



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **Standing Committee on Justice and Human Rights**

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JUST • NUMBER 061 • 1st SESSION • 41st PARLIAMENT

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**EVIDENCE**

**Wednesday, February 27, 2013**

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**Chair**

**Mr. Mike Wallace**



## Standing Committee on Justice and Human Rights

Wednesday, February 27, 2013

• (1530)

[English]

**The Chair (Mr. Mike Wallace (Burlington, CPC)):** Ladies and gentlemen, I'd like to call to order meeting number 61 of the Standing Committee on Justice and Human Rights. Pursuant to our order of reference of Wednesday, June 6, 2012, we'll deal today with Bill C-273, An Act to amend the Criminal Code (cyberbullying).

Before we get started, let me do a couple of housekeeping things, if you don't mind.

First of all, I will be leaving in a few minutes and then coming back again. Madame Boivin will be taking the chair, which I really appreciate. So behave.

We're having witnesses for one hour. I will introduce them in a moment. Then we will go to the clause-by-clause part. That will be the end of this meeting. Then I'll start a new meeting for the subcommittee on agenda, assuming we have time.

If for some reason the clause-by-clause part takes too long, we have agreement around the table to deal with Bill C-55 next week, starting with the minister on Monday. This is just a little heads up in case this takes longer than we anticipate, because you never know.

I have one other housekeeping item before I introduce the witnesses. I'll take a motion to approve the budget. It's \$2,800 for this actual study that we're doing right now.

**Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC):** So moved.

(Motion agreed to)

**The Chair:** Now let's introduce our guests. From the Institute of Marriage and Family Canada, we have Peter Jon Mitchell, who's a senior researcher. From the Canadian Teachers' Federation, we have Paul Taillefer, president, and Myles Ellis, acting deputy secretary general. And by teleconference, not video conference, we have Mr. Bill Belsey, the president of Bullying.org.

Each of you has approximately 10 minutes—I would appreciate it if you took less than that—to give your presentation. Then we'll go around the table asking you questions. That will last until about 4:30.

Our first speaker is Mr. Mitchell. The floor is yours.

**Mr. Peter Jon Mitchell (Senior Researcher, Institute of Marriage and Family Canada):** Thank you, Mr. Chair, and committee members, for the opportunity to appear before you today in regard to Bill C-273 on behalf of the Institute of Marriage and

Family Canada, a social policy think tank that conducts and compiles research on issues pertaining to the Canadian family.

Just last week another study was published in a peer-reviewed journal that linked the damage done by bullying during childhood to the increased risk of mental health related issues in young adulthood. The consequences of unaddressed bullying are severe.

As I continue to review research and engage with parents, I encounter a high level of anxiety and a sense of helplessness among parents of bullied children. Many of our attempts to stay ahead of the cyberbullying issue are akin to refereeing a soccer game from outside the stadium. As parents and caring adults, we prepare our children, acknowledging that once they enter the online world they're on their own. It is as if we are left peering at the field of play through a gap in the fence. Caring adults are largely absent in the online world of children and teens. Bullies know it, and they thrive where adults are absent.

Conceptually, enforcing the full weight of the Criminal Code on bullies appeals to the popular sense of justice, but this simplifies what is often a complex issue where many bullies are also victims. Functionally, the criminal law occupies the far end of the continuum in a series of bullying interventions among children and youth, the demographic that I want to speak to today.

The Criminal Code can protect victims and the community from escalating harm, but it is a very particular tool within limited circumstances. Before speaking to the specific merits and concerns that I have with Bill C-273, I want to acknowledge two limits to the function of the Criminal Code that should ground our expectations on what it can accomplish.

Use of the Criminal Code will not eradicate bullying.

First, applying the criminal law does not address the nature of bullying. At its core, bullying is a relational issue that requires relational intervention. Canadian clinical and developmental psychologist Gordon Neufeld understands bullying to be an instinctual, social, and emotional issue. Children, like adults, instinctually connect and attach to others, forming caregiving and care-receiving relationships. This is easily observed when watching children play. Neufeld argues that these naturally forming hierarchies facilitate the drive to care for others, but where instinct should draw upon empathy, the bully, often impaired by his or her own emotional trauma, is compelled to expose and exploit perceived weaknesses. Unmaking a bully takes time and requires relational capital.

Second, the Criminal Code is limited in the ability to prevent and deter young cyberbullies. As Wayne MacKay, who chaired the Nova Scotia Task Force on Bullying and Cyberbullying, noted in his report, "...the criminal law, while necessary and useful in certain serious cases, is a limited and often ineffective tool against the social problem of bullying."

Professor MacKay notes that criminal law has limited impact on prevention and deterrence for young people. In fact, until very recently, the Youth Criminal Justice Act omitted the principle of deterrence during sentencing, in part because of this assumption that youth are less likely to be deterred by criminal sanctions.

American criminologist Thomas Holt summed it up well when he argued, "It's very hard to say that any 14-year-old with a cell phone who can text is going to think about a cyberbullying law when they're communicating with their peers."

The best response to bullying is a community-level approach that brings together parents, caring adults such as educators, and children and youth. Research demonstrates that home and school environments are key to preventing the escalating nature of bullying.

Authentic relationships between youth and adults are critical to shielding victims and unmaking bullies. Justin Patchin, a criminologist at the U.S.-based Cyberbullying Research Center, who testified before the Canadian Standing Senate Committee on Human Rights, said elsewhere, "The vast majority of cyberbullying incidents can and should be handled informally: with parents, schools, and others working together to address the problem before it rises to the level of a violation of the criminal law." But of course there are situations where the Criminal Code is necessary to protect victims and the community from escalating harm.

What are the merits of Bill C-273?

First, the bill brings the stated sections of the Criminal Code into the 21st century by addressing common tools of communication. Some have argued that the Criminal Code is already sufficiently broad to encompass electronic bullying behaviours, particularly section 264. The amendment to section 264 may be unnecessary.

Second, the modifications are modest and clarify existing sections of the Criminal Code rather than proposing new sections of untested criminal legislation.

• (1535)

Finally, there are some serious concerns around the implementation of Bill C-273.

First, we can expect that clarifying the Criminal Code in this manner will lead to an increase in its use. Increased use of these provisions may draw more youth into the criminal justice system, many of whom would fare best if dealt with outside the justice system.

Second, the committee should consider how the increased use of the Criminal Code will impact school-based responses to bullying. Could the adversarial nature of the criminal justice process inhibit community-based responses to bullying?

Finally, it remains unclear whether legislation reduces bullying. In the United States between 2000 and 2010, over 125 pieces of legislation were passed mostly at the state level yet the problem seems to remain as persistent as ever in the U.S.

To conclude, bullying among children and youth requires a community-level approach. On some occasions cyberbullying may escalate to a point where the Criminal Code is necessary to protect victims and the community. Bill C-273 appears to be a modest modernization of existing Criminal Code provisions, but at what cost?

Consideration should be given to the possibility that the increased use of the Criminal Code will create a chill on the community-level approach, particularly by drawing more youth into the criminal justice system.

Refereeing cyberspace is a difficult task. Our best approach is to empower parents, educators, and children and teens themselves to work together.

Thank you.

• (1540)

[Translation]

**The Vice-Chair (Ms. Françoise Boivin (Gatineau, NDP)):** Thank you, Mr. Mitchell.

Mr. Ellis and Mr. Taillefer, you have a maximum of 10 minutes.

[English]

**Mr. Paul Taillefer (President, Canadian Teachers' Federation):** Thanks very much for inviting us to make a presentation today on this growing and disturbing issue that is affecting the lives of so many of our youth. We applaud the standing committee on human rights for its work on that front.

Before I present to you our federation's recommendations, allow me a few minutes to provide you with a quick overview of our organization and our work on cyberbullying over the last six years.

The Canadian Teachers' Federation is a bilingual umbrella organization composed of 15 member organizations and one affiliate member, representing nearly 200,000 teachers across Canada. We are a member of the international body of teachers, Education International, which represents over 30 million educators around the world.

CTF began addressing the issue of cyberbullying in 2007, when a growing number of teachers started to report cyberbullying incidents in their schools. The incidents were not only devastating for the targeted students but also harmful for the entire school and the learning environment. Teachers also became targets of these unwarranted attacks, further damaging what should be a safe place conducive to learning.

In 2008, after many months of research, discussion, and cooperation, the CTF member organizations adopted a comprehensive policy aimed at addressing cyberbullying. Our definition of cyberbullying is the use of information and communication technologies to bully, embarrass, threaten, or harass another person. It also includes the use of these technologies to engage in conduct or behaviour that is derogatory, defamatory, degrading, or illegal.

Our policy's guiding principles are based on the premise that safe and caring schools should be a national priority; that we as a society all share responsibility for ensuring safe, respectful learning spaces and cyberspaces for our children; and that freedom of expression should be balanced with the rights of parents and educators who seek to ensure a positive online learning experience for students. I'm paraphrasing those guiding principles, of course.

