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# Standing Committee on Justice and Human Rights

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EVIDENCE

**Monday, March 21, 2011**

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**Chair**

**Mr. Ed Fast**



## Standing Committee on Justice and Human Rights

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• (1535)

[English]

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

This is meeting number 54 of the Standing Committee on Justice and Human Rights. Today is Monday, March 21, 2011.

Before we get into our agenda, there has been a request that we add one item to the agenda, which is consideration of committee business. Is there any objection to adding 15 minutes to the end of our meeting? That would be 15 minutes before the end of the meeting, after we've considered the draft report on organized crime.

There are no objections? Okay. We'll tack on 15 minutes at the end for that.

If you look at your agenda, you'll see that we're continuing our review of Bill C-4, An Act to amend the Youth Criminal Justice Act and to make consequential and related amendments to other Acts.

Just as a note, during the second hour we will go in camera to continue our drafting of the organized crime report.

We have with us two witnesses on Bill C-4. First of all, coming all the way from Saskatchewan and the Rural Municipality of Beaver River, we have its reeve, Murray Rausch. Welcome.

We also have with us, as an individual, Ms. Thérèse McCuaig. Welcome to you as well.

I think you've been told that each of you has 10 minutes for your presentation. Then we'll open the floor to questions from our members.

Reeve, why don't you start?

**Mr. Murray Rausch (Reeve, Rural Municipality of Beaver River):** Honourable members of the committee, I want to thank you for the invitation to appear before you today.

Currently I serve as reeve for the Saskatchewan Rural Municipality of Beaver River No. 622. Our municipality is the most northerly of the organized municipalities along Saskatchewan's western border with Alberta. We are located in close proximity to the 4 Wing Canadian Forces base in Cold Lake. I also serve as chair of the North of Divide Community Association, a progressive and cooperative partnership of five urban and three rural municipalities promoting positive growth and common goals for a thriving, safe, stable, and sustainable region.

In contemplating the circumstances that bring me before you this afternoon, I conclude that the RM's letter of November 2010, sent to your attention, was significant. I can assure you that this letter was significant to RM council and represents their genuine concern and support for your important review.

In my preparations for today's address, I recalled the words of Alberta family and youth courts judge Herb Allard, who was recently interviewed on CBC radio and said, "I'm tired of opinion from people who have never been through the courtroom door". Then, as I was preparing for this, I also came upon similar words from Judge Allard in writing: "I never saw one of them in my court. I was a judge for 36 years and I never saw one of them, ever, in my court".

I must admit that I would be among those who would contribute to Justice Allard's tired state, but I trust that my council's keen interest in and concern for safe, viable communities, together with a positive relationship with our local RCMP detachment—

[Translation]

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** Mr. Chair, could you ask the witness to speak more slowly? The interpreters cannot keep up with him.

[English]

**The Chair:** I think they're asking you to maybe slow down a little so that the translation can actually be heard properly.

**Mr. Murray Rausch:** Okay. Sorry.

**The Chair:** Thank you.

**Mr. Murray Rausch:** Nonetheless, I have resolved to make more personal visits to the courts to observe proceedings and gain a broader insight into the challenges they face.

Council's letter made reference to patterns that we sensed are possibly symptomatic of the current legislation and apparent hesitance to place custodial sentences on young repeat offenders. These include a perceived tendency and/or obligation to discount or render inadmissible the substantial cumulative records of young repeat offenders; a tendency to grant repeated escalating periods of probation or community-based sentencing, resulting in the immediate return of the young offender to the dysfunction of his or her existing situation, together with the transfer of supervisory responsibilities to the RCMP; the creative use of case law to complicate proceedings and exploit investigative and/or preparatory weaknesses; and repeated long-term adjournments whereby the offender is placed back on conditions between appearances, leading to further breach charges and additional appearances before the court. Unresolved charges subsequently accumulate, and the young offender now is dealing with many more charges than before.

Having not always witnessed the above-stated tendencies or patterns on a first-hand basis, I went in search of a regional example from court records available within the public domain that could serve to support council's concerns.

