh.... Okay. This is out of my league.

The Chair: All right.

Mr. Woodworth.

Dr. Stacey Hannem: I'm calling for some technical support.

In the meantime, will it help if I raise my voice?

The Chair: Yes.

Mr. Stephen Woodworth: Yes.

Actually, Mr. Chair, that's what I was going to suggest. I've noticed that depending on which way the witness is facing and whether she's ending her sentences or not, the volume got better or

worse. If she was able to maintain a consistent volume, I think we could get by.

The Chair: All right.

Mr. Woodworth, would you continue?

I would ask the witness just to speak loudly, at least for the time being.

Mr. Stephen Woodworth: Thank you.

So what I was asking you to do for us, Ms. Hannem, is to provide us with some insight into why it is that the courts have felt it's appropriate that incarceration should be a norm for sexual offenders, particularly those who offend against children.

Dr. Stacey Hannem: Sometimes the courts are using prison in an effort to denounce the sexual abuse of children, to make it clear to the public that this is not acceptable and that we don't want to tolerate this type of behaviour.

You'd have to ask the individual judges about the particulars of the cases they're dealing with, because in some cases it's very clear where serious harm has been done to children and to victims that prison is necessary in order to have the ability to give programming and to—

Mr. Stephen Woodworth: Could I stop you just for a moment? Because it wasn't particular cases I was asking about but rather the notion that the courts have said this should be the norm. Is denunciation the only reasoning that you are aware of, as a criminologist, behind the courts indicating that incarceration should be the norm?

Dr. Stacey Hannem: I'm not aware of any particular judge who has said that incarceration should be the norm. I think they are dealing with it on a case-by-case basis. If you want to talk about generalization—

Mr. Stephen Woodworth: Okay. In that case...I'm sorry to interrupt you; it's just because I have so little time. When I asked you earlier if you were aware that the courts have made it the norm, I thought I heard you say yes, but now you've told me that you're not aware of that.

Dr. Stacey Hannem: I'm aware that the pattern of sentencing has gone toward incarceration fairly steadily, yes.

Mr. Stephen Woodworth: I'd like to go back to another issue that I think I heard you say—and I'm being cautious to say “think” because I've had some problems with the volume here. But I thought I heard you say that you felt that it was...I think you may have even used the words, “beyond the pale”...for what's contained in this act about limiting the use of computers by persons convicted of sexual offences. Did I hear you correctly?

Dr. Stacey Hannem: That's correct.

Mr. Stephen Woodworth: All right. I thought I also heard you say that you feel judges should be given wide discretion in the sentencing of individuals. Did I hear that correctly?

Dr. Stacey Hannem: That's correct.

Mr. Stephen Woodworth: All right. Are you aware that this act in fact does leave it to the judge's discretion and simply indicates that a judge may add a condition limiting the use of the Internet? Then the judge can allow it in accordance with conditions set by the judge. I'm curious as to how I can reconcile your opposition to that with your notion that judges should have greater discretion in sentencing.

Dr. Stacey Hannem: I don't feel that the addition of saying that the judge can make the conditions explicit is necessarily in concert with the previous statement in that clause, which says that they're not to be using it for any reason whatsoever, except when a judge says they can.

The previous clause, which simply said that they're not to use it for the purposes of communicating with children, seems to me to be far more precise and to the point as to the type of behaviour we want to be preventing.

Mr. Stephen Woodworth: When we're done here, I'd like you to look at subclause 26(2) of this bill. You will see, in fact, that these provisions both are only permissive to a judge and only give a judge the discretion to impose those conditions. It doesn't require the judge to do so.

I'm going to have to just take it that when it comes to giving judges discretion to keep people out of jail, that's the kind of discretion you favour, but when it comes to giving judges the discretion to impose conditions that limit the activities of offenders, you're not in favour of that discretion. Is that correct?

• (1650)

Dr. Stacey Hannem: That is not correct.

Mr. Stephen Woodworth: Okay. So why—

The Chair: Hold on.

Mr. Stephen Woodworth: —aren't you—

The Chair: We're going to have to cut it off there.

Mr. Stephen Woodworth: Are we out of time already?