Our policy takes a two-pronged approach that focuses on education and protection initiatives. The policy also recommends roles and responsibilities for students, parents, teachers, school boards, governments, and website or service providers.

In our brief, you will see a reference to a national public opinion poll on cyberbullying that we conducted in 2010. I won't go through the findings today, but will highlight the fact that back then, three-quarters of Canadians knew what cyberbullying was, and one-third personally knew a student who had been cyberbullied.

Given the amount of media coverage in similar surveys, the awareness is most likely very much higher today. An Ipsos Inter@ctive Reid report released last December shows that one in five online teens says that they have witnessed someone they know being bullied on social networking sites.

It also points out that teen ownership of smartphones has increased 18 percentage points to 43% since 2012, prompting what they call a move from cyberbullying to "mobile bullying". You can see that we're already moving into the next phase of this problem. This speaks to the constant evolution of the problem and the need for concerted action.

Today I'd like to focus on one particular issue that we need to examine very attentively: the mental health of our students. The connection between bullying and mental health issues has been identified time and time again by studies and researchers.

According to Dr. Patrick Baillie of the Mental Health Commission of Canada, there's a link between bullying and mental health. He concludes that the history of victimization and poor social relationships predicts the onset of emotional problems in adolescents, and that previous recurrent emotional problems are significantly related to future victimization.

Last week a new study was released by *JAMA Psychiatry*, an international peer review journal. It found that victims of bullying at

school, and bullies themselves, are more likely to experience psychiatric problems in childhood. Researchers have found that elevated risk of psychiatric trouble extends into adulthood, sometimes even a decade after the intimidation has ended.

Experts say that the new study is the most comprehensive effort to date to establish the long-term consequences of childhood bullying. The researchers found that victims of bullying in childhood were 4.3 times more likely to have an anxiety disorder as adults, compared with those with no history of bullying or being bullied.

• (1545)

Furthermore, study after study shows a direct correlation between bullying, mental health issues, and academic achievements. How can students learn effectively when in fear for their safety?

Teachers want to intervene at the earliest possible time, but they need support from the federal, provincial, and territorial governments, as well as school boards.

It is time for a national conversation to take place among governments, educational stakeholders, and private ICT providers. The industry needs to hear first-hand the issues that schools, families, and communities face in trying to address the issue of cyberbullying. Stakeholders need to hear what ICT providers are doing to address the concern and what they are prepared to commit to as part of their responsibilities. Government needs to play a role in bringing parties together and facilitating change.

The CTF has presented briefs on a number of occasions to parliamentary committees, to the Senate, and has met with Justice Canada officials urging for amendments to the Criminal Code to address online harassment, cyberstalking, and cyberbullying. We have a number of recommendations that we would like to put forward at this time.

Canadian teachers are seeking the support of the Government of Canada in recognizing the extreme impact of the misuse of technology, as manifested in cybermisconduct and cyberbullying, by developing partnerships with the Council of Ministers of Education, Canada, the Canadian School Boards Association, and the Canadian Teachers' Federation, and by supporting the creation of a national strategy to address child and youth mental health issues in Canadian schools.

We are also seeking the Government of Canada's support for a public awareness and education campaign that focuses on appropriate cyber conduct and the prevention of cyberbullying; amendments to the regulatory framework for the rating of films and video games to reduce the possibility of excessively violent products being sold to children and youth; amendments to the Criminal Code of Canada that make it clear that the use of information and communications technology to convey a message that threatens death or bodily harm, or perpetuates fear and intimidation in another, constitutes a punishable offence under the Criminal Code; enacting new information and communications technology/cybermisconduct and cyberbullying legislation that protects teachers, students, and others from harm; and facilitating through regulation and legislation an incentive for a national dialogue with corporate ICT providers aimed at developing a common cause between private and public sectors in addressing cyberbullying.

That would be a large step toward putting forward an end to cyberbullying. As was suggested recently, with the release of the mental health strategy for Canada by the MHCC, the government should support the development of a national strategy in addressing bullying, including cyberbullying. A first step would be to orchestrate a national symposium of educational stakeholders and community leaders, whereby the beginning steps would be taken to ensure a consistency in approach across the nation.

As part of Canada's commitment to the United Nations Declaration of the Rights of the Child, every youth, regardless of where they live in Canada, deserves the right to live in a community and attend a school that is a safe place.

Canadian teachers believe in healthy learning and teaching environments; however, we need support from the political arena to make it happen.

Thank you.

[Translation]

**The Vice-Chair (Ms. Françoise Boivin):** Thank you very much, Messrs. Taillefer and Ellis.

Mr. Belsey is now online.

[English]

We're listening.

**Mr. Bill Belsey (President, Bullying.org):** Good afternoon, honourable members and guests. It is an honour to speak to you today from my school, Springbank Middle School, in the foothills of the Rocky Mountains near Calgary.

I apologize in that I have a bit of a cold, and I hope that my voice is acceptable and that everyone is able to hear what I have to say.

• (1550)

**The Vice-Chair (Ms. Françoise Boivin):** No problem here.

**Mr. Bill Belsey:** Thank you very much.

First of all, before I begin my presentation, I will say that I am not an academic. I'm a dad; I'm a father. I have a teenage daughter and a son. I am also a middle school teacher. I've taught for many different years in different parts of Canada. Having teenagers at home and teaching and working in a middle school, issues around kids,

especially, of course, issues like cyberbullying, are a huge part of my life. You have already heard from learned academics, and I greatly respect the work of the other folks who have presented today. I respect and admire their work, and I'm proud that the Canadian Teachers' Federation has seen fit to include a little bit of my work in some of their publications. With that as a bit of a backdrop, I'll continue.

My presentation is called, "Cyberbullying: What we know, What Should Be Done". My history around the issue of cyberbullying goes back to 13 years ago when I created and launched the website, [bullying.org](http://bullying.org). It was in response to a horrific event that happened here in Alberta at a high school where a young man went into the school and took another young man's life. It turns out that, unlike Columbine which was not actually about bullying, in this case bullying was a significant issue. I just felt as a dad, as a teacher, and as a citizen I needed to do something. So I created the website [bullying.org](http://bullying.org) as a safe place where kids can go to find help, support, and information. Basically, it's a place to share your voice through stories, poetry, artwork, music, video. We actually had people uploading video to our site before YouTube was invented. We read all the submissions and all the replies.

Over a decade ago, not long after the website went online, we began to read about young people reporting stories about being bullied online. This came from parts of the world like Asia, Scandinavia, the United Kingdom. The reason is that their smartphones or their phones were far in advance of what we had in Canada at the time. I thought, okay, this is something quite new and different. So I borrowed from the Canadian science fiction writer named William Gibson, the one who coined the term "cyberspace", and I simply thought, if this is bullying and it's happening in cyberspace, I can put the two together, and I coined the term "cyberbullying".

I proposed this definition years ago and it's held up fairly well, although I know academics are constantly arguing about some of the nuances. But what makes it bullying in any form is that it's deliberate, repeated, and there's an intention to harm others. What happens here, though, is it happens to be in cyberspace and it's using various information technologies. That's when I came up with that particular definition.

I thought what I'd do is summarize this, if you will, in terms of tweets. I'm sure most of you are familiar with tweets, which are short messages. You can post up to 140 characters. So I thought about some of the main points I could make in the form of tweets, if you will.

I think we need to rethink bullying as an issue. We need to really look clearly at what cyberbullying actually is. We need to understand that there needs to be a strong family focus to this. We need to understand, from my point of view, that prevention is the priority. This law, the proposed bill, will likely create ripples in the adult world, but I believe its effect in the world that I live in, that of teenagers, will be modest at best. So I think that prevention needs to be our priority.

I think we as adults need to understand that there's no B chromosome. People aren't born bullies. Bullying is a behaviour. It's learned. We adults, myself as a dad, as a teacher, as a citizen, need to become much more aware of and conscious of our own actions and behaviours, because children and young people don't necessarily learn what we tell them about or lecture them about. They much more readily emulate the behaviours that we present in front of them. That means in person and online.

We need to train teachers. I'm a proud member of the Canadian Teachers' Federation, and the Alberta Teachers' Association, but I will tell you that the vast majority of teachers in Canada, when they go to university, do not get training about bullying. It's like having nurses and doctors who aren't trained to help the public with the flu, which is unthinkable today. Not only was that the situation when I graduated from a great school, a four-year teacher education program, unfortunately it is still true for many young people who are getting ready to graduate now. That needs to change.

When we're looking at what cyberbullying is actually like in terms of kids, and we're thinking about what impact legislation might have, we have to understand what the mindset is of kids when they're involved in these things. I do understand that adults have been impacted by cyberbullying as well, but I'm a dad and a teacher, so my focus and my sharing will be around young people.

• (1555)

I call it the perfect storm, the idea of "net-izenship" or what it means to be a digital citizen, and the corporate world needing to be part of the solution, and what I call wheel alignment.

