



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Public Safety and National Security

SECU • NUMBER 036 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, May 1, 2012

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Chair

Mr. Kevin Sorenson

Standing Committee on Public Safety and National Security

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• (1530)

[English]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): This is meeting number 36 of the Standing Committee on Public Safety and National Security, Tuesday, May 1, 2012. Today we continue our study of Bill C-350, An Act to amend the Corrections and Conditional Release Act (accountability of offenders).

In our first hour, we will hear from the Correctional Service of Canada, Mr. Ross Toller, deputy commissioner of the transformation and renewal team; and from the Department of Justice, Ms. Alexandra Budgell. I would invite each of you to make an opening statement on behalf of your different departments. Then we will proceed with a few rounds of questioning by members of Parliament.

Welcome. Mr. Toller, go ahead.

Mr. Ross Toller (Deputy Commissioner, Transformation and Renewal Team, Correctional Service of Canada): Thank you very much, Mr. Chair.

Good afternoon to all members of the committee. Thank you for the opportunity to appear before you today to discuss private member's Bill C-350. I would like to introduce Ms. Alexandra Budgell from the Department of Justice, who is here with me today. I will be making comments on behalf of both of us.

Mr. Chair, at the outset it is important to make the distinction that Bill C-350 does not only apply to an offender initiating a lawsuit or claim against the Correctional Service of Canada but also to monetary awards awarded to offenders across all government departments. That being said, I would like to take a few moments today to discuss the current process whereby CSC receives and processes lawsuits or claims by federal offenders. I would then like to outline how we currently track certain obligations owed by offenders.

Mr. Chair, offenders have the same rights as others with respect to their ability to access the legal system. In doing so, inmates are provided with reasonable access to legal counsel and the courts, as well as to legal material, as per the corrections and conditional release regulations and CSC policy. Offenders can make use of the provincially operated legal aid system, or retain private counsel and pay legal fees from their own funds.

Most often, legal challenges by offenders against CSC concern specific decisions or actions. These could include our response to an offender grievance, a security reclassification, offender transfer, or when offenders have sustained a physical injury and believe that CSC is at fault. In these cases, CSC is normally represented by

counsel from the Department of Justice. If our legal counsel determines that there is a legal basis to consider that we may be liable and the offender has incurred damages, then an out-of-court settlement may be reached. Otherwise, we will defend the case in court.

In addition to formal legal action, we have a policy framework for identifying how offenders can submit claims for compensation if they have suffered a loss. Commissioner's directive 234, "Claims for Staff Personal Effects and Inmate Personal Effects and the Offender Accident Compensation Program", lays out the process by which an inmate may register a complaint against the crown. This directive states that an offender claim will be allowed when it has been determined that CSC has not exercised reasonable care to protect an offender's personal property in the institution. It also allows claims in instances of damages to or loss of personal effects. When an offender submits a claim, CSC reviews the circumstances to determine whether there was negligence by CSC or the offender.

If it is found that CSC was negligent, the claim is allowed and an amount up to the replacement value of property is paid. If CSC denies the claim and the offender is dissatisfied with this decision, he or she can avail himself or herself of the formal offender complaints and grievance process.

CSC does manage certain information regarding an offender's financial obligations relating to victim restitution orders, victim surcharges, or fines imposed at the municipal, provincial, or federal level. This information comes directly from the courts and is recorded in the offender management system, or OMS.

In light of changes resulting from Bill C-10 that require CSC to include court-ordered obligations in an offender's correctional plan, we are updating OMS so that it is easier to track and record an offender's civil and criminal obligations. Our processes at this time are limited to recording the information when known, and encouraging inmates to accept their accountabilities as awarded by the courts. Bill C-350 would, in essence, require that CSC establish a different process to track and record debts owed by offenders that would include formal evidence by any creditors of the debt in question and amounts still owing.

Mr. Chair and honourable members, I would like to thank you again for the opportunity to appear before you and discuss the effects of Bill C-350 on CSC. In closing, I would like to state very clearly that CSC views rehabilitation as a two-way commitment. We are responsible for providing offenders with the opportunity to learn the skills they need to correct criminal behaviour. In turn, offenders are responsible for using the tools and opportunities we provide them to return to society as productive, law-abiding citizens. This includes measures that would ensure that offenders assume greater responsibility and accountability for their rehabilitation and responsibilities to society.

We would be pleased to answer any questions.