The Chair: Yes, you are. You can do it on your next round.

We're going to move to Ms. Dhalla for five minutes.

By the way, welcome to our committee, Ms. Dhalla. I think this is a first, certainly for as long as I've been on the committee.

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): Yes, I think it is a first. It's a pleasure to fill in for my colleague who's away and to be able to discuss an important issue.

I had a chance this morning to read the e-mails that my constituents wrote me. One was from a very, very concerned father whose daughter had been affected. In his e-mail he wrote that his 12-year-old daughter had suddenly received a picture of a male's private body part on her cellphone. He immediately went to the police station to report it. He was frustrated at the treatment he received there, but really urged me to ensure that we take greater action on this, because the crimes are heinous and they are affecting and impacting young people.

In doing some research, I see that there are a lot of differing viewpoints as to the options for solutions for addressing this. Another issue has come forward from some individuals, one being Canada Family Action. They have stated that the terminology itself

needs to be changed from "child pornography" to "child sex abuse materials".

Mr. Marshall, with all of your great expertise, I wanted to hear your viewpoint on whether there needs to be a change in definition or an addition to the definition in the Criminal Code.

Dr. William Marshall: I understand the desire to change it to that language. I have no problem with it.

To go back to your point about the understandable distress of this father, I want to reiterate that I think that all men who molest children should go to jail; it's a question of how long they go to jail and what we can do with them when they're there. I wouldn't disagree with jail sentences for all child molesters, not in the slightest. I know what they do better than anybody at this table, I would say.

Ms. Ruby Dhalla: Ms. Hannem, has the fact that the definition hasn't been changed, or hasn't been called "child sex abuse materials", prevented people from being prosecuted?

Dr. Stacey Hannem: I have no awareness of any cases that would be pertinent to—

Ms. Ruby Dhalla: Okay.

Dr. Stacey Hannem: I don't have a problem with the change in the language, if that's what you're asking.

Ms. Ruby Dhalla: Thank you.

Mr. Marshall, in regard to the fact that these individuals do need to be jailed, I think that's something that I hope most parliamentarians around this table would agree on. But as we've heard from many witnesses and from you, treatment is also important. I again want to get your perspective on what you think those jail sentences should be. One of the questions that has been raised repeatedly within Parliament is the cost of building all these prisons. Perhaps you could shed some light on that.

Dr. William Marshall: I was speaking only about child molesters. I don't think it's particularly relevant to send exhibitionists, particularly first-time offenders, to jail. That seems to me to seriously damage their lives anyway, making their readjustment more problematic and increasing the likelihood they'll reoffend. But with respect to child molesters.... I'm sorry, but can you repeat your question?

Ms. Ruby Dhalla: In regard to child molesters, I definitely agree with you that they need to go to jail, but what would you recommend in terms of sentencing? I see that the bill proposes increasing this from 14 to 90 days. What is your expert recommendation in regard to that?

Dr. William Marshall: Either 45 days or 90 days is certainly not long enough to get them in treatment. If they're willing to enter a community-based treatment program and it's a community-based treatment program that has evidence that they know what they're doing, then that seems to me to be quite satisfactory.

As Mr. Fletcher said, what evidence there is suggests that community-based programs are slightly more effective—it's a pretty small difference—than institutional programs. What Corrections Canada does and what the Ontario provincial correctional service tries to do is get them started in treatment in prison and then have that treatment continue when they're released into the community. Over the years, Corrections Canada has funded community treatment programs and has carefully selected them so they know what they're doing.

• (1655)

Ms. Ruby Dhalla: What should be the duration of that program?

Dr. William Marshall: It depends on the individual, to a large extent. The least at-risk men probably need six months to a year in treatment, either in the community or in prison. They're the least problematic.

The Chair: Thank you.

Monsieur Ménard, you have five minutes.

[Translation]

Mr. Serge Ménard: I would like to come back to a topic that my colleague Mr. Woodworth and other witnesses raised, and that is sort of related to your answers to Ms. Dhalla.

I think the courts of appeal have in fact established that, in cases of sexual offences against children—not sexual offences in general—the rule should be imprisonment. Of course, the length of the sentence is not specified because it is determined based on the legislation and individual circumstances. Do you think this rule is justified?