I will try to speak to these things quickly. I do apologize if I go fast. I have two decades' worth of thinking to present in a short time, so I'll do the best I can.

With regard to rethinking bullying, we need to understand that bullying is not a normal part of growing up; it's not a rite of passage. We need to rethink bullying not simply as a school issue, as we have done often in the past, but as a community health and wellness issue. Cyberbullying really illustrates this point because most cyberbullying, the research tells us clearly, happens away from school. We need to be very clear that cyberbullying is bullying, and I always appreciate how hurtful this is. They didn't grow up with it, but it is incredibly harmful.

Cyberbullying is not so much a technology issue. Technology is an amplifier. It amplifies the best of who we are as human beings and, unfortunately, the worst, including things like cyberbullying.

From my point of view, after thinking and working on this issue for over a decade, cyberbullying is actually about people and relationships and choices. A hammer can be used to harm someone, but a hammer can also be used to build beautiful edifices. It's not the hammer, the Black and Decker or Stanley hammer, that's the issue, or whether it's a cellphone or Facebook. Those are tools, incredibly powerful tools, but it's what we choose to do with them that's really the issue.

When we look at addressing cyberbullying appropriately, we need to have a family focus. We, as parents, myself included, need to become much more aware and engaged in our kids' online activities and behaviours. We would never think of giving our kids the keys to

the car and telling them to go for a drive on the Queensway or the 401, yet every day parents line up at the local mall to include their kids in cellphone contracts and hand their kids cellphones. The cellphone, in my opinion as a technology teacher for many years, is the most powerful communicative tool in the history of mankind. It is literally bringing down governments, yet we blithely give our kids these incredibly powerful tools without really appreciating that very much.

We need to focus on prevention through education and awareness. Laws and policies have their place, but they tend to be mostly reactive and punitive. In a way, it's almost like putting a Band-Aid on a gaping wound: the damage has already been done. I'm sure it would be no surprise to you that as an educator I think it's much better to focus our time, energy, and resources on prevention through education.

We, as adults, need to walk the walk and not just talk the talk. I am a social studies teacher. I'm not making a political point here; I'm making a behavioural point. When we begin our social studies class we talk about the news. One day one of my students came in and said, "Mr. Belsey, what is this all about?" As a teacher, I'm rarely lost for words, but I truly was lost for words in trying to explain how it was that our political leaders were doing this to one another. We wonder why it is that kids are cyberbullying. Again, bullying is a behaviour and it's learned. All of us as adults, myself included, but leaders at the highest levels, including in the House of Commons, our leaders in Ottawa, need to understand that kids are aware of these sorts of images. Youth remember and emulate what adults do, not so much what we say. That is critically important.

What can be done with regard to education? We need to train teachers. I've made this point already, so I won't go over that again. Most teachers are not trained, and they need to be.

What is to be done? First of all, I have a couple of quick words about what not to do. We shouldn't use a fear-based approach. Too many times the police, who have an incredibly difficult job, or the RCMP, who I respect very much, get invited to go into schools to talk about these issues. Unfortunately, if you go into a high school or middle school and talk about how awful the Internet is and how terrible cellphones are, you get the dreaded rolling of eyes. We shouldn't give the FOG, fear of God, speech. We need not address this through fear.

We also shouldn't chase technology. Right now schools are struggling to decide whether to allow cellphones in the classroom. In my class, it's something that happens all the time; we use our cellphones like hand-held computers. But a lot of schools are really struggling with this. Google has already launched the Google glasses so we'll have wearable computers.

On the idea of chasing down websites or chasing technology, we, as adults and teachers and others, don't have the time to do this, and there are no quick fixes. You can put a filter in your school system or in your home, and you can throw a boulder into the Ottawa River, but just as with the digital world, the water will find a way around it.

• (1600)

There is this idea that I like to talk about called the fallacy of control. It used to be that only the kids in schools who had pocket protectors, known as nerds and geeks, knew what a proxy server was. Now, the average high school student knows exactly what a proxy server or a circumventor is. They know how to get around all these filters. We pretend to do our due diligence, but we're kind of fooling ourselves. We have to get real when we deal with this issue.

When we're thinking about a bill and what—

**The Vice-Chair (Ms. Françoise Boivin):** Mr. Belsey, your 10 minutes are up, but I'm sure you're going to get a lot of questions around the table. We will start with Mr. Goguen.

**Mr. Robert Goguen:** Thank you, Madam Chair.

I'm going to ask Mr. Belsey a question.

In the past decade, bullying and cyberbullying have contributed to a number of suicides, and that's definitely regrettable. To name some, and certainly not the least of them, they include: Amanda Todd of British Columbia, Jamie Hubley and Mitchell Wilson of Ontario, Jenna Bowers of Nova Scotia, and Marjorie Raymond of Quebec. It's a tragedy that continues and continues, and I guess it's a testament to the severity of the effects of cyberbullying.

With respect to targeting cyberbullying, our Conservative government is already addressing the issue through non-legislative initiatives that include, for example, the national crime prevention strategy and bullying prevention programming, as well as through funding offered by the RCMP, Public Health Agency of Canada, Industry Canada, and Justice Canada.

Lianna McDonald from the Canadian Centre for Child Protection with our Conservative government's support has expanded CyberTip.ca to address instances of youth-transmitted sexual images, whether they're through texting or the Internet. These measures are in addition to others under way at the provincial level. For instance, there is Ontario's Bill 13, Accepting Schools Act, 2012; and Quebec's Bill 56, An Act to prevent and stop bullying and violence in schools, introduced on February 15, 2012. That's not long ago. These all address bullying in schools.

Mr. Belsey, in one of your interviews, you stated that bullying is a behaviour that can be shaped and formed, and you were noting that the best way to deal with such behaviours is to educate and inform and not to punish.

Could you expand on this, please?

**Mr. Bill Belsey:** I'd be pleased to, and if you don't mind, that actually leads into the next point I was going to make in my presentation.

If we're thinking about how a bill might potentially impact these behaviours, we need to understand the mindset of a young person. I call this the perfect storm. You may refer to the handout you may have in front of you, for what we know about the teenaged brain.

All of us, when we're young people, live in the moment. We live in the sort of instantaneous moment. We don't make very good connections between cause and effect. Psychologists call it disinhibition. When people cyberbully, they don't see the face of the person they're hurting online. If you think about it, there's a teenage brain that is very much living in the moment, and we have what are called synchronous technologies, the favourites of young people, for texting and instant messaging, with cursors that flash "send, send, send".

I would humbly and respectfully suggest to the committee that while this proposed bill may have its impact in the adult world, when a kid is living in that moment with the teenaged brain that is not making good connections between cause and effect and is using synchronous technologies, technologies that are of the moment, it's not a surprise that often good students, and typically great kids—because most kids are pretty great—often may end up doing things online that they would never think of doing in real life. I really don't think that a 14-year-old girl who's been jilted by a boyfriend or whatever, between period one and period two of classes, who's incredibly hurt and angry, will actually stop in the middle of that very harmful post or text and think, "Oh, wait a minute, there's Bill C-273. Maybe I'd better not do this."

To speak to your question, we need to think about what is actually going on in the minds of teenagers. I do realize adults are engaged in cyberbullying, but my world is kids, and that's where kids are in terms of their mindset. I applaud the government for what it has done so far, but really, we have a long way to go, and we have to understand the reality of where cyberbullying lives and what it looks like.

I hope that addresses your question to some degree.

**Mr. Robert Goguen:** It does.

One of the basic elements of a criminal act, of course, is intent, and you use the term "living in the moment". Am I to take it that basically the youth that you teach, who are living in the moment, don't have the maturity to realize or reflect upon how hurtful and how destructive comments can be?

**Mr. Bill Belsey:** I thank you so much for that question, because it actually speaks to what I was saying a minute ago about the teenaged brain. We know from research that our brains do not fully develop until we're often into our early twenties.



I'll give you an example. In my classroom with my social studies students, we have a blog, and my students post a lot of their assignments, their writing, and their thinking online. We do television shows about Canadian history. We do all kinds of really creative things with technology. I try to model that in positive ways as often as I can. When the students are blogging, their assignments are posted before they go live. I will call them over to my desk and they'll look at their posting in the draft form. There have been many times when even though the students all knew that I was going to see what they'd written, they have posted something—perhaps something got the better of them—and when I have called them over and asked if they really wanted something to go live, they have looked at what they had posted in the draft form and have told me they were really embarrassed and that they just hadn't been thinking.

Now this is not to let kids off the hook, but we do need to understand the nature of teenaged brains. They're not fully formed, and the kids don't make really great relations in terms of causality, that connection between cause and effect. That doesn't happen until we are in our young adulthood, and even then we don't always do a great job. We need to understand that very well.

• (1605)

**The Vice-Chair (Ms. Françoise Boivin):** Thank you Mr. Belsey. I've been trying to find when your voice slows down a bit, because you can put a lot of words into one sentence.

It's now Mr. Morin's turn.