One example I encountered consisted of a formidable five pages of charges levelled upon one area individual covering a time period from November 2008 to February 2011 and representing some 53 individual charges. Eleven of the charges related to theft of a motor vehicle, sometimes over \$5,000 and sometimes under or equal to \$5,000. In most cases these motor vehicles appeared to be all-terrain vehicles. Many of the other 42 charges related to the reckless or haphazard operation of these same vehicles. While studying this young offender's record, I noted that this youth received a charge of impaired operation, blood alcohol over 0.08%, on September 12, 2008. This youth was not convicted until August 10, 2009, almost 11 months after the event.

In spite of a considerable previous record, this youth was sentenced to probation, with conditions, together with a one-year driving prohibition and the condition that the offender attend a treatment program. Through the ensuing year's driving prohibition, this offender then managed to accumulate no less than three additional all-terrain vehicle convictions, with fines, 20 Criminal Code convictions, and five charges under the Youth Criminal Justice Act, resulting in four convictions and one stay of proceedings.

This young offender's record actually continues with an additional 15 charges, and frankly, I must admit that I lost the audit trail. However, the portion of the trail that remained abundantly clear to me was that the majority of those stolen ATVs belonged to my friends and neighbours residing within the RM. The reckless and, on one occasion, the impaired use of these vehicles undoubtedly led to anxiety and loss of value for the owners, while posing a very real threat to public safety.

Clearly, this particular example of dysfunction in itself represents countless hours of preparation, research, and documentation as each of the 53 charges worked its way through the system. If cloned by even a small handful of similar-minded young offenders, the pattern could quickly overwhelm the limited resources of our local RCMP.

The point that RM 622 council wishes to make here is that we support the proposed overhaul of subclause 2(3) of the bill as it would potentially apply to chronic repeat young offenders.

Within the health system, there exists a program known, I believe, in general as "early intervention". Such a program focuses on early detection and remediation of developmental issues in preschoolers. The program provides assistance to youngsters who have challenges related to such conditions as language development or, possibly, patterns of irregular speech. It seems logical that a program of early intervention would have many potential benefits for young repeat offenders and for society in general.

The need for intervention and meaningful remediation was addressed by the aforementioned Judge Allard in his CBC interview of December 15, 2010, in which he spoke of the need to address the separation of offenders from society where necessary to assist with meaningful rehabilitation of offenders. To be aware of the experience of our American neighbours, in this interview the reference was to the State of Texas, where it was found that mandatory sentences in and of themselves did not necessarily result in a decrease in the rate of crime.

Meanwhile, within our RM's jurisdiction, much of the probationary supervision of young offenders appears to default to the RCMP. Our council recognizes our local detachment's outstanding efforts in addressing the underlying conditions that contribute to the dysfunction of young repeat offenders. Our local detachment's work includes round table discussions with community leaders, promotion of social reform and family unit counselling, facilitation of human resource teams that can contribute to positive youth development, and identification of strategies that discourage offenders and recognize positive attitudes and behaviour.

• (1545)

To summarize, I respectfully suggest that our RM council supports the principle of society's protection as a fundamental goal of legislative amendments; supports the simplification of rules to keep violent and repeat young offenders off the streets, when necessary, while awaiting trial; supports the concept of examining the pattern of escalating criminal activity to seek a custodial sentence when necessary; supports the imposition of custodial sentences for reckless behaviour that puts the lives and safety of others at risk; supports change to the youth bail system to stop the revolving door approach that can occur for some chronic offenders; and, finally, supports treatment programs and/or meaningful bail plans tailored to stop offending behaviour and address public safety concerns.

Amidst this request for orderly management and simplification of delivery, we recognize that the system must address the variable needs and the diversity that make this great nation who we are. In his book *Bad Medicine: A Judge's Struggle for Justice in a First Nations Community*, retired Alberta provincial court judge John Reilly suggested that "The fundamental purpose of sentencing is that of contributing to a just, safe society".

In this endeavour, please be assured that you have our respect and our support.

Thank you.

**The Chair:** Thank you.

We'll move to Ms. McCuaig for 10 minutes.

**Mrs. Thérèse McCuaig (As an Individual):** Good afternoon.

Thank you for having me.