The Chair: Thank you very much, Mr. Toller, and counsel.

We will proceed to the first round of questioning.

Ms. Hoepfner, you have seven minutes.

• (1535)

Ms. Candice Hoepfner (Portage—Lisgar, CPC): Thank you very much, Mr. Chair.

Thank you, Ms. Budgell, and Mr. Toller, for being here. We appreciate your being here at the onset.

We spoke to the introducer of this bill and we heard from him. We got a good sense of why he introduced this bill. He talked a lot about people in his riding who are victims and have been victims of crime. He talked a lot about the children and spouses of the offenders also being victims and many times suffering because of what the offender has done, including not being paid things like child support or spousal support.

We got a good sense of the reasons, but it's good to have you here for some very specific questions.

Mr. Toller, in your comments you said at the onset that you wanted to make the distinction that Bill C-350 applies not only to an offender initiating a lawsuit or a claim against the Correctional Service of Canada, but also to monetary awards to offenders across all government departments.

You did explain how monetary settlements would be awarded regarding CSC. Could you give us some examples or explain how inmates would possibly receive monetary settlements from other departments?

Mr. Ross Toller: An inmate, for example, could have a human rights complaint and receive a monetary award from a department that way. There could be claims against CSC, but you wanted a response more in terms of the ones outside the other department here.

Ms. Alexandra Budgell (Counsel, Department of Justice): We wouldn't be aware of very many of them, but presumably an offender could sue another government department for something unrelated to the Correctional Service of Canada.

Ms. Candice Hoepfner: You're just making the distinction, obviously, that it's any monetary award that's made by the Government of Canada to an inmate. But that would be primarily through CSC if there were a complaint launched against CSC?

Mr. Ross Toller: Yes. I was trying to make the distinction that in cases where a fine has been imposed by courts, we would receive that through the system. Monetary awards that might be awarded from outside, even from the government, we would generally not be made aware of—and at this point in time we would have no kind of ability to sort through them.

Ms. Candice Hoepfner: You would not be made aware of an inmate being awarded those. Can you square that then with the OMS, the offender management system? Can you describe that a little bit more? If you were carrying out that plan, wouldn't you be able to find out?

Mr. Ross Toller: The offender management system is our own internal system that we use for managing information on offenders. For example, if we receive from the courts...and I'll talk about the payments that are due that could be contained in the documentation that comes to us. There could be a victim surcharge, for example, or a fine or a restitution order. Right now those are inputted into the offender management system. We have a screen for that, and correctional officers and parole officers would have the ability to access that and then have a determination made of what fines are owed.

What we wouldn't get from that at this particular point in time is whether there were fines imposed or restitution orders from family court or a civil court. It's more from the criminal activity.

Monetary awards that could happen within our own service, as I mentioned there, could include a claim against the crown or even an out-of-court settlement when it looks as though we have been negligent. We would be well aware of that from our own department, simply because of the actions that have been taken.

That financial award would go into the inmate's account. We have an account system in which that would be registered.

Ms. Candice Hoepfner: At this point that money would go in, but then through the management system would the restitution be paid to the outstanding orders that are in this system?

Mr. Ross Toller: They wouldn't in its purest form, unless the inmate were willing to do that.

Ms. Candice Hoepfner: Okay. So they are not obligated.

• (1540)

Mr. Ross Toller: Exactly.

Ms. Candice Hoepfner: You're aware of it, but they're not obligated to do so, unless they would choose to do so.

Mr. Ross Toller: Exactly.

Ms. Candice Hoepfner: I guess we can see right there the obvious necessity for this bill.

I'm sure you're aware that we also heard testimony—and I think we're all aware—that if civilians are mandated to pay child support and they don't, their wages are garnished and there's a process for that. Different provinces have different ways of getting those funds. Unfortunately, with offenders, that isn't the case.

Can you talk a little bit as well about the whole issue of accountability and an offender fulfilling his or her obligation and how that contributes to their rehabilitation in your view?

Mr. Ross Toller: Sure. One of the foundations of our work is to have offenders accept responsibility and become law-abiding citizens in the future. In cases where we have fines that are outstanding, we do a lot of intake at the front end and basically get material from the courts and the sentencing judges on the crime's impact on victims, for example. When we have that information the parole officers assigned to those inmates actively encourage them to accept their levels of responsibility and to pay the fines that are owing, and to look at their family relationships in cases where they are looking to continue to support family for their obligations.