[*Translation*]

**Mr. Dany Morin (Chicoutimi—Le Fjord, NDP):** Thank you very much, Madam Chair.

My first question is for Mr. Mitchell.

[*English*]

Thank you so much for stating that we need to put emphasis on prevention rather than criminalization. I do agree that the civil communities across Canada need to have a big role, and parents especially. They need to be at the heart of the solution, because they can be part of the problem sometimes.

Do you agree that the government should gather all the best anti-bullying practices and disseminate this information to Canadian families, as well as support the local organizations in the several communities already doing good work on the ground regarding bullying and cyberbullying?

**Mr. Peter Jon Mitchell:** That's a great question. To some extent I think the government does that. There are various government websites that give tips for parents. Particularly at the legislative level, we see most of the legislation at the provincial level, not at a federal level. I think legislation works best when it's empowering the local community and helping them to find the creative solutions for their own particular community.

I think there's certainly some merit to that, as long as it's empowering communities. I think there's a particular challenge when there's a lot of directive given. Then it becomes very difficult to facilitate. I'll give you an example. In the province of Ontario about \$150 million was spent between 2007 and 2010 on safe school initiatives. The Auditor General in his report in 2010-11 said that

although there was this money that was spent in this initiative, the money was spent ineffectually and they couldn't track the effectiveness of this particular approach.

There is certainly a risk of government being overly involved and cumbersome, but I think there are things government can do in a limited way to empower families.

**Mr. Dany Morin:** Thank you very much.

[*Translation*]

My next question is for Mr. Belsey.

Do you think Dr. Fry's bill to further criminalize or modernize the language used is a good thing? Should we emphasize various preventive measures instead and help the communities to help themselves across Canada?

[*English*]

**Mr. Bill Belsey:** You might imagine my response as an educator. There was a long-time maxim about how many thousands of dollars it costs to send somebody to university for a year versus the \$100,000 plus it costs to deal with somebody who's been incarcerated.

My feeling is that you can't bully a bully into not being a bully.

What we need to do first of all is draw upon the strengths we already have. We need to not reinvent the wheel. I was so very honoured to come to Ottawa and present to the Senate on this issue. We need to not be reinventing the wheel here.

They invited not just me, but many excellent people who work on this issue and have done for years. We have researchers through PREVnet. We have action-oriented organizations like Bullying.org. There's also the organization of the family—I'm sorry, I've forgotten the title—in Ottawa. They're doing great work.

**Mr. Dany Morin:** Mr. Belsey, I'm going to cut you off.

You mentioned the Senate. The number one recommendation for government was to create a coordinated national strategy on cyberbullying. Do you agree with that?

**Mr. Bill Belsey:** I would say not on cyberbullying particularly. We need to have a national strategy on bullying. The reason is that those countries that have taken such leadership by having a national strategy... I believe there was support for this by Monsieur Morin, a member of Parliament from New Brunswick. I think that having a national strategy on bullying is absolutely critically important, and even having something like a national child advocacy office that would work with them. Because those counties that have done that have seen reductions in bullying.

• (1610)

**Mr. Dany Morin:** Yes, thank you. I just want to point out, I love this MP. He's doing great work in Parliament.

**Some hon. members:** Oh, oh!

**Mr. Dany Morin:** Mr. Goguen mentioned that the federal government does give money to local organizations. The federal government funded the SNAP program in Ontario, but decided to cut off their funding at the beginning of April.

What do you think of that? Do you think it will help or will it make things worse?

**Mr. Bill Belsey:** Well, I think you have to find out about what's really making an impact. I will have to speak a little selfishly here on behalf of bullying.org. Bullying.org is now the most visited and referenced website in the world.

We started cyberbullying.ca as a website to define cyberbullying. We started Canada's national Bullying Awareness Week, which happens every November, and we created bullyingcourse.com, offering Canada's first online courses for teachers.

**The Vice-Chair (Ms. Françoise Boivin):** Okay. Thank you, Mr. Belsey.

**Mr. Bill Belsey:** I will tell you that I paid for it out of my salary as a classroom teacher.

**The Vice-Chair (Ms. Françoise Boivin):** Thank you.

**Mr. Bill Belsey:** I do not receive any formal funding. I would love to have these resources in French and in English. That's where money needs to go, and not just to that, but to those grassroots organizations that really make a difference.

**The Vice-Chair (Ms. Françoise Boivin):** Well, that is okay. Those were both excellent self-promotions.

Now it's time for Mr. Cotler.

**Hon. Irwin Cotler (Mount Royal, Lib.):** Thank you, Madam Chair.

I'm going to put a question to the Canadian Teachers' Federation representatives. Either or both of you can answer. It's based on something Mr. Belsey said. It has to do with what he was speaking of in terms of the lack of training of elementary and secondary schoolteachers to deal with bullying, either preventively or after the fact.

Is that the case at this point or is there training? If there is, how effective is it, both on the preventive level and after the fact?

**Mr. Paul Taillefer:** Let me say that I'm going to be speaking from an experience that's a bit dated, but anecdotally I believe that what's happening right now in teachers colleges, in pre-service as we call it, doesn't necessarily prepare teachers to take on that task. There are a lot of things they're taught to do. This may not necessarily be something they are taught to do to the extent that we need it to happen. There are, however, organizations within each province and territory that have taken on that mantle of responsibility and work with teachers' organizations in order to help teachers understand the roles they have to play and the responsibilities.

You would see that mostly with teachers who are actually in a teaching position. They would be getting some support on that level. That's very important for us at the Canadian Teachers' Federation. We believe that education for the teachers, for the students, and for the parents is a primary responsibility. However, we don't believe that it's necessarily an either-or proposition.

Bill C-273 has some important aspects to it, I think, such as modernizing the language in the Criminal Code. Things are changing rapidly in cyberspace, and I think it's important that this be reflected.

I don't think that when we look at the modernization of the Criminal Code it's to make it the front-line tool in order to stop cyberbullying. I think everybody around this table has talked about education, about responsibilities, and about working together and forming coalitions and a national strategy, but somewhere in there I think it's important for students to understand that they're going into a society where they have to be responsible citizens, where they have to understand that they have laws to follow. I think it's something that we should look at seriously.

When a student has a bad behaviour in class, the first thing you do is that you don't ban him from the school. I mean, there's incremental discipline. You talk to the student. You explain to him why his behaviour is not appropriate. You work through different phases. It's only in the hardest cases that you get to a point where you have to do something that drastic. That type of law is not meant for most people, but it is important that people understand how bad cyberbullying is and what effect it has on people.

At the beginning of this presentation, we had a list of people who lost their lives due to cyberbullying. It's not just for adults to reflect on how serious this problem is. I think students have to reflect on it also.

•(1615)

**Hon. Irwin Cotler:** This gets me back to my initial question. You're a federation that is a national alliance of provincial and territorial teacher organizations representing some 200,000 elementary and secondary schoolteachers across Canada. Do you have a strategy with respect to the training of teachers to deal with the question of bullying, let alone cyberbullying, on a preventive level or after the fact?

**Mr. Paul Taillefer:** We have a policy. Each of our member organizations has policies. School boards have policies.

We are a coalition. Basically, we work to bring people together. We do not have the power to put together something and impose it on a body.

I know that we have put together a policy. We are working with our member organizations. We are working with provincial governments, as in Ontario with Bill 13, to put together policies that make sure schools are safe places. That's done in pretty much all provinces and territories. It has been done in Nova Scotia. It has been done in Quebec. It has been done in other jurisdictions also.

**Mr. Myles Ellis (Acting Deputy Secretary General, Canadian Teachers' Federation):** If I may add to what President Taillefer said, just after we created our policy we developed something called "CYBERTIPS for Teachers". In the first several years well over 100,000 went out for teachers and parents to use as guidelines as to how to address the situation.

As well, we work regularly with people like Mr. Belsey. We work with MediaSmarts, which used to be Media Awareness. Every November we have Media Literacy Week. We do it in concert with them. Through those organizations we facilitate the distribution of material of best and promising practices that would go out through our system and our networks to assist in addressing the issue. We work with PREVNet. I believe Wendy Craig presented to you. These are wonderful organizations. We collaborate with them. We assist in getting the messaging out with them. Those are examples of the kinds of things we try to do.

**The Chair:** Okay, thank you.

That's your time. Thank you, Mr. Cotler.

Thank you, Madame, for filling in for me.

**Ms. Françoise Boivin:** My pleasure.

**The Chair:** Our next questioner is from the Conservative Party, Mr. Albas.

**Mr. Dan Albas (Okanagan—Coquihalla, CPC):** Thank you, Mr. Chair.

I want to focus my thoughts today on Bill C-273.

I'd like to start by welcoming our guests today, who are with us both electronically and in person.

I'd also like to highlight that Mr. Mitchell put out a very good report last November, "Family responses to bullying: Why governments won't stop bullying until families step up".

I'll be directing my questions to you, sir.