[*Translation*]

Thank you for inviting me to appear today.

[*English*]

In 1995 my 17-year-old grandson, Sylvain Leduc, his two little female cousins, 16 years old, and Sylvain's friend were kidnapped from Sylvain's home by a street gang named Ace Crew. Of that gang, the five that I know of who were in court were young offenders. The others were 18 and over.

The youths were placed in the back compartment of a Jimmy van, beaten upon, threatened, and told they would be beaten so badly that people in Ottawa would be afraid to walk the streets, and they made good on their promise. They drove them a half-hour distance away. In that car, someone kept loading and unloading a shotgun over their heads, telling them they were going to die. "Today's Wednesday; today's a good day to die", they told the victims. In that car was a 15-year-old who was the head of the gang. He was controlling the show. He was 15 years old.

When they arrived at the building, the victims were taken out one at a time. In that car was a 25-year-old, a 24-year-old, a 19-year-old; they were the bad guys who were going to show the young ones how you deal with people who have offended you. They were brought in one by one, but in that apartment, in all, there were 12 people.

When the victims were brought in one by one, it was the young offenders who opened the front door and immediately tied them hand, foot, and neck, gagged them, and blindfolded them. One of the children was placed in a closet where green garbage bags had been taped up and down the walls and on the floor, to put their dead bodies into. My grandson was dragged off into the master bedroom. Another boy was placed in the washroom, and another young girl was dragged into the master bedroom with my grandson.

They took turns, many of them—sometimes two, sometimes three at a time—beating Sylvain to death. While some were doing that, others were burning my niece with a curling iron set on high. They burned the back of her calves, the back of her knees, the back of her shoulders. Then they flipped her over and two of them removed her jeans, her panties, and two others held her legs open and a young lady held her head down while they violently raped her with this curling iron. The young girl passed out, and just as she came to, she heard Sylvain gasping for breath as he died.

A man who lived one floor down, thank God, had heard the children being taken in at gunpoint. He hid behind his curtain and waited until they were all brought in and he called 9-1-1. The police arrived, and when they did, all the accused ran—all 12 of them. The police managed, just through smart perception, to detain four or five of them in the lobby while the older ones ran.

It angers me so much to even think of this and to tell you this: the police would have arrived probably in time to resuscitate Sylvain, but those young people in the lobby refused to tell the police which

apartment to go to, so it took 45 minutes for them to find Sylvain. By then, of course, it was too late.

The young lady was taken by ambulance to the hospital, where she remained for three months. The doctors did not know how to treat her, as they had never seen this before. A team of professionals was put together, and they managed to save her womb—her body, in other words. They saved her life.

The other young boy was in the hospital with a concussion and severe depression for a whole month. The other young lady went into psychiatric care, where she remains to this day.

● (1550)

These crimes were horrific, horrible, and shook up Ottawa for sure, most especially members of our families. Three families were affected. You can imagine the grief, the hate, and the rage.

I made it my business to attend court. I had to laugh when you mentioned that a judge had said that these people had never been in his courtroom. Well, I have been in a courtroom for the last 15 years. In our case it took two years to try everyone, or off and on, three years. After that I became a victims' resource person with the office of Victims of Violence. I've attended many court hearings, trials, preliminary hearings—you name it.

In our case, at the time the law said you could not...I am going to use the word "punish", which was never used, as you don't punish anyone for committing crime: you deter them; you make an example of them, and so on. That's for adults. For the young people, I was told, the only thing the judge has to consider is their rehabilitation into society.

Oh.

I remember the day my daughter went to the funeral home to make arrangements for her son's funeral. She could not afford a nice fancy funeral, of course. I remember her touching this beautiful urn. She wanted that urn for her son so badly. Of course, we could not afford that urn. I was so enraged in that funeral home, thinking that those people should be paying for the funeral. They should be made responsible at least for the funeral, but there was no such thing.

In court we were given a form, a victim impact statement on how this crime has affected you. On the reverse side it asked if you were claiming for damages and so on. I said, "Yes, by Jesus, yes. I am claiming for a funeral. I am claiming for an urn. I am claiming for a telephone answering service which the people used to make threats to us in our home. I am claiming for changing the locks on the door". It was never, ever considered by the judge, because, I guess, young offenders are untouchable. They don't have to pay anybody. They don't have to apologize. They could not even apologize in the courtroom.