So anything that basically looks at fulfilling the obligations that have been imposed on them by the courts or by other normal functions of their having to accept their responsibility is pretty well the foundation for a lot of encouragement and active support for inmates.

As well, as far as their needs and plans are concerned, inmates are identified so that they can participate in programs that have been identified as meeting some of their activities. For example, if an inmate comes in who has been unable to demonstrate control of his anger and we determine that he needs need to concentrate on that, the accountability would be on us to provide the tools for him to participate in real terms, in functional terms, in the desire to correct his behaviour so that he can return to....

Ms. Candice Hoepfner: Thank you.

The Chair: We have eight seconds, but we'll give that to Mr. Garrison, because we know he has seven minutes and 10 seconds' worth of questioning.

Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP): Thank you very much, Mr. Chair.

Thank you to Mr. Toller, and Ms. Budgell, for appearing today.

On this side we voted to bring this bill to committee, because we accept that there is a good principle involved here in encouraging responsibility and accountability. But we have some questions about the mechanisms used in this bill.

Mr. Toller, you said at the end of your remarks, which are quite measured, I would say:

This includes measures that would ensure that offenders assume greater responsibility and accountability

It seems to me that you're saying that Bill C-350 is only one of the tools in rehabilitation, re-insertion, and such. Would you prioritize the other tools that might be available in the toolbox for promoting this, besides this bill?

Mr. Ross Toller: We look at each case individually in terms of the development of correctional plans for each. In some cases, the control of their violence, for example, might be the activity that we

would want to concentrate on first. For others who have less education, the latter might be another area where we would look at developing levels of accountability and responsibility. I think any tool that comes into the toolbox to encourage their acceptance of responsibility is good.

Even internally we have mechanisms in place for expected levels of behaviour. We have offence report considerations. We develop and outline correctional plans, as a result of Bill C-10, for expected behavioural considerations. We expect inmates to participate in the programs we've identified that they need. We expect them to follow the rules and regulations. We expect them not to be disrespectful to staff. We expect them to prepare for their release.

So it's a large toolbox. It's difficult to say whether one tool would take priority over the other, except to say that we manage cases individually by the needs we have identified and the risks they pose.

Mr. Randall Garrison: I think you've made an important contribution to our consideration of this, in that the correctional system's understanding of responsibility and accountability isn't limited to financial responsibility and accountability, but to those larger issues you mentioned as part of your presentation.

Mr. Ross Toller: Absolutely. Our goal here is to contribute to public safety, and whatever mechanisms and means we identify in terms of their needs are exactly what we want to concentrate on.

Mr. Randall Garrison: I'm going to presume that Ms. Budgell can comment on the questions I'm about to ask.

We had some concerns about the constitutionality in this bill. I don't know whether your expertise is in that area, but can you make any comments that might help us understand whether this would be constitutional, given the division of federal and provincial responsibilities on property?

Ms. Alexandra Budgell: I'm with the CSC legal services, so my area of expertise is really correctional law. It's certainly in that capacity that I'm here to assist the committee today. So unfortunately

• (1545)

Mr. Randall Garrison: I thought I'd try.

The bill seems to be very narrowly focused. In the language you have used about any monetary award from any court, tribunal or agency, would that include out-of-court settlements? Out-of-court settlements are essentially private agreements in law, rather than awards through a tribunal or agency. You mentioned reaching out-of-court settlements a lot of times, so I wonder whether they would actually be covered by this bill.

Ms. Alexandra Budgell: Certainly, as Mr. Toller spoke about, there's a number of types of payments that can be made, such as claims against the crown that would include out-of-court settlements, and then there's more formal litigation, where we'll end up with a court judgment.

Certainly, as the committee and Parliament look at this, I think clarity in terms of the types of awards caught would be ideal from CSC's perspective. So the clearer the language can be in terms of the types of awards that Parliament would like caught....

Mr. Randall Garrison: So at minimum you would say that this section, in its current wording, is not entirely clear in terms of which would be caught?

Ms. Alexandra Budgell: Well, certainly, formal litigation is what we would understand—

Mr. Randall Garrison: And that would not include out-of-court settlements?

Ms. Alexandra Budgell: That's certainly an area where we would look for some clarity.

Mr. Randall Garrison: You would look for clarity? Okay. Thank you. That's a good answer from a lawyer.

Voices: Oh, oh!