Last meeting we had Professor Shariff, an associate professor in the department of integrated studies in education at McGill, who noted she had some concerns regarding some of the inconsistencies in Bill C-273.

Both Professor Shariff and Professor Craig also voiced concerns from the Canadian Coalition for the Rights of Children, noting that Bill C-273 focuses exclusively on the criminalization of some youth behaviour without providing for further investment in preventive and rehabilitative programs.

Obviously, all of us agree that the intent behind the bill is laudable: to ensure that existing offences apply to bullying conduct that is criminal in nature where it's communicated through the use of the Internet. However, in my view, this raises a number of policy concerns that I mentioned at the last meeting.

I said that offences generally apply to specific conduct, even though the means used, such as the Internet, are not specified. For example, murder is murder regardless of the weapon or means used to commit that murder. Amending some of the offences that could apply to bullying, and then excluding others, for example, section 264.1—I think, Mr. Mitchell, you mentioned some of that in your comments—such as uttering threats, could become problematic. For example, the inclusion of a reference to the use of a computer or the Internet in some offences could be interpreted to mean that its exclusion from others is intentional such that other offences might not be interpreted to apply to conduct carried out with the use of a computer or the Internet.

I also said that its proposed terminology "...computer or a group of interconnected or related computers, including the Internet, or any similar means of communication" is inconsistent with the provisions throughout the Criminal Code. Having two terms relating to the same medium, I would say, could cause confusion.

I said that in short, my view is that Bill C-273's proposed amendments to sections 264 and 298 would not enhance the Criminal Code's existing treatment of bullying that constitutes criminal conduct.

Focusing on your comments, Mr. Mitchell, how would you respond to some of these concerns?

• (1620)

**Mr. Peter Jon Mitchell:** As I said in my presentation, with respect to section 264, it might be duplicating the way the code is already being used. Is it necessary to modify the code in such a way? With respect to a double definition of, say, computer or other devices, I think that's something that could be investigated further. We don't want to create a law that will create a double criminalization.

Certainly there have been concerns, in U.S. legislation particularly, where bills that are much more aggressive than this have been put forward. Particularly in Missouri, significant cyberbullying legislation was put forward after a tragic incident involving adults cyberbullying a child. Parts of that legislation were struck down last year because they were so broad and so wide.

I would encourage the committee to consider that. Again, I don't think this particular legislation is quite as broad as some of the examples we've seen in the U.S., but I think we still need to be mindful of that concern.

**Mr. Dan Albas:** You also said that by effectively criminalizing or bringing an element of criminalization of such behaviours there may be a chill in community response, whether that means the schools rather than dealing with it within their own communities maybe directing it to law enforcement officials to adjudicate issues of cyberbullying or otherwise. Could you elaborate a little bit more on the chill comments?

**Mr. Peter Jon Mitchell:** I think that could happen in a couple of ways. I think with any program that we apply, any legislation, particularly at the provincial level—and I've had concerns in some jurisdictions, particularly in Alberta, with this—where we put pressure on bystanders or other people to report crimes, we need to be careful. It is good when a bystander can intervene. We know actually from research that when bystanders do intervene incidents of cyberbullying or bullying tend to defuse rather quickly, but they also put themselves at risk of being bullied themselves.

The criminal process does not necessarily move at the speed of light. We still have to live with each other, even when charges have been laid. The school has to deal with that. They have to manage that reality within their school if charges are laid and students are still there. I would assume there would be suspensions, but it doesn't necessarily mean expulsions, depending on the province.

Certainly I think it gives pause for students who might be reporting on that, and that would be unfortunate I think, because it takes the relational aspect of it out of the school's hands in some respects, and it puts it into the criminal laws. Then that's just a whole new ball game.

I think where we can resolve this at the relational level it's best for all involved.

**The Chair:** Thank you, sir.

Thank you for those questions, Mr. Albas.

Our next questioner is Madame Boivin from the New Democratic Party.

[*Translation*]

**Ms. Françoise Boivin:** Thank you, Mr. Chair. You have come at the right time because I was hoping to be able to put some questions to our guests, whom I want to thank.

As Mr. Albas noted, the people who introduced Bill C-273 are well-intentioned, but I think this bill poses quite a serious legal problem. I am not sure that this bill, as worded, can achieve its objectives.

I believe I clearly understood your arguments regarding prevention. Incidentally, to help Mr. Belsey understand the joke that was made a little earlier, since it is hard to understand everything over the telephone, Mr. Morin is doing an outstanding job on the issue, and I believe we are all a little more aware of the cyberbullying issue as a result of the motion he introduced calling for a national study and as a result of Dr. Fry's bill.

The devil is always in the details, as I always say. We are preparing to amend the Criminal Code. However, I do not agree with my colleagues opposite, and, like some of our guests, I am not convinced that adding words that I believe are already implied will cause any major problems. The definitions contained in section 264 respecting criminal harassment refer to other means. We know very well that the courts generally supplement less specific terminology to adjust it to various existing technologies.

One thing in our Liberal colleague's bill surprises me somewhat. It merely adds words without creating any new offence as such in the Criminal Code. Nor does it create any new sentence. You probably have not seen them, but I have examined the amendments that will be brought forward. The amendments pose the same problems as the bill itself.

My view differs from those of our guests on one point. I do not think this will make any difference for young offenders. I may ask you that question, but that may take more than five minutes. I thought it was important to make it clear that this would also apply to adults. Nearly all our witnesses who have spoken about bullying and cyberbullying among young people and about the approach that we should take are aware of this. I was very pleased to hear my colleague Mr. Goguen tell us about restorative justice because we have been talking about that for years now in connection with various bills, particularly when they focus on young people.

However, the Criminal Code will apply to everyone in the same way. Bullying is a fact. I seriously wonder whether we should not

ensure that this appears in the Criminal Code in order to send a message. I do not think that would be very complicated. It will probably not solve all the problems. You mainly talked about bullying among young people, but not that much about bullying among adults.

• (1625)

[*English*]

**The Chair:** You have one minute left for the response.

[*Translation*]

**Ms. Françoise Boivin:** Very well.

Mr. Taillefer, you are the lucky one. The floor is yours.

**Mr. Paul Taillefer:** I am trying to determine from your comment what your question was.

Your question is probably whether Bill C-273 must also apply to adults. I believe that will be the case, if it is passed.

**Ms. Françoise Boivin:** It draws no distinction based on age.

**Mr. Paul Taillefer:** No, it does not.

Our responsibility is the primary and secondary schools. That is why our dialogue—

**Ms. Françoise Boivin:** I get the impression you are not opposed to the idea of including harassment by means of a computer, for example, in a definition of harassment against adults or of creating an offence in the Criminal Code.

**Mr. Paul Taillefer:** I entirely agree. There are definitely some complex issues that should be addressed in a bill such as this one. It is all in the wording. We are making a major effort to inform and increase awareness among people in the schools and communities. However, we know that, despite that effort, some horrible things nevertheless occur. What we have heard this afternoon confirms that. I believe young people need to understand. That is also true of adults. Mr. Belsey used the expression "living in the moment". However, we cannot pardon young people because they are living in the moment. A crime of passion is still a crime.

• (1630)

**Ms. Françoise Boivin:** It is a crime of the moment.

You raise a good point there.

[*English*]

**The Chair:** Thanks very much.

Our final questioner today, for two minutes, is Mr. Seeback from the Conservative Party.

**Mr. Kyle Seeback (Brampton West, CPC):** Thank you, Mr. Chair.

I want to pick up on where both of my colleagues have just gone, which is with respect to the actual piece of legislation.

One thing I have concerns with, and Ms. Boivin and Mr. Albas raised it, is that there are inconsistencies in this legislation. I take it you'd agree with me that if we're going to make amendments to the Criminal Code to try to make it more effective to help stop cyberbullying, we should make sure that we're actually getting it correct and consistent throughout the Criminal Code.

Mr. Taillefer, I know you are a supporter of this legislation. Would you agree with that?

**Mr. Paul Taillefer:** I will not disagree with that, sir.

**Mr. Kyle Seeback:** Great. That's very helpful.

Very briefly, Mr. Belsey, you said a couple of things today. You asked how this bill would impact a young person. You talked about the teenaged brain living in the moment.

Ms. Craig testified at the committee earlier in the week, and said that this bill is not child and youth friendly, that it would in fact put blocks in their lives' development, which would actually negatively impact on their development.

Another witness, Ms. Shariff, said that we might be overreacting, that we might be putting the wrong kids in jail.

In the 15 seconds you might have left, what do you have to say about those comments?

**Mr. Bill Belsey:** I agree with them.

I would also add one final word, which is that we have left out of the conversation the corporate sector. Research is showing us that providers, content providers and Internet providers like Facebook, have a lot of power over those moments when kids are in this world. Data shows that when they tell kids they've posted something inappropriate and they ask them to take it down, those kids don't usually reoffend. So they need to be part of the conversation too.