Before sentencing, the judge asked them whether they had anything to say. They laughed at us throughout the trial.

It was there that I found out how, at the time, the Young Offenders Act worked over the years. I was stunned that young people can commit crime after crime after crime. It does not matter. They always get probation, more probation, and more probation. Until they physically hurt someone, there is no time in jail. There is no time in jail unless they've committed a violent act.

During our trial the mother of the 17-year-old girl who held the girl down while she was being burned came to court. She was a responsible mother, a good mother, who had been begging the police for three years to put her daughter in jail. She was uncontrollable and violent. She hurt people. The police kept saying to her that there was nothing they could do until her daughter committed a violent crime. Out of desperation the mother said, "Yeah?" She pushed her daughter around until the daughter broke her mother's arm and kicked her in the stomach. Finally, the mother had grounds to have her put away. Even then it was only for one week.

I remember very well that young lady was told to not be in the company of another certain young lady because she had a criminal record. That young lady breached and breached and breached that condition. She would actually attend court on those breaches with the same young lady.

• (1555)

She was 17 years old and she had a history dating back to age 13: trafficking drugs, beating on police officers, smashing the window in a squad car, spitting on officers, resisting arrest, and having to be pepper-sprayed to calm her down long enough to arrest her many, many times—and still they would only put her on probation. There was no deterrence, no accountability.

I'll tell you right now that what really angered me was that these children were not poor or living difficult lifestyles and so on. Some of the parents were schoolteachers, some were doctors, and yet you and I, ladies and gentlemen, paid for their legal aid. I said, "How do you explain that to me, when you have parents with such nice jobs and high incomes, and we are paying for their legal aid?" Once the parent washes his hands of the child, we have no choice. How wonderful.

I also found out, which again enraged me, that during their stay in jail—it took a year and a half to get the trials over with—they're allowed to collect family benefits, the baby bonus. I questioned that. I wrote to the people in charge, and they said, "Oh, yeah, well, until they're found guilty, they're allowed to keep this money". The criteria for this benefit are that you live at home and go to school. They're living in jail and refusing to go school, and yet still they were able to claim that money, and every week they'd get an allowance if they had been good that week.

**The Chair:** Ms. McCuaig, you're a little over time.

**Mrs. Thérèse McCuaig:** Oh, I'm sorry.

**The Chair:** How much time would you need to wrap up?

**Mrs. Thérèse McCuaig:** Oh, two days!

I am completely in favour of this bill. The one that touches me the most is deterrence. We're not keeping our youth in jail long enough to treat them properly so that they don't go on to commit more violent crime. These people I'm talking to you about have all been

rearrested. One has been declared a long-term offender. They have offended and offended. You know why? They were really doing well in their second year in jail, and then it was release time. One more year and they would have succeeded in turning these youths around. Unfortunately, the sentence isn't there.

I'll leave you with that.

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

We'll begin with the Liberals. Mr. Murphy, you have seven minutes.

**Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.):** Thank you, Chair.

I want to thank the two witnesses for being here.

I'll start with you, Ms. McCuaig.

It's an incredibly compelling life situation that you've lived, and on behalf of the Liberals, and I think all committee members, we feel so bad and sorry for your family's situation.

I want to thank you, Reeve, for being here. I'm a former municipal fellow, and I understand that the municipal level is the first line of democracy. You often hear what people are thinking first before it goes—it depends on how you look at it—up or down the line to Parliament and to legislatures.

I want to thank you both for being here. I have just a couple of questions.

The first is to you, Reeve Rausch. I wonder if you could elaborate on some of the comments you made in your very cogent presentation. You referenced the State of Texas as an example of a regime in which mandatory minimums were not efficacious, were not productive. I think that's what you said. I want you to elaborate on that.