[English]

Dr. William Marshall: A minimum sentence...?

[Translation]

Mr. Serge Ménard: It doesn't matter. I just want your opinion. Do you think this rule is justified, meaning that, if treatment is required, sentences of various lengths can be imposed, and the treatment can follow after that?

[English]

Dr. William Marshall: Yes. They definitely need treatment after they're released from prison, especially the moderate- and higher-risk offenders, who definitely do. For some of the low-risk men, if you have a short sentence, all it does is allow us to prepare them to continue treatment when they're back in the community.

[Translation]

Mr. Serge Ménard: So you think the rule is justified.

[English]

Dr. William Marshall: Probably, yes.

[Translation]

Mr. Serge Ménard: I would like to come back to the topic I mentioned earlier. You've also found that, in general, sex offenders against children are not at all well received in prison and, in fact, very often, they are beaten up and have to live in isolation when there are no separate prisons. In my experience, they are terrorized by this. Is this terror helpful in changing their future behaviour?

[English]

Dr. William Marshall: Well, actually, it hasn't been my experience, at least in the Ontario region, that this is anywhere near a serious problem, as it's often made out to be. I think most of the offenders—the child molesters in particular—coming into jail believe that they are going to be subjected to all kinds of physical and verbal harassment. What they find when they go there—because as I said, in the Ontario region there are specific program-oriented prisons—is that it's nowhere near as bad as they thought. I mean, there is some harassment, but it's verbal and doesn't usually result in any physical assault.

It occurs a little bit more commonly in the Ontario provincial corrections system, where they have more of an overcrowding problem. I think it's much more related to overcrowding, to be honest. I think if you put more people in jail for longer periods of time, that kind of harassment is going to increase, and that's going to diminish their capacity to function well in a treatment program.

The Chair: We'll go to Mr. Rathgeber for five minutes.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair.

Thank you to all of the witnesses for your appearance here this afternoon and for your expertise on this very important subject matter.

Dr. Marshall, if I could start with you, I'm a little confused as to why it is easier to treat a sexual deviant outside of an institution than it is inside an institution. Having visited many institutions with the public safety committee, it appears to me that it's a very structured environment. The individuals obviously have the benefit of time on their hands and are not distracted by family or work commitments.

Could you explain it to me? I'm having trouble understanding why you believe it is much more complicated to treat an individual for a sexual disorder outside the structure of a prison institution.

• (1700)

Dr. William Marshall: Actually, the evidence that I spoke to was raised by Mr. Fletcher. This is a result of a very large meta-analysis with thousands of subjects. You look at differences there, and these are quite marginal differences, really, between the effects of treatment in the community versus treatment in institutions. It's confounded by the fact that almost inevitably there would be lower-risk men in the community treatment programs than there would be in the institutional programs. So I don't make too much of that issue, to be perfectly honest with you.

I think what we need is treatment in the institutions and treatment in the communities, and that's particularly true for those men whose risk is at the higher end of the spectrum. We definitely can't just let them out after treatment and think that's going to have done the trick. Corrections Canada has always taken the view that those men have to be involved in continued treatment in the community, and so does the National Parole Board. They make it a condition of release. I think that's very sensible myself.

There are some men at the lower end of the spectrum, particularly the exhibitionists, for example, but probably some of the very-first-time sex offenders, and probably, certainly, the older ones who commit an offence for the very first time, and they could probably be dealt with effectively in the community. If they get a short sentence, the job that we'd be faced with is trying to prepare them to continue that treatment once they're back in the community. If they get a short sentence, there are probably no conditions on them that would require them to do that, and that would be a pity.

Mr. Brent Rathgeber: Dr. Fletcher, do you share your colleague's opinion that the difference in treatability, for lack of a better term, is marginally more successful or less successful inside or outside the confines of an institution?

Mr. Randall Fletcher: First, I want to clarify again that I don't have a doctorate, so you shouldn't be calling me "Dr. Fletcher".

Basically, I do agree with Dr. Marshall about that: you need treatment both in the institution and outside. The institution provides a secure setting where the behaviour at least can come under control. You can begin to focus a little bit more time on treatment.