I would certainly agree with Dr. Craig and Dr. Shariff, and in the case of Dr. Craig and Dr. Pepler, who created PREVNet, which Bullying.org is a proud member of, they have been mentors to me in my work, so I would agree wholeheartedly with their comments.

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

I want to thank our guests for joining us today, in the snowstorm and on the phone. Thank you very much for your input on this important discussion we're having on Bill C-273.

I will suspend while we let our guests leave and our Department of Justice officials come to the table.

With that, I will suspend for two minutes.

• (1630) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1630)

**The Chair:** I call the meeting back to order.

I want to thank Mr. Wong for joining us....

Yes, Monsieur Goguen.

**Mr. Robert Goguen:** Mr. Chair, I would like to move the following motion: That the Standing Committee on Justice and Human Rights, pursuant to Standing Order 97.1, recommends that the House of Commons do not proceed further with Bill C-273, An Act to amend the Criminal Code (cyberbullying), because:

Bill C-273 raises criminal policy and drafting concerns;

Parliamentary review of the bullying issue is still on-going and legislation to address this matter is pre-mature, and;

The overwhelming majority of witnesses appearing before the Standing Committee on Justice and Human Rights have raised concerns with this legislation.

• (1635)

[Translation]

I believe we can all agree that cyberbullying is truly tragic and has very negative effects. There have been far too many suicides. In fact, just one is one too many. However, a multi-dimensional approach must definitely be adopted to address this social evil. We have heard about criminalization on many occasions.

[English]

We heard that criminalization of this sort of conduct is not what is necessary to curb the harm that it has created. None of us should tolerate cyberbullying; that's for sure. From this perspective, I guess we could say that Bill C-273 has helped us focus on this very important social issue, and certainly the member for Vancouver Centre should be congratulated for her efforts in focusing our attention on this very important problem. However, that said, Bill C-273 seeks to use criminal law to respond to conduct that is primarily not criminal. We've heard about being in the moment and not having criminal intent, and given the intent that Bill C-273 may be said to be targeting—bullying that constitutes criminal conduct—its proposed amendments are redundant and inconsistent and may even be said to be problematic when it comes to the Criminal Code.

The Criminal Code prohibits criminal bullying through existing provisions such as criminal harassment, uttering threats, and defamatory libel, to name a few. Bill C-273's proposed amendments to section 264, on criminal harassment, and section 298, on defamation, to clarify that they can be committed over the Internet or via computer, are not needed. This is because criminal law generally does not distinguish between means of mode used to commit crime, and certainly, as Mr. Wilks pointed out, the sections are wide enough to encompass this. So it's in essence not necessary, and for that reason, Mr. Chair, this is the motion that I'm proposing.

**The Chair:** Okay, before I go to questions or comments on this motion, I should let you know that there are four things that can happen with a private member's bill.

You as a committee can send it back unamended. You can send it back amended. You could amend it by removing all its clauses and send it back in title but empty, or, as per Standing Order 97.1, you can move a motion for the House of Commons to not proceed further with the private member's bill.

That's what this motion is. So it is actually in order. I just wanted to let everyone know that.

Madame Boivin is the next speaker to the motion.

[Translation]

**Ms. Françoise Boivin:** Mr. Chair, I assume everyone is aware that Bill C-273 is a problem. I have discussed the matter to some degree with my colleague Mr. Cotler. I was going to say Winkler. I apologize.

**Hon. Irwin Cotler:** He is a former chief justice.

**Ms. Françoise Boivin:** Yes, he is.

I somewhat share your opinion that this may not be the right solution. And yet I believe it was well intended. However, I do not agree with you that this is not criminal behaviour. I think it is genuinely criminal behaviour in some cases. We must avoid saying that bullying or cyberbullying is never criminal. It is a form of harassment or, in some instances, assault or something else.

I will listen to what my colleagues around the table have to say. They may feel your suggestions are not necessarily wrong, Mr. Goguen. However, I believe there is a great deal of improvisation going on in this bill. What has convinced me on that point, apart from the excellent presentation by our colleague Dr. Fry, who did a very good job of defending her position on Monday, is that, immediately afterward, we wound up with a list of amendments that gave me the impression, upon analyzing them, that if we had—if you will pardon the expression—pitched out any section of the code, she would have added it to her bill.

That troubles me somewhat. We are talking about the Criminal Code. I want to say that we in the NDP have made an effort from the outset to identify the logic of the amendments presented. Do not worry or think that I am going to leave them off the hook simply because I lean a little to the same side as my colleague Mr. Goguen on this subject.

In the study of this bill, I was very pleased to hear some Conservative colleagues using expressions such as "restorative justice" and to see that they strongly agreed with certain witnesses. They told us that, in the case of those youths—and we often talk about young offenders—this could be a form of criminal behaviour and that a different approach had to be adopted considering the meaning of the word "crime". It seems to me the NDP has been saying this for a long time.

I am very pleased if this is a new direction that our Conservative colleagues are taking because it may mean that we will be able to do good things. If this is merely an ad hoc action because they do not want to support the bill and want to go back to a firmly punitive approach, I would have a problem with that. I remember the discussions we had on the bill of our Conservative colleague who advocated minimum sentences for other acts of that kind. However, as we know, it is often young people who engage in this kind of behaviour. It is an act of a moment, but we cannot make them think.

Before deciding which way to lean on this motion, I will wait and see whether our Liberal colleague has anything to add. Whatever the case may be, there is a lot of improvisation going on here. Mr. Cotler, I see the sections that are being added here. One concerns sexual assault. We will try to see how someone can commit a sexual offence using a computer. Another concerns assault. It seems to me that would be somewhat difficult using a computer.

I am not sure much thought has been given to this matter as a whole. Given the serious nature of this matter and of all the efforts currently being made, perhaps we would do well to think before amending such an important instrument as the Criminal Code of Canada. I believe all my colleagues around the table realize that.

●(1640)

[English]

**The Chair:** Thank you, Madame Boivin.

Our next questioner is Mr. Morin.

[Translation]

**Mr. Dany Morin:** Thank you, Mr. Chair.

I really share my NDP colleague's concerns. I raised some points that we are addressing today when Dr. Fry introduced her bill in the House of Commons and we debated it. As you know, I support young people who are being bullied in Canada. I believe that, if a step is taken in the right direction, it must be supported.

However, not many of the experts who appeared during the two days devoted to studying the bill said that the emphasis should be placed on criminalization. Even around this table, we understand that funding must be allocated in order to make a real contribution to solving this problem. Organizations in the field and certain programs that help young people must be supported. Otherwise Canadian families must be assisted so that they can equip themselves more effectively. If parents do not know that their child is a bully—we talk a lot about those who are bullied, but let us not forget that bullies also have parents—how can they find a solution?

I myself am somewhat torn. When the NDP voted for the bill on second reading, it was not because we felt it was perfect, far from it. However, it was a good idea to conduct the discussion we are having today. I am pleased that the witnesses have helped fuel the discussion. That gives us some serious food for thought. Even though the Library of Parliament people told Dr. Fry that her bill was in order, several experts and some committee members thoroughly analyzed the initial bill and noted that it was problematic in several respects, particularly with regard to the redundant nature of the offence created.

If I voted in favour of this bill, I do not believe the problem of bullying or cyberbullying in Canada would be reduced by one iota. At best, we would be modernizing the language. As we saw, in London a few months ago, I believe, the police intervened in the case of some young girls who were bullying another girl over the Internet. We increasingly hear about police departments that have necessary tools and intervene in extreme bullying cases.

We are talking about assault and harassment here, but the vast majority of cyberbullying cases fall into a grey area, not a clearly criminal category. Otherwise, the police have the necessary resources to intervene to protect the victims.

I am anxious to hear my other colleagues' comments, but I want to say that I am very much torn. Even though I believe it is important to support efforts that are headed in the right direction, I do not believe this bill changes anything in any tangible way, apart from a few words in the Criminal Code.

●(1645)

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

[English]

Our next commenter on the motion is Mr. Cotler.

**Hon. Irwin Cotler:** Thank you, Mr. Chairman.

We've heard in the witness testimony before in regard to this bill about the seriousness of cyberbullying as a whole. Mr. Goguen effectively put before us today in his initial question the very serious, harmful consequences that can result from bullying, in the most extreme cases, a loss of life. We've heard as well the testimony regarding how it affects health and even academic development over time, etc.

We've also heard from the witnesses that what we need is a comprehensive strategy with regard to this. Mr. Goguen has mentioned some of the important initiatives that the government has taken with respect to that comprehensive strategy. I would acknowledge as well that the witness testimony would not have put the criminal law remedy as the best remedy, or even the preferred remedy, but they did not necessarily say that the criminal remedy should be excluded. In other words, the criminal law remedy would be part of a package of the comprehensive strategy, although not the most important or best part of the strategy, but a component of it.

I find the discussion somewhat ironic in that the Conservatives, who are normally the best proponents of the criminal law option, are the ones saying we don't need the criminal law option, and I, who have generally been reluctant to suggest a criminal law option, saying we should look to more comprehensive approaches, am today supportive of the criminal law remedy. But it's in the way that I've always supported it, as part of a larger strategy.