The second question I have for you is this. You agree wholeheartedly, or the RM does, that the protection of society should be an important principle of the act. I want you to respond to this comment. It's a little ambiguous currently as to what the YCJA's overriding principle is, but suffice it to say the amendment proposed by this bill would make the protection of society the primary—the only—principle. Would you therefore agree that making it an—important principle, on a par with rehabilitation and public safety and all that sort of thing, would be a wise approach, rather than making it just the primary principle?

• (1600)

**Mr. Murray Rausch:** I believe council does support the idea of making it the primary principle, sir, yes. To elaborate on what the ramifications of that might be, we'd probably have to give it some careful thought too, but yes, it's a guiding principle. Whether or not that constitutes the primary principle at the same time, it needs to be the predominant guiding principle, in our minds.

**Mr. Brian Murphy:** The first question was about the mandatory minimums. You referenced it very briefly.

**Mr. Murray Rausch:** Yes, I did. To be aware of the experience of our American neighbours, the reference was to the State of Texas, where it was found that mandatory sentences in and of themselves did not necessarily result in a decrease in the rate of crime.

I think he was speaking to the need to consider carefully programs that would support rehabilitation and that would potentially also, when deemed appropriate by society, keep these young offenders out of the mainstream if necessary. That was my interpretation of what the judge's comments meant within the context of that interview.

**Mr. Brian Murphy:** Okay.

Ms. McCuaig, first of all, let's say there's no question that victims deserve more respect in the situation that you presented, obviously. What we're grappling with here is that we don't have the whole picture at this committee. We don't do the costing, and there's no law here about the implementation of rehabilitation programs or early intervention to get at dysfunctional situations beforehand. It's just the way our system is. We deal with the end consequences, with the sentence phase.

To focus on that for a moment—because I agree with everything you've said with respect to stopping crime before it gets to be a problem in the family—with respect to deterrence, your comment was that the time of incarceration wasn't long enough in some cases. I gather that what you're saying is that the longer the serious offenders, like the ones you mentioned, stay incarcerated and receive programming or some sort of regimentation or something, the better the chance that they will be, to use your phrase, “turned around”. To “turn the youth around”, in my thought, is code for “rehabilitate this person”.

Victims should also be afraid that criminals get out. We have to be worried, as a group, about what we are turning out if we just put them away and leave them there. I think that's our biggest worry. The solution of taking them out of the population is a short-term solution if it's only for a year or two or even three. Do you agree, then, that the programming in incarceration is a pretty important piece of the puzzle there?

•(1605)

**Mrs. Thérèse McCuaig:** Yes, absolutely.

In 1995, with the way the law was, the most you could get for manslaughter was three years. It took 14 months to get them to sentencing. Did you know that within that 14 months, they are not obliged to have psychiatric help, not until they are found guilty? They can refuse all that help.

What happened in our case, and I'm sure in many others, was that psychologists and psychiatrists could not force treatment upon these youths, so at half the term.... They were sentenced to three years, but after 18 months they were finally found guilty, and that left another 18 months to deal with them, or with one of them, anyhow. However, the first thing you know, he's up for review. Oh, then he can have weekends off, and if he has been pretty good, the judges might let him off and send him to open custody.

Today there's no such thing as open custody. From what I understand, it's three years for manslaughter, and you can go home after 18 months. Where's the treatment? Where is the incentive to turn your life around? This is not right. If you plea bargain second-degree murder to manslaughter, you're getting away with 18 months' incarceration for second-degree murder. We have to think about this. We should think about this seriously. That's not enough time to....

I spoke with a psychiatrist who's always on television. He's very well known and is always speaking on youth, youth crime, and so on. I asked him, “What do you do, sit in your office and figure out, okay, three years is proper to turn a youth around and rehabilitate him?” He said yes to that.

I asked him if he knew that the system lets them out after 18 months. He said, “What?” I said, “It must be so frustrating for you people who are doing good with the youth and he's starting to come around, and whoops, it's go-home time”. He said, “Oh, yes, it happens all the time”.

So what are we doing? What are we doing here?

**The Chair:** We'll go to Monsieur Ménard for seven minutes.

[*Translation*]

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** Your testimony has really struck a chord with me. I think this case is simply horrific. I'm having a hard time understanding that the courts in your region acted as they did, and the cases weren't even appealed.