Mr. Randall Garrison: One of the other things you mentioned, Mr. Toller, is that you need to have a new kind of tracking system, both to track things that are owed and to track payments in this case, because you've just been dealing with them individually until now, and either someone is doing the corrections plan with them, or later on a parole officer is dealing with those questions.

You would need to have some kind of central tracking system and staffing. So would there be a cost and a staffing requirement for implementing this?

Mr. Ross Toller: Yes, I talked about the offender management system. We have a mechanism right now that gives us a screen, but it has to be updated to include some of the new elements that are already associated with Bill C-10. Of course, in getting that system to work, we would look at this relative to new areas that may come up. There is no question that there will be some administrative elements that we will have to look at as you and others bring clarity to some of the issues.

Again, we talked earlier about other government departments. If there were settlements in another area, are our systems capable of talking to each other and able to integrate some of the information flow of building the registry? Administratively, once the bill is much more final, we would have to look at that as to what the exact impacts would be.

I read with interest the record of the last couple of sessions you've had as a committee, and I have followed your collective conversations on looking at some amendments, the constitutionality piece and.... It might even be worthwhile when there is more clarity to have us back, if you felt it reasonable, and I could probably speak a little bit more definitively about what that would mean.

Mr. Randall Garrison: So at a minimum, I hear you saying that there's a possibility that this requires additional staffing and resources.

Mr. Ross Toller: Yes, like everything else, I think once we get the final picture of what things will look like, it will give us a greater opportunity to make that assessment and be more refined about that question.

The Chair: Thank you.

Thank you very much, Mr. Garrison.

We'll now move back to Mr. Rathgeber, please, for seven minutes.

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

Thank you to both witnesses for your attendance here today.

Mr. Toller, can you tell me what the process currently is with respect to federal inmates who happen to be judgment debtors? It's my understanding that they're certainly not immune from provincial execution laws. If somehow they were to come into money—either in their bank accounts, which I understand they maintain at the institutions, or in an account at a chartered bank—that wouldn't be exempt from garnishee or execution. What's the process now?

Mr. Ross Toller: If you're looking at an inmate who comes into money as a result of a claim against the crown, what would happen from our perspective is that the money would go into their savings account. At that point, it stays in their savings account. Inmates are only allowed to access money in their savings account four times a year, when money can be brought down. They wouldn't be able to spend it internally.

If we received information from the courts about an outstanding bill or fine, obviously we would engage ourselves through the case management process about that. But it's really not that refined, as I say, because of the differentiation of the information we get where fines are owed. That comes to us from the criminal court convictions. It's very rare that we would get information from a civil court type of setting that money is owed by an inmate.

• (1550)

Mr. Brent Rathgeber: Could a federal inmate settle a lawsuit, either on his own or with the assistance of counsel, unbeknownst to the Correctional Service of Canada?

Mr. Ross Toller: No. Obviously, in terms of a court process, everything from.... If he had to disburse money we would be aware of that. We would have controls over where that money would be going. Obviously, he has to have documentation about where that money would be going, so if he were paying a fine from another court area, we would know.

Mr. Brent Rathgeber: No. I mean in a lawsuit, let's say a personal injury claim, for example. If an individual had been involved in a motor vehicle accident prior to his becoming incarcerated.... These things often take years to settle. Is it plausible that a federal inmate could settle a personal injury claim, or any other claim for that matter, as a victim, without the service knowing about it, with or without the assistance of a lawyer?

Mr. Ross Toller: I guess that's plausible but unlikely, simply because any contact that would have to be made with the offender would come through the controls and mechanisms we have in place.

Mr. Brent Rathgeber: Right.

So you would probably know there was some litigation out there that.... But at the moment of settlement, you're not entitled to notice or are not necessarily going to find it. Any communication the individual has with his or her solicitor is privileged.

Ms. Alexandra Budgell: That's right.

Mr. Ross Toller: That's right.

Mr. Brent Rathgeber: So you can't eavesdrop on conversations. So it is conceivable that a prisoner could settle a personal injury lawsuit without your knowing—at least not for some time.

Mr. Ross Toller: Yes, that is correct.

Mr. Brent Rathgeber: You indicated in your closing comments that you clearly view rehabilitation as a two-way commitment, but you fell short of endorsing this bill.

I'm curious, generally, but with respect to private member's bills, obviously some assessment goes on within the Correctional Service of Canada. At some point does the commission come up with a recommendation or are you here with neutrality and to answer my technical questions and any other technical questions from the committee members?