I would like to suggest that Mr. Goguen's motion be tabled to allow us to see if we can work together to improve this legislation so we can have an effective criminal law remedy as part of a larger strategy, rather than exclude the option of a criminal law remedy at all. I think we might be perhaps limiting ourselves unduly by excluding it at this stage before we see if we can amend it to make it part of an effective strategy.

**The Chair:** Our next commenter on the motion is Mr. Seeback.

**Mr. Kyle Seeback:** Thank you, Mr. Chair.

Contrary to what Mr. Cotler is saying, we're not saying that we don't think there should be criminal sanction for this. We're saying it's already in the Criminal Code—

**Hon. Irwin Cotler:** I know. I listened very carefully.

**Mr. Kyle Seeback:**—and I'm also saying that the amendments as proposed would not add clarity. In fact, I think they would add confusion down the road.

The bill, unfortunately, was not well drafted, and when I questioned Ms. Fry about particular circumstances on cases where police said they could not investigate, I found she did not have a particularly good answer with respect to the existing provisions in the Criminal Code.

When I look at, for example, section 264, it talks about criminal harassment, and it talks about things like “repeatedly communicating with, either directly or indirectly”. I find it very difficult to accept the rationale put forward that if a police officer goes with a search warrant before a judge to say they need information from an ISP, that this is the information that's been posted on the Internet or on a cellphone or somewhere else, and clearly this is a form of communication, the judge is going to say, “No, that's not a form of communication. I'm not going to grant you your search warrant.” I

don't think that's going to happen. Judges read things into legislation and statutes all the time. I don't think they have to travel down the road very far with these particular sections to be able to get there. I also think that her definition of “computer” is inconsistent with other definitions in the Criminal Code, and we shouldn't be putting things in the Criminal Code just for the sake of putting them in the Criminal Code.

That's why I'd be supporting this motion as stated.

• (1650)

**The Chair:** To not proceed, okay.

Mr. Mai is next.

[*Translation*]

**Mr. Hoang Mai (Brossard—La Prairie, NDP):** Thank you very much, Mr. Chair.

I would like to respond to Mr. Cotler, who said a little earlier that criminalization was part of a whole. I am concerned by the fact that we heard witnesses say criminalization could have a negative effect,

[*English*]

putting the wrong kids at the wrong place. That's something which for me is of concern. I don't think in any of the amendments that were put forward we really addressed this issue.

[*Translation*]

I understand why one might think that is a step in the right direction. I know that my colleague, Mr. Morin, has worked very hard on this, particularly in the area of prevention. And, as my colleague Ms. Boivin said, I am very pleased that the Conservatives are talking about prevention. You would think we were in the twilight zone, where everything is reversed. As someone who is beginning to sit on the Standing Committee on Justice and Human Rights,

[*English*]

I find it really interesting.

[*Translation*]

Indeed,

[*English*]

I do have some concerns in terms of what we heard from the witnesses, experts saying that this does not really address the issue for youth, that it might have a negative impact on youth. That is of concern.

I also agree with Mr. Seeback. I also asked Dr. Fry about what this bill would have changed in the past. I did not get a clear answer. She went on to talk about one specific case, but it ended up that they did not pursue it or it never went further.

Also, if we look at it from a technical perspective, we have probably heard that it doesn't add much. One of the witnesses asked if mobile bullying would be covered in terms of cyberbullying. We do not think it would, but then it would already be covered by the Criminal Code.

I understand where the Conservatives are coming from. I just wanted to put in my two cents.

**The Chair:** Mr. Wilks.

**Mr. David Wilks (Kootenay—Columbia, CPC):** Mr. Chair, I want to echo what Mr. Seeback said and take it one step further.

In 1995 I was part of the first ever restorative justice system that was created in Canada, in Sparwood, British Columbia. It was created by Sergeant Jake Bouwman and a local lawyer by the name of Glen Purdy.

It had great results, especially dealing with the fact that most of the people we are talking about are young offenders. Although they fall within the Criminal Code, they fall within the Young Offenders Act or whatever it is called now.... As a result of that, we had to find a better way to deal with young offenders, a more appropriate way.

Restorative justice was and continues to be today one of the better forms of dealing with it, because it forces not only the victim but the accuser of said crime to face each other and deal with each other. In that light, that is why I don't feel that this particular bill that has come before us, from Ms. Fry, would create anything better than what we already have. It's there. It's a matter of utilizing what we already have.

Restorative justice is just one tool that could be greatly utilized but isn't, in my opinion. Those are my thoughts.

**The Chair:** Madame Boivin.

[*Translation*]

**Ms. Françoise Boivin:** Thank you, Mr. Chair.

First, I would like to speak to Mr. Cotler. You are asking that we suspend everything in order to see whether we can improve matters and find a solution. That is tempting because we rarely see an outstretched hand. I believe this is the first time we have been in this situation and have wondered what it means in reference to a bill.

That being said, there is still one problem. I have looked at this from all possible angles, and I do not see how we can manage to stay within the scope of the bill. In fact, this merely amounts to verbiage. These are merely words that already exist.

It was also striking to hear Dr. Fry constantly stop before the word "otherwise" during her testimony. However, the word "otherwise" appears in the section, which means there could be other ways of viewing the matter. She was right in saying that three other types of words could be added to the section, if we consider section 264 of the Criminal Code, for example. However, the word "otherwise" will still be there because the purpose of her bill was not to remove that word, which makes it possible to adjust over time.

The only thing I could see was if we really wanted to try to send a message. I want it to be clear that I am not necessarily reluctant to do so. I am very much aware of the fact that witnesses talked to us about bullying and cyberbullying and told us that prevention, discussion and education are extremely important when dealing with young people, far more so than other themes. I understood all that.

Sometimes, however, you have to be able to tell the truth and to say that this is unacceptable behaviour. In fact, it is worse: it is criminal behaviour. I do not feel that your bill will change that.

Perhaps it would have been preferable for it to do what was done with regard to spousal abuse. A clause was drafted and is now included in sentencing measures. Perhaps that is where it should have been included. Perhaps that is what should have been done, but it is not up to me to change her bill.

Now I turn to Mr. Goguen. You have introduced a motion. Perhaps it would be a good idea to have it in writing. Standing Order 97.1(1) reads as follows:

97.1 (1) A standing, special or legislative committee to which a Private Member's public bill has been referred shall in every case, within sixty sitting days from the date of the bill's reference to the committee, either report the bill to the House with or without amendment or present to the House a report containing a recommendation not to proceed further with the bill and giving the reasons therefor or requesting a single extension of thirty sitting days to consider the bill, and giving the reasons therefor.

Once again, the devil is in the details.

Before deciding whether to support your motion, I would like to have the details that will accompany it. If there is a sentence in those details that indicates that we are talking about temporary behaviour and that it is not criminal, I will not be able to support it. It is criminal behaviour, but it would be treated differently and might not be criminalized within the meaning of the Criminal Code.

It is in English only. Honestly, Mr. Goguen can do better than that.

• (1655)

[*English*]

**The Chair:** I understood that in French. That was good.

**Ms. Françoise Boivin:** It's one of our saints, okay?

**The Chair:** As chair, I would like to state that if any member is bringing a motion in advance—obviously if it's on the fly you aren't going to have it—if it's to be written out, I would like it both in English and French, with copies for every member. That's only fair, and that's the way it should be.

You didn't make this up sitting here. For all members, in the future I would ask you to do that. It makes the committee operate more smoothly.

Thank you very much.

[*Translation*]

**Ms. Françoise Boivin:** I believe it is also a matter of compliance with the rules respecting bilingualism in the House. I noticed that the words I did not like were not in the text of your motion. This is different.

This answers all my questions.

[*English*]

**The Chair:** Thank you.

Mr. Jacob.

[*Translation*]

**Mr. Pierre Jacob (Brome—Missisquoi, NDP):** I would like to support what Mr. Morin said.



Beyond the amendments made to the Criminal Code by this bill, it would be very important to adopt a national anti-bullying strategy to provide our communities with the resources and programs to actually attack the causes of bullying through prevention, rehabilitation and so on. We must invest more in education, health and social services.

**The Chair:** Thank you very much, Mr. Jacob.

[*English*]

Mr. Cotler.

**Hon. Irwin Cotler:** I agree with Mr. Wilks on the importance of restorative justice, both as a principle and particularly with regard to the issues of bullying, because we are dealing with young offenders.

Having said that, and having listened as well to Madame Boivin, my only hope is that we can perhaps offer some amendments.

Whether it be on issues that relate to aggravated circumstances with respect to sentencing issues and the like, we have an opportunity here with respect to putting in some amendments that can limit certainly the scope of Bill C-273 as it now stands, and in putting forward limiting amendments make it more effective to deal with those specific situations whereby a sentencing amendment, etc., can be helpful.