I would like to know where you're from, as you didn't say.

**Mrs. Thérèse McCuaig:** I live in Ottawa. All the crimes took place in Ottawa.

**Mr. Serge Ménard:** So, they occurred in Ontario.

Mr. Rausch, if my understanding is correct, you were a judge for a fairly long time. Is that right?

[*English*]

**Mr. Murray Rausch:** No, sir.

[*Translation*]

**Mr. Serge Ménard:** Did you work at a juvenile court?

[*English*]

**Mr. Murray Rausch:** No, sir. My background is mainly in education at the elementary, junior high, and high school levels.

[*Translation*]

**Mr. Serge Ménard:** So, you were not an expert on young offender cases; you were not a psychoeducator specializing in young offenders.

[*English*]

**Mr. Murray Rausch:** No, sir. I was not.

[*Translation*]

**Mr. Serge Ménard:** Let's get back to you two. First, I want to say that what you have told us, Ms. McCuaig, is a horrific tale. I hope that such cases are not an everyday occurrence in Ontario.

**Mrs. Thérèse McCuaig:** I'm aware of a few.

**Mr. Serge Ménard:** Yes. The government decided to name its bill after Sébastien Lacasse. However, young Sébastien Lacasse is dead; he was murdered. The young man who killed him had a knife, but he did not submit his victim to the torture young Leduc was submitted to; far from it. Even so, he was sentenced to life imprisonment. I know that there is a big difference in the way young offenders are treated in Quebec and the way they are treated in the rest of Canada. I don't know whether you're aware of this fact.

• (1610)

**Mrs. Thérèse McCuaig:** Yes, sir.

**Mr. Serge Ménard:** Quebec does have the lowest juvenile delinquency rate in Canada and invests heavily in young offender rehabilitation.

Mr. Rausch, I see you were looking for models in Texas. Are you familiar with the Quebec-specific approach to dealing with young offenders?

[English]

**Mr. Murray Rausch:** Actually, sir, I was in the process, while I travelled here, of learning about that. One thing I found of interest was a province of Alberta publication entitled *Alberta Views*; the authors indicated that Quebec appears to have policies or procedures that reflect the view that courts are not necessarily the best place to deal with all youthful offenders, so all provinces have some type of diversion or alternative measures program. The point at which the diversion occurs differs.

That's what I've learned to this point, as I continue to pursue the definite differences that seem to exist among the provinces and how that interpretation is made through the courts.

[Translation]

**Mr. Serge Ménard:** You are surely aware that those cases are much less serious than the ones we are discussing today. In extreme cases, young offenders are reprimanded very severely, as exemplified by the sentence handed out to the murderer of Sébastien Lacasse, whose name is used in this bill's title.

Ms. McCuaig, according to current legislation, and according to any legislation, the young people should have been dealt with well before committing murder. I don't see why we need to change the legislation to do that. Many people have told us that what this recent legislation—it's about 10 years old—is missing are not legislative provisions, but rather the resources that should have been part of the reform. In addition, the young people who committed the horrific crime you described, who torture their peers, should have been reprimanded much more severely than they were.

It seems to me that nothing in the current legislation was preventing the authorities from doing that, had they had the necessary means at their disposal.

**Mrs. Thérèse McCuaig:** The young offenders would be arrested, but judges would sentence them to probation. Parents failed to ensure that the conditions of probation were being met, so the youth were loitering on the streets and doing whatever they wanted to. The didn't go to school and didn't work. They hung around on the streets, sold drugs, beat up young girls so that they would prostitute themselves for their profit.

**Mr. Serge Ménard:** In any case, I note that in Quebec, when such cases are brought before the courts, someone keeps an eye on the young offenders involved. They are reprimanded, sent to the appropriate facility, but they are always monitored when they're out of the correctional system. This is not part of the legislation, but resources should be provided for such monitoring.

[English]

**The Chair:** We're out of time, unfortunately.

Go ahead, Mr. Comartin, for seven minutes.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Thank you, Mr. Chair, and thank you, Ms. McCuaig and Mr. Rausch, for being here.