But if you think about the stages that people go through in learning things, first you may learn it at a cognitive level, but it doesn't really take hold until you actually start putting it into practice. So ultimately you need to have some treatment in the community, where you're supporting the person and you're teaching them how they apply what they're learning in their actual day-to-day activities, in their marriage, in their relationships with family members and with employers, and in dealing with the financial stresses of earning a living—all those sorts of things.

The applied part of that is going to take place better in the most natural setting, where you actually live in the community, but you certainly can begin to learn that in the institution. For someone who poses significant risk, it becomes important that they begin to do that there. I would just like to point out—

Mr. Brent Rathgeber: Thank you. I'm going to cut you off there. I only have a short amount of time with you, Mr. Fletcher.

You rattled off a number of statistics regarding increase and decrease in I believe recidivism, involving a number of different techniques to treat people with sexually deviant behaviour. I think the highest number you quoted was an 11% decrease for those who had been through counselling. Did I understand that correctly?

Mr. Randall Fletcher: Yes. These are general statistics for any type of criminal behaviour. These were studies that were done with general criminal populations.

Mr. Brent Rathgeber: Right. So you'll agree with me that a very large proportion of individuals who have been involved in sexually deviant behaviour are not affected by any of the programs they might

face, whether it's counselling, whether it's prison, or whether it's other forms of treatment...?

Mr. Randall Fletcher: No, no. They are affected by it. The treatment works.

Mr. Brent Rathgeber: Well, how do you measure your success? When you say there is an 11% decrease, does that mean this person is cured? Or is that individual just going to commit with less frequency?

• (1705)

Mr. Randall Fletcher: First of all, you have to understand that this is a very conservative number. It's based on large numbers of treatment programs, some of which are effective and some of which are not, dealing with some people who are very dangerous and high-risk and some of whom are a lower risk. So as for what you're looking at, the way you measure it is that you look at a matched sample of people who didn't get treatment, and you take a look at the recidivism rate for them over 5, 10, or 15 years, and then you compare that with the recidivism rate for people who went through treatment.

The large study I mentioned that was done as part of the collaborative database found that generally you got a reduction from I think 17% to 9.9%. That's a significant decrease.

The Chair: Thank you.

For our next question, we'll go to Ms. Dhalla.

Just as a reminder, apparently Mr. Marshall needs to leave by about quarter after five, so for those of you who want to put questions to him, you had better do it now.

Ms. Dhalla, for another five minutes.

Ms. Ruby Dhalla: I don't know if I'll go the whole five.

I just wanted to ask, based on the expertise of all of the witnesses we have here, what advice you would actually give to parents, perhaps in a preventative or a proactive sense, in the hope that their children do not get affected or impacted by these child molesters? What can parents do to help prevent something like this?

Dr. William Marshall: Child molesters seek out children who are vulnerable, so the greater the efforts parents make to increase their children's resilience, the better, and the obvious route to that is love, support, encouragement, and complimenting them on their successes and so on. That's the best strategy. It doesn't guarantee perfect safety, but it markedly reduces the chances.

Scare tactics don't work. I wrote a book with a colleague in Australia about the prevention of sexual abuse. One aspect of that was how we could arm parents with the necessary wherewithal to reduce the chances so their children would be protected.

This doesn't actually completely eliminate it, but it markedly reduces it. Scare tactics don't work. They just make children frightened of everybody.

Ms. Ruby Dhalla: What advice would you give to that constituent, the father who wrote in from my riding of Brampton—Springdale in regard to the image—which he considers pornographic—that his daughter received?

Dr. William Marshall: First off, I'd tell him how sorry I am that his little girl was exposed to such a disgusting image, and I would just tell him to give her all the support, love, and affection that he can to help her deal with this. It's profoundly regrettable.

Ms. Ruby Dhalla: Ms. Hannem, from your expertise...?

Dr. Stacey Hannem: In my opinion, I concur with Dr. Marshall that parents need to be supportive of their children. They need to be involved in their children's lives. The closer the relationship between the parent and the child, the more likely the child feels comfortable to confide in the parent if somebody approaches them who probably shouldn't be approaching them.