My whole approach is to see how we can somehow take the opportunity informally, outside the committee, to fashion or craft limiting amendments that would make this work.

• (1700)

**The Chair:** Monsieur Morin.

[*Translation*]

**Mr. Dany Morin:** Thank you, Mr. Chair.

I would like to read the motion for my unilingual francophone colleagues. I believe they would like to have the simultaneous interpretation so that they can clearly understand the motion.

[*English*]

Mr. Chair, I would like to move a motion.

[*Translation*]

**Ms. Françoise Boivin:** You can read it slowly.

**Mr. Dany Morin:** All right.

**Ms. Françoise Boivin:** Dany, do you have a copy of your motion? It could be submitted to the translators, who could then translate it.

**Mr. Dany Morin:** That is a good idea.

**Ms. Françoise Boivin:** The Conservatives are short of money.

[*English*]

**The Chair:** Monsieur Morin.

[*Translation*]

**Mr. Dany Morin:** This is for my unilingual francophone colleagues. I simply want to note that it is important for the NDP that written documents be provided in both languages. I know these are special circumstances and that everyone is demonstrating their good will by making compromises on bilingualism, but that is precisely why we are going to vote on my colleague Alexandrine

Latendresse's bill, to raise the level of bilingualism in Canada and in Parliament.

[*English*]

I move:

That the Standing Committee on Justice and Human Rights, pursuant to Standing Order 97.1, recommends that the House of Commons do not proceed further with Bill C-273, An Act to amend the Criminal Code (cyberbullying), because:

Bill C-273 raises criminal policy and drafting concerns;

Parliamentary review of the bullying issue is still on-going and legislation to address this matter is pre-mature, and;

The overwhelming majority of witnesses appearing before the Standing Committee on Justice and Human Rights have raised concerns with this legislation;

**The Chair:** There's one thing you need to add, which is what I was going to add, that the chair will present this report to the House.

**Mr. Dany Morin:** Yes, "and that the Chair will present this report to the House."

**The Chair:** That's just to be legal.

[*Translation*]

**Mr. Dany Morin:** Thank you very much.

Have all my unilingual francophone colleagues understood?

**Ms. Françoise Boivin:** Yes.

**Mr. Dany Morin:** That is important. The point here is to vote right. I would like to comment on this motion.

As I mentioned a little earlier, I am torn. I am caught in the middle and unable to determine the right thing to do. As you may not be aware, I have been touring across Canada for a number of months now, as part of a campaign called Pour les Jeunes / For the Kids. Everywhere I go in Canada, people are waiting for the federal government initiative, whatever it may be.

I do not hold it against the Conservatives that they voted against the national anti-bullying strategy in November. I had asked John Baird long before that whether the government was going to present something. When he confirmed that nothing was planned, I introduced the bill. If something has been developed in the corridors of the Conservative Party in the meantime so that another initiative is brought forward in this area, I will support it, if it is decent.

I agree with the first of the three points raised by Mr. Goguen, that Bill C-273 results in legislative contradictions, ambiguities and redundancies. I entirely agree on that.

I also agree on the third point. The third paragraph states that the overwhelming majority of witnesses indicated that there were problems. The two main supporters of Dr. Fry's motion are the police officer and the professor who testified. I can tell you that, when you work on the bullying and cyberbullying file, you see the same witnesses, even in the Senate, which published its report on cyberbullying in mid-December. When I checked the witness list, I saw that it included the same people.

It was not without reason that the Senate also did not recommend amending the Criminal Code as Dr. Fry wanted. It made other suggestions, including a national cyberbullying strategy, the creation of a position of commissioner for children, as well as other measures, but recommended none of what Dr. Fry was proposing. I nevertheless agree that the witnesses who appeared before us do not want this bill.

The second paragraph—and it is because of it that I would be uncomfortable voting for this motion—states:

• (1705)

[English]

Parliamentary review of the bullying issue still is on-going and legislation to introduce this matter is pre-mature.

[Translation]

I do not doubt the Conservative government's good will, but when we talk about

[English]

parliamentary review

[Translation]

and about the fact that it is already ongoing, I would like to know what it is. When we debated my bill and Dr. Fry's, you said that the Senate was already studying the issue, and you were right. You did not want to create any redundancy by starting a study by the committee, but, as far as I know, the Senate people have finished with the cyberbullying issue and will now move on to something else. I therefore fail to see what there is that is new. My motion that a national bullying prevention strategy be established is dead. That was the last initiative.

Unless you are alluding to the intergovernmental group created by a minister—I believe it was the Minister of Justice—last November. He said that the purpose of that intergovernmental working group was to reinforce and make amendments to the Criminal Code. The provincial governments were involved, particularly the ministers of public safety. The announcement was made in November, but we subsequently heard little about the project.

If that is what you are referring to, I would like you to tell me about it later. It would help me a great deal to know what that "ongoing" discussion means. There are also the words, "...legislation to introduce this matter is premature."

I was elected on May 2, 2011. Since then, however, five young Canadians have committed suicide after being victims of bullying.

Mr. Goguen has already named them. I am going to repeat their names and offer all my condolences to their families.

The first was Jamie Hubley, of Ottawa, who was bullied. However, there was another factor: he also suffered from mental problems. Bullying nevertheless played a role. He was bullied because of his sexual orientation.

Mitchell Wilson, of Pickering, was 11 years old and suffered from muscular dystrophy. He was bullied at school and in the city's streets because of his disease. He was 11 years old; he put a bag over his

head and asphyxiated himself. He committed suicide at the age of 11. That is really too young to die.

Jenna Bowers-Bryanton, of Nova Scotia, was bullied by her schoolmates. She too was unable to bear it any longer. And yet she was a brilliant young girl. I am convinced that she could have survived that trial as an adult.

Marjorie Raymond, from my own province of Quebec, loved to sing and post videos of herself on YouTube. In their comments, people told her to go and kill herself.

Amanda Todd is another example. When I talk about bullying, I do not like to think of Amanda Todd because hers was such an extreme case that it went beyond the conventional problem of bullying suffered by our young people.

They say that legislation on this problem is premature. I am of course in favour of legislation being well constructed. Since I was elected, however, at least five young men and women have committed suicide, according to the media. I am convinced that there have been others whose stories were not reported by the media. This is only the tip of the iceberg. That is not to mention the other young people who manage to make it but who are subsequently scarred by the bullying they have suffered.

I really do not agree with you when you say it is premature. All the witnesses who appeared said the government must play a role. However, they did not necessarily agree on how that should be done.

Some say they entirely agree with me and that a national bullying prevention strategy should be established, regardless of what it contains. Others, such as the witness representing the Institute of Marriage and Family Canada whom we heard earlier today, believe that the federal government's role should be to avoid excessive involvement in the problem and to help the various Canadian communities deal with it on their own.

Even though the Government of Canada is not yet fully playing its role as a leader, several provinces mentioned by Mr. Goguen have adopted measures to combat bullying. That is very good and I support them wholeheartedly. Some school boards and schools have even formed their own anti-bullying programs. These are local efforts. I also offer them my full support. Families across Canada are talking about bullying. That is good too.

As for cyberbullying, something must be done, regardless of how the Government of Canada addresses the problem. Will Dr. Fry's bill achieve that? I do not think so. As I mentioned earlier in my speech, I do not believe that bill will prevent a single case of cyberbullying. When we talk to young people 10 to 15 years of age, they are not afraid of the law. They consider themselves invincible. In my opinion, the only positive aspect of this bill is what concerns adults who are involved in bullying. We must tighten the vise on adults who bully other adults. Adults who bully children: that is unacceptable.

As I mentioned, this bill makes me uncomfortable. I support paragraphs one and three but not paragraph two.

•(1710)

[*English*]

**The Chair:** I have two more speakers on the list. I have Madame Boivin, and then I have you to finish up. Is that fine?

Madame Boivin.

[*Translation*]

**Ms. Françoise Boivin:** Mr. Chair, I do not know why, but I will probably say the same thing.

I suggest an amendment to delete paragraph two. Then perhaps we could vote on the motion.

[*English*]

**The Chair:** Thank you.

Monsieur Goguen.

[*Translation*]

**Mr. Robert Goguen:** I wanted to speak for the same reasons.

[*English*]

I am more than agreeable to removing paragraph 2. What we were referring to was the Senate committee, which is yet to be responded

to by the government. So to not create any false illusion, yes I agree that we'll remove paragraph 2.

**The Chair:** The motion now stands with paragraph 2 withdrawn. Is that understood by everybody, in French and in English?

[*Translation*]

**Ms. Françoise Boivin:** Yes.

[*English*]

**The Chair:** Is there anything else to this item? No.

I'll take the vote, and if it passes, I will present this to the House tomorrow.

(Motion as amended agreed to)

**The Chair:** That is the end of our meeting regarding Bill C-273. I'll take a one-minute recess for those who don't have to stay, and then for 15 minutes we'll have a meeting of the subcommittee on agenda and procedure. Thank you very much.

The meeting is adjourned.





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