Mr. Ross Toller: Yes, we're here with neutrality in regard to making an opinion, short of the fact that offender accountability is very important to the Correctional Service of Canada for the reasons I described earlier.

Mr. Brent Rathgeber: Okay.

So in my hypothetical case, where an individual came into a motor vehicle accident with a serious injury that could be in tens if not hundreds of thousands of dollars, what mechanically would be different? Currently, if I were a creditor of the inmate and if I knew he was coming into money, I could attach garnishee proceeds if I knew the day that the cheque was coming in. But if I'm reading this bill correctly, certain priorities will be established in favour of custodial and child and spousal commitments. What does that mean mechanically for the Correctional Service of Canada in terms of keeping track of those obligations out there?

Mr. Ross Toller: Mechanically it's a difficulty right now. As I mentioned, if an inmate has a family court order against him for paying both spousal support and child support, we have no mechanism that makes us aware of that. In most cases, if we do become aware of that, it's inmate-generated, in other words, that we've been advised of that. So system-wise and mechanically wise, that's an issue.

Mr. Brent Rathgeber: I don't mean to have you look into the future, but do you envision having to maintain some sort of registry? Or, for example, if I represent the spouse of an inmate who's owed money pursuant to a child support order, do you envisage my registering my judgment with the Correctional Service of Canada? Do you envision that kind of mechanical process?

Mr. Ross Toller: From an implementation standpoint, I would see that we had to have some sort of mechanism that would bring awareness to a monetary award that was given. Those who have claim to the monetary award would have to be made aware of that in order to access those particular funds.

• (1555)

Mr. Brent Rathgeber: Thank you.

That's all I have, Mr. Chair.

The Chair: We'll move to Mr. Scarpaleggia, please.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you.

Thank you for joining us.

I don't know if these are pertinent questions for you, but you mentioned that it's very hard to know what awards an inmate is getting, other than federal awards. On federal awards you said that it's fairly straightforward, that you're informed.

Mr. Ross Toller: The Correctional Service of Canada is informed. Other federal departments are not.

Mr. Francis Scarpaleggia: Maybe this has been asked, but do you actively scan the departments? Do you have a mechanism for trying to find this out from federal departments?

Mr. Ross Toller: No, we don't.

Mr. Francis Scarpaleggia: Do you foresee creating one, or is it just too complex?

Mr. Ross Toller: Well, as I look at the intent of this bill, if it becomes law and the clarity that is sought is such that it would include awards from other government departments, we would without question have to seek that.

Mr. Francis Scarpaleggia: When it comes to awards that are brought to your attention, not from your department but from other departments or within provincial jurisdiction, you say that it tends to be a random occurrence. You find out from someone through the grapevine and you look into it. In other words, there's no systematic way of informing you. It's somewhat random.

Hopefully this does not pose a problem, in the sense that someone could argue that not all inmates are treated the same when it comes to this law; some will be caught, and some won't. I don't imagine that's a problem, but maybe you have some insight on that.

Mr. Ross Toller: Again, just to have clarity, for cases where there's a criminal conviction, for example inmate X is given a three-year sentence plus a restitution order of x number of dollars, when that information comes to us we would document it.

We have no ability at this point to say that they will pay. The mechanisms we would look to gain that acceptance of accountability and responsibility are counselling, the involvement of our parole officer staff, and the involvement of others who would work with the inmate to encourage them to accept their levels of responsibility.

In cases of civil court right now...as I say, if I take a family court situation with a child award, we have no mechanisms where that would come to our attention. It would be more by the inmate mentioning that he owes money for child support.

Mr. Francis Scarpaleggia: What I'm saying is that some people would be caught; some wouldn't.

Ms. Alexandra Budgell: If you would like me to jump in, is this in terms of the monetary awards that an offender would receive?

Mr. Francis Scarpaleggia: Or in terms of garnishing these monetary awards. It's basically in terms of getting your hands on the monetary awards so that you can pay the spouse.

Some would be caught and have their awards garnished; some who are maybe a little more circumspect, or whatever, would not be caught. I assume it wouldn't really be a level playing field.

Do you see that as a problem at all, or is it fine, and—?

Ms. Alexandra Budgell: As we understand it, these would be awards against Her Majesty in right of Canada, meaning the federal government. It would be the one making the monetary award. Obviously in many cases CSC would be aware of that.

Mr. Francis Scarpaleggia: Systematically you would know.