I know this is difficult, Ms. McCuaig. You have been in front of us in the past, so I know the horrible experience from your recounting of what you and your family went through, but I want to challenge you a little bit in terms of your support for this legislation. The idea behind it, according to the government's press releases and statements in the House, is that they want to target the gaps that are in the legislation, and specifically target the repeat offenders, the people who committed that horrendous crime that your family members were victims of.

However, in the course of these hearings, when we had three of the prosecutors from three separate provinces—the senior prosecutors dealing with young offenders—come before us, they said that this legislation, in three key areas, does just the opposite of what it's intended to do, and that in fact it's going to make it more difficult for our prosecutors and our judges to sentence people to adult court sentences, to hold them in custody.... I'm sorry, but off the top of my head I'm forgetting the third area. I'm not really expecting, by the way, a response from you; I just want to bring you up to date with that.

Up to this point, the government has refused to take those amendments into.... I don't know what they're going to do later this week or next week, but they haven't been dealing with this, so we're going to end up with a piece of legislation that on the surface is being touted as dealing with that really serious problem—that relatively small group of serious, repeat, and violent offenders within the youth group—but it's going to make it more difficult for the criminal justice system to deal with them. I just want you to be aware of that. Again, I don't really need a response, but you may want to go back at some point and take a look at the testimony of those three prosecutors, because it was really quite telling.

That's all I have, Mr. Chair. Thank you.

• (1615)

**The Chair:** Thank you.

We'll go to Mr. Dechert for seven minutes.

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



Ms. McCuaig, I want to join with my colleague, Mr. Murphy, and all the members of the committee to express my sympathy and the government's sympathy for the terrible loss of your grandson and the awful things that happened to both him and your niece, and I want to thank you for telling your story to this committee, because I think it's important that people understand and hear what happens to victims and how not just the victims themselves, but also their families, suffer. I believe that the families of the people against whom the crimes are committed are victims as well, and people should understand that.

At this committee, all too often we hear from people who are professionals in representing offenders, professionals in rehabilitation programs working with offenders, and people working with offenders in prison to make their stay in prison more comfortable and less inhumane, but we don't very often hear from the victims themselves. I think it's very important that we do, and I know it's difficult for you to recount that story to us, so thank you for sharing it with us.

I want to ask you a question, and I'll ask the same question to Mr. Rausch, because I think it is important for people to know your answer.

In your view, how does the leniency, as I think you would describe it, of the current Youth Criminal Justice Act towards repeat offenders affect the confidence of the public in Canada's criminal justice system?

**Mrs. Thérèse McCuaig:** Well, half the people I speak to all the time consider it a joke. The word on the street is you can commit as many crimes as you want until you turn 18. Now, I'm talking about drug-related and that sort of thing, not the exceptional murder, rape, and so on, but the word for the youth on the street is definitely that you can do anything you want until age 18.

One point that got lost that I wanted to bring up earlier is about releasing the name of the offender. I'll give you an example of why. A 15-year-old who, after finishing his sentence, turned 18, went back home and continued his career in pimping, beating on young ladies, making them dance nude and so on, and collecting the money. He had three young ladies going. He kept them almost locked up in apartments. They weren't allowed to go out and come in and whatever.

Anyhow, to make a long story short, his name was never published, so he would seek out these new little girls at schools and talk them into little romantic episodes, and then, whoops, it starts to be a controlling episode: "You're going to do...this". They didn't know who they had there. They didn't know who he was. I've often wondered why there's so much emphasis on hiding their names, when anybody can walk into a courtroom at any time and hear their names mentioned the whole day long.

My point is that those young ladies were not protected, you know. They weren't.

• (1620)

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

Mr. Rausch, what's your answer? How does our current law affect the confidence of the Canadian public in our youth criminal justice system?

**Mr. Murray Rausch:** I believe that certainly at times the suggested leniency that causes a great deal of focus on specific repeat chronic offenders has a very detrimental effect on public perception. I had just made a note as you asked the question, sir, and I believe too that it causes the people who are responsible for the delivery of justice—and also responsible for the management within municipalities, within provinces, and so on—to spend an inordinate amount of time in the management of such cases, such as in the example I suggested. I can't imagine how much time would be involved in putting together 53 individual packages for presentation.