In my experience, it wouldn't have been likely that this was a random photograph sent to a random cellphone. There was probably some kind of pre-existing relationship there, and if the parent had been aware and cognizant of that relationship and how it was evolving, they might have been able to do something.

But again, I would offer my sincere sympathies to that family. They should have all of the support needed to help their child, particularly given the fact that we know a lot of men who sexually offend have been victims themselves in the past. Therefore, the need for early intervention, treatment, and help for victims of child sexual abuse is absolutely imperative.

Ms. Ruby Dhalla: Thank you.

The Chair: Thank you.

We're going to go to Monsieur Petit, but I want to make sure that I ask Mr. Marshall one question before he leaves.

In your introductory remarks, you distinguished between incest and exhibitionism and child molesting. You said that child molesters should go to jail. I think you referred to three years minimum. Am I correct in understanding you?

Dr. William Marshall: Well, we need three years in order to effectively treat them. So if they're going to send them to a federal sentence, then instead of two years they should give them three in order for us to get them involved. But they could give them two years less a day, let's say, and send them to a provincial system; they would get effective treatment there and then transition into the community treatment program.

• (1710)

The Chair: Okay. So what you're saying is that a longer sentence isn't necessarily bad. It could be helpful to that offender. Is that correct?

Dr. William Marshall: Well, "longer" in the federal system... three years is not longer. It's down at the bottom end of a federal sentence.

The Chair: All right, but let's say five years. In order to get the treatment they need, often offenders need to be incarcerated for longer periods of time. Is that correct?

Dr. William Marshall: Yes.

The Chair: Thank you.

Monsieur Petit for five minutes.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

Mr. Marshall and the other two witnesses, thank you for your testimony.

Since it seems that you have to leave in a few minutes, I will direct my question to you. You heard our chair's question about the need for longer sentences so that offenders can get good treatment. Our government has introduced Bill C-39 that deals with earned parole. You must know that we cannot force an offender to follow treatment. A person who does not want to follow treatment will just serve the sentence and then be released. If inmates have a federal sentence of two to three years, do you think they should be forced to undergo treatment with professionals, of course, so that, once they served their sentence, they have at least earned their release? At the moment, an inmate cannot be forced to do so. That's my first question for you.

My second question is...

[*English*]

Dr. William Marshall: I can only hang on to a certain amount of information at a time. I'm 75.

Voices: Oh, oh!

[*Translation*]

Mr. Daniel Petit: Okay. Go ahead then.

[*English*]

Dr. William Marshall: I don't think you need to have a forced requirement for treatment. The system as it's presently set up works that way anyway. Essentially—for example, in the Ontario region—the fellow gets accommodation in a programs-oriented prison, which is a far nicer place to be than one of the other alternatives. That motivates him to engage in the treatment because his presence there is conditional, not only on coming to the treatment room, but also on actively and effectively participating. The Parole Board takes the same view. If you, as a sex offender, haven't effectively and successfully completed treatment, you're not going to get parole.

Between those two together, in the institution where we provide our main programs, the Bath Institution, 96.2% of all sex offenders eligible for treatment enter and participate effectively. Amongst the few who don't, some are under deportation orders and they see no value in doing it because things are going to unfold as they will anyway.

I don't think there's a problem. The present system, in my view, works remarkably well in terms of getting sex offenders into treatment programs.

[Translation]

Mr. Daniel Petit: Mr. Marshall, with the system we have today, when a judge sentences a...

Can you hear me?

[English]

Dr. William Marshall: A little bit louder, if you don't mind...?

[Translation]

Mr. Daniel Petit: You are familiar with the penitentiary system, you know about the one-sixth and one-third rules. You know that if a judge sentences someone to six years in prison for sexual assault, the person can be released after a year. It is possible to be released after serving one-third of the sentence. Are you in favour of forcing people to earn their release? Are you in favour of forcing inmates to rehabilitate themselves by following treatment that might help them to be released at some point and make them function better in society? Sentences will then be longer. That's what matters here. We are talking about longer sentences. Do you think that we'll be more successful in rehabilitating individuals by imposing longer sentences?

[English]

Dr. William Marshall: Well, in terms of having treatment mandatory and saying that they must participate in treatment, personally I think that will kill their incentive to engage in treatment. They'll all come and sit in the chairs and they'll just go through the motions. That's a problem we've had in the past, when I first started doing this. It's not true at the moment: we don't have problems getting sex offenders into treatment. Once we get them in, we don't have much of a problem engaging most of them in active process and treatment.

Corrections Canada's treatment programs for sex offenders have the lowest rates of reoffending in the world. There's no question about it, right? I'd be totally opposed to making treatment mandatory. The system works as it is at the moment. Don't try to fix it. It's working.

• (1715)

The Chair: Thank you.

I want to respect your time, Dr. Marshall. You have to get to the railway station, so we'll excuse you, but we'll keep the other two witnesses here for a few more minutes.

Right now, we're going to move to Mr. Dechert for five minutes.

Mr. Comartin.

Mr. Joe Comartin: Mr. Chair, on a point of order, the question that Mr. Petit put in fact had a false assumption in it that the right to a one-sixth release applies to these types of offences. In fact, it does not, because these are treated as violent offences, so the one-sixth issue is not applicable here. I just wanted to get that on the record. The assumption that was made was erroneous.

The Chair: I understand that, but it's not a point of order.

I'm going to Mr. Dechert for five minutes.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

Thank you, ladies and gentlemen, for your views today. I'm sorry that I didn't have an opportunity to ask a question of Dr. Marshall, but perhaps we can follow up later.

I listened very intently to what each of you had to say. I appreciate your views in terms of rehabilitation and treatment of offenders, but what I didn't hear much or anything about, really, was the impact on victims of child sexual abuse.

As you may know, in recent days we have heard from some groups representing victims, including some who were victims themselves of child sexual abuse. They've told us some very difficult stories about the length of time it takes a child sex abuse victim to recover from the psychological trauma, if I could put it that way, they suffer when they're abused.

We heard one story about a young woman who was sexually abused for quite some length of time, I believe by a neighbour, and finally, after many years of keeping it locked up inside her, she came forward. She went through the difficult process of a prosecution and a trial. The offender was convicted and was immediately sent home to serve his conditional sentence in the house across the street from where she lived. She felt so aggrieved by this and so worthless due to the way the system responded to her that she attempted to commit suicide.

First of all, I'd like to ask each of you if you have any expertise in treating the victims of child sexual abuse. If you do have that kind of expertise, perhaps you could tell us about the long-term impact of these types of offences against child sex victims. What do you think the impact for them is if they see the offender not receiving any jail time whatsoever for the offence that's been committed against them?

Maybe Dr. Hannem could start.

Dr. Stacey Hannem: I don't have any clinical expertise in treating victims of child sexual abuse.

In my opinion, the case you have mentioned was certainly a grievous miscarriage of justice, in the sense that the judge should have been aware that they were neighbours. I can't explain that type of sentencing.

I'm going to have to beg your pardon, but I have a class coming into this room in the next five minutes and I'm going to have to excuse myself. I don't have the room booked for more time.

The Chair: Dr. Hannem, I want to thank you for appearing as a witness. We will excuse you.

Perhaps we could ask Mr. Fletcher to stay for a few more minutes.

Mr. Fletcher.

Mr. Randall Fletcher: To respond to that question, prior to specializing and working with sex offenders, I did work in a general mental health setting and did some treatment with victims, particularly with adult survivors, adults who had been sexually abused as children. As well, in my practice with sex offenders, I work very closely with victim services, which is a support service for victims, including victims of sexual abuse.

What I can say is that again you can't look at it as a one-size-fits-all kind of answer. Victims vary greatly in terms of the degree, severity, length, and type of damaging effects they experience. There are a lot of factors that can go into it, one of which is the offence itself and whether or not they reported it right away, whether they got help with it, and that sort of thing.

Certainly, I'm not in disagreement with sex offenders getting some jail time. I think that often for child victims in particular what that does is remove their sense of guilt. Often, children feel that somehow they were to blame for what was happening.