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

Ms. McCuaig, you mentioned when you were recounting the story involving your niece and your grandson that the mother of one of the perpetrators had actually hoped that her daughter, I think it was, would have received a custodial sentence earlier in her history of committing crimes.

I also know someone with a similar story. They are good friends of mine who had a son who was going down a path of crime. They're both professionals, so he didn't lack for anything in terms of his home environment. He had a loving environment at home. He had all the resources that anyone could ask for, yet he committed a number of property offences that kept escalating, and they wished that the court would actually hold him in custody so that he could get some attention. Eventually he stole the family car and disappeared for several days with it and committed a number of offences with it, including theft and break and enter, and they called the police on him. He was arrested; he did get that custodial sentence for a little less than two years, and I understand that today he's doing very well. He went on to university, and they're quite proud of the way he was able to turn his life around.

What kinds of programs could these young offenders receive if they were kept in custody for some period of time?

**Mrs. Thérèse McCuaig:** You know, while attending court, of course I saw that the people who had these youths in their care would come to court and give a report on each youth, and I found them extremely biased to the youth and lying to the court, if I can put it that way. They would rush things; the youth could get, "Hurry up, hurry up—you only have two weeks to get one extra credit, and if you can get one extra credit, the judge will forgive this, this, and that."

I don't think that's helpful. Do you? In the youth jails I find the social workers, or whatever you call them, very untrustworthy.

These parents who didn't care about their kids would come to court, and now once they're arrested for murder, they started attending the jail. They got cushy, cushy, cushy with the social workers and the caseworkers, so the first thing you know, the social workers or the caseworkers are at court with the parents, hugging the parents in front of the judge. I don't think this is good.

• (1625)

**The Chair:** Thank you.

We've got five minutes left. Is there anyone from the Liberals or the Bloc? Is there anyone from over here?

Go ahead, Mr. Norlock.

**Mr. Rick Norlock (Northumberland—Quinte West, CPC):** This is just for Mr. Rausch.

Mr. Murphy, I think, hit the nail on the head when he said that you represent the first line of democracy. I have always said that municipal government provides the services that most Canadians use every single day, and the supposedly higher up you go in government, the less often people use the services of that level of government.

What I'm saying is that when you go and do your groceries, when you have your parent-teacher association, you talk to parents. When you talk to leaders of the community—I'm talking about service club folks—generally speaking, what does the general population in your municipality feel about the current law surrounding young offenders and how the law takes care of them? Do they make some suggestions to you? When they learned that you were coming here, did they make some suggestions as to what you should tell us? Please elaborate on that.

**Mr. Murray Rausch:** Yes, sir, indeed. In that front line of municipal services, as was suggested, we have an obligation to listen carefully to our constituents. Maybe in most cases they are a little more available than yours, because we're there on a regular basis and we're amongst the people.

Many of the comments that were contained in my initial letter—and I suppose to an extent also contained within my address to you today—come from those grassroots. There is the concern that the

system needs to function without being cumbersome to the extent that it can totally obliterate the normal course of the system.

I hope that answers your question.

**Mr. Rick Norlock:** It was a little bit on the nebulous side, but I think we get it. I was looking for more of a succinct layman's type of...

**Mrs. Thérèse McCuaig:** The feedback I get is mostly from parents of young offenders or from victims of the young offenders. I don't really think most of the people on the outside know what's going on with the law unless something happens at their home.

When we did have a petition going, though, over a million people signed the petition asking that the names be published in the paper so that they would feel more protected. If the neighbour is a pusher or the neighbour is breaking into homes, they would like to know who they are. That's the most feedback I ever got on the young offenders laws.

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

**The Chair:** Great. I think we're at the end of our questioning. I want to thank both of our witnesses for taking the time out to come here, especially you, Mr. Rausch. You came a long way. Ms. McCuaig, that was very compelling testimony. Thank you for sharing. It must have been painful, but we thank you for that.

We'll suspend for two minutes and then we'll reconvene in camera.

*[Proceedings continue in camera]*

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