Another thing incorporated in the program I run is that wherever possible, once the offender has reached a sufficient stage of progress in treatment, we offer an acknowledgement of the offence to the victim. Sometimes it can take the form of a letter. It could take the form of a face-to-face meeting, if the victim chooses, or even a videotape in which the offender acknowledges that what he or she did was wrong, that the victim did not deserve this and did not in any way encourage it, and in which the offender gives very specific recognition to the ways this has done them harm. Of all of the things I have seen with victims, that seems to produce the biggest benefit.

• (1720)

Mr. Bob Dechert: I'm glad you acknowledged that. We have heard from a lot of victims that, in their view, some jail is required, and they get a sense of self-worth out of that.

Part of what our government is trying to do with this legislation is to address the concerns of victims, because they're often left out of these kinds of discussions. We think it's time for their concerns to be addressed as well.

It's fine to address offenders and what they need—how they can be rehabilitated and reinserted back into society—but we also have to care for the victims and make sure their needs are met as well.

The Chair: Thank you.

I want to thank Mr. Fletcher for appearing before us.

We'll excuse you as well, Mr. Fletcher.

Members, we still have some committee business to deal with.

Mr. Randall Fletcher: I wonder if I could just make one last comment.

The Chair: Please make it very brief.

Mr. Randall Fletcher: Just in terms of length of sentence and how that impacts on treatment, it's important to understand that if a person gets a provincial sentence, which is anything up to two years less a day, the judge also has the discretion to add a period of probation, and in the case of sex offenders almost always does, up to three years.

What that means is that in addition to the time they're incarcerated when they can get treatment, there's a three-year period in which treatment can be mandated and where the rule is that if they don't take treatment they can be charged with breach of probation and get additional jail time.

The Chair: Thank you very much.

Members of the committee, we've circulated the seventh report of the steering committee, the subcommittee.

Have you had a chance to review that? All we need is a motion to approve—

Go ahead, Monsieur Ménard.

[*Translation*]

Mr. Serge Ménard: If I am not mistaken, I think we are going to have five witnesses on Monday. They are all high-calibre witnesses. Their names were mentioned in the previous testimony. For example, we have Mr. Hanson, Mr. Quinsey and their francophone counterpart—though he doesn't have a French name—Mr. Van Gijsegem. I think the people from Quebec know him. So that's three people who really are among the most qualified witnesses we will have heard from. I believe there will be two other witnesses.

I think that receiving all five of them together, giving them 10 minutes to do their presentations and allowing only seven minutes per party for questions is somewhat insulting to them. We must remember that they are traveling to come meet with us. In addition, I think that we'll get in-depth answers from people with considerable expertise. I understand we made the decision a bit quickly, but I would like us to hear from two groups of witnesses on Monday and Wednesday, and defer the vote until the next meeting. Their testimony could help to speed up the process.

• (1725)

[*English*]

The Chair: Well, I don't know what to say. We had this discussion at our last meeting. I believe Monsieur Ménard provided us with four witnesses. Mr. Comartin provided us with four witnesses.

Monsieur Ménard, we only got from you today the names of two extra witnesses you now want to call...

Is that correct?

A voice: Yes.

The Chair: Yes. So it really is late in the game. We had two months. We had that discussion at our last meeting. It has taken two months for anyone to suggest witnesses and then suddenly we had all these witnesses put on the table so late in the game. We agreed that we would accommodate them.

Today the clerk received the names of two more witnesses.

Since Mr. Comartin is back, we just wanted to let you know that you'd also wanted—

Mr. Joe Comartin: [*Inaudible—Editor*]...and I've subjected him to my logic and he's now come onside. I'm going to hold him to it on a whole other different matter, Mr. Chair.

The Chair: Mr. Comartin, I just wanted to bring you up to date. You had also wanted Stats Canada to come.

Mr. Joe Comartin: Yes.

The Chair: They weren't available for the three days that we had sort of agreed to hear witnesses on, but they happened to be available on the day on which we had scheduled clause-by-clause, so we've tentatively scheduled them for the beginning, on the Wednesday. So we are accommodating them, but it will be on the same day as we start clause-by-clause, subject to any further discussion around this table. That's just an update for you.

Mr. Joe Comartin: I guess the one concern I've had.... I've been trying to get somebody to talk to me so I can tell them what specific information I want and that I think would benefit the committee's consideration, and nobody is calling me back from StatsCan. I will be persistent, but perhaps something from the chair's office would help.

The Chair: I'd be glad to help, I certainly would, so you could get some information ahead of time. That might be helpful.

Mr. Joe Comartin: I'm quite concerned they are going to show, as they have in the past.... Mr. Ménard's complaint and mine is that you don't see anything in advance. They come with the book. When they get here, we see it at that point. There are some specific points in terms of the history of some of these sections, and I think it is important for the committee to understand what has happened.

The Chair: All right. What I'll do is ask the clerk to notify Stats Canada that we really would like to have an advance copy of their presentation by Monday morning. Does that sound reasonable?

Mr. Joe Comartin: That would be fine.

The Chair: We'll get it out to you as fast as we can—

Mr. Joe Comartin: Thank you.

The Chair: —because we are trying to accommodate everybody.

But the names of the last two witnesses, I mean...they were given to the clerk today. So Monsieur Ménard wants to add another day for witnesses. What's the will of the committee?

Mr. Dechert.

Mr. Bob Dechert: With all due respect, Mr. Chair, I don't want to go over the history that we discussed at the subcommittee meeting, but I think everyone knows that we had agreed in December to four meetings to study Bill C-54. We had a six-week break when people had ample time to review the legislation and propose witnesses. That apparently didn't happen in several cases.

We came back. We had another subcommittee meeting. We agreed to almost double the amount of time for review of the bill. We had an agreement to deal with it in seven, and now, at the very next meeting, we are being asked to increase the amount of time again. We have to live by our commitments at the subcommittee meeting or else the committee just cannot function on a reasonable basis.

We've been told by witnesses that this legislation is very important, and that every day we delay, children are being sexually abused. I believe this is legislation that people want us to deal with quickly.

We all know there is a possibility that we won't be here beyond the end of March because of the threat of a possible spring election. I don't think any of us.... I think all parties have said that they think

certainly a large part—if not all—of this bill is important and they support it. I think it behooves us all as members of Parliament to do our utmost best to get this legislation passed and back to the House and, hopefully, sent off to the Senate before the threat of any spring election that might occur around the end of March.

• (1730)

The Chair: Monsieur Ménard, if I can just make a proposal, this might work. It just came to mind that on the Monday, we could split the panel into two groups, one group of two and one group of three. If we do that, as you know, the rotation changes, and it actually gives the opposition more time to ask questions than if there were one full rotation.

When we do the rotation, it would be seven, seven, seven, and seven, then five, five, and five. By that time we're done, right? Then you get a second rotation like that again. If you add up all the time involved, the opposition gets a significantly greater amount of time. That might accommodate Monsieur Ménard's concern that he won't have enough time to ask questions.

If we do split the panel, it means the government has less time to ask questions, but it's perhaps an accommodation we can make to stay within the timeframe, but still accommodate your concern.

[Translation]

Mr. Serge Ménard: I would really appreciate it if you could. I admit I was wrong, but the idea is important.

Thank you very much for this suggestion.

[English]

The Chair: I just need the approval.... Is the government supportive of doing that?

Mr. Bob Dechert: I'm sorry. I didn't hear you.

The Chair: The suggestion is that instead of having one panel we would go to two, which, as you know, would give the opposition a little more time to ask questions and the government a little less, but—

Mr. Bob Dechert: Yes. On the same day—

The Chair: —we would still get it done within the timeframe.

Mr. Bob Dechert: Yes.

The Chair: All right. Then I think we have consensus here. That's great.

Could we then adopt this report?

An hon. member: Yes.

The Chair: Mr. Comartin.

Mr. Joe Comartin: I'll be brief because I do have to go, but do we have anybody else on Wednesday or is it just *Juristat*?

The Chair: It's just *Juristat*.

Is there a motion to adopt the steering committee report? Mr. Lee?

(Motion agreed to)

The Chair: That's approved. We're adjourned.

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