Ms. Alexandra Budgell: We would be aware of those, and then for other government departments, presumably arrangements could be made to determine those.

Mr. Francis Scarpaleggia: There's one part of the bill that apparently generated some controversy when it was before a committee, I think in the last Parliament. It had to do with setting up priority rankings for distributing funds. The committee researcher at the time, Michel Bédard, said: "...I have doubts as to the federal government's power to pass provisions of this kind. It is important to understand that, according to the division of powers...property and civil rights fall within provincial jurisdiction. ...the provinces have jurisdiction over contracts and all private law, including debt priority ranking.

According to your understanding, has this been resolved? Since you're going to be garnishing the money and distributing it according to a debt priority ranking, do you feel comfortable that this issue has been resolved and that you can go ahead and follow the debt priority ranking in the bill?

•(1600)

Ms. Alexandra Budgell: Again, my area of expertise is correctional law, so unfortunately I can't speak to that. Thanks.

Mr. Francis Scarpaleggia: I understand.

I have another question that you maybe won't be able to answer. In the debt priority ranking, it says that the first obligation that must be paid by the offender is with respect to spousal or child support, etc., and it goes down the list. If there's any money left at the end, it goes to the offender.

In your view, is there any problem in saying that if there is any money left, it goes to the offender's dependants? This could be over and above a child support order. Do you think there would be any problem with amending the bill to do that?

Again, it may not be your area of expertise.

Mr. Ross Toller: That's not our area.

Mr. Francis Scarpaleggia: Okay. I think that's fine.

The Chair: You have about a minute left.

Mr. Francis Scarpaleggia: I'll give it to the other side.

The Chair: We'll go back to Ms. Doré Lefebvre. As much as Mr. Scarpaleggia would like to give it to the other side, it's the NDP's turn.

[Translation]

Ms. Rosane Doré Lefebvre (Alfred-Pellan, NDP): Thank you very much, Mr. Chair.

I'd like to thank Ms. Budgell and Mr. Toller for being here to answer our questions about Bill C-350.

Some of these proposals are interesting, especially the idea of support for victims.

I am also interested in offender rehabilitation. A few weeks ago, I met with a prison warden who explained to me that he worked with rehabilitation a lot. He told me that such a person could live two houses down from me and that he wanted that person to become a good citizen again and the person not to be a danger to the community anymore. We also work a lot with rehabilitation in Quebec.

I noted in your remarks, at the end of your presentation, that you spoke about gaining the skills the offenders would need to change their criminal behaviour. How could we apply skills acquisition to this type of bill or to this way of doing things? Would there be a way to implement Bill C-350, or the provisions it contains, while making offenders accountable and, perhaps, getting them involved in the process?

Mr. Ross Toller: Thank you. I would like to answer in English, if I may. My French isn't very good.

[English]

It's a very interesting question. Per some of the comments that have been made here before, the financial piece on accountability or responsibility is but one of the tools in the complete toolbox. So would it be reasonable for our staff, for example, if you look...? I'll just use the victim surcharge piece here. In cases where we have that, and in cases where it hasn't been waived by the courts, a lot of discussions would take place at the front end with the staff who are involved about accepting that level of responsibility in preparing inmates for the community.

Along with everything that goes with getting your education, learning employment skills, looking at who you associate with, getting out of a gang, looking at the needs that might have got you here in the first place, if you have substance abuse issues, if you have anger management issues, if you have anything along those lines, it's quite common for us to start planning their return to the community literally from day one. That includes those members of the family where there is a support system. Those support systems are out there in different points of view.

Again, from my perspective, when they have outstanding commitments that are owed, no matter in which fashion, there will always be encouragement for them to accept what they owe and to accept what their obligations are to society in the fashion that makes them responsible.

•(1605)

[Translation]

Ms. Rosane Doré Lefebvre: So this would be part of a tool box that might be helpful for reintegrating into society. And we could show them that it involves everyday obligations, like paying their bills.

How would the offenders see this way of doing things? What's the impact on the inmates' behaviour? Do you think the impact would be positive or negative? How would the offenders see this?

[English]

Mr. Ross Toller: Initially you may get some reaction from those who don't have the desire to change their behaviour or don't wish to accept the levels of accountability that it's probably detrimental, from their point of view. At the same time, all of our work is about encouraging and persuading them of their accountability and responsibility. This is what our role is all about. So to me, inmates who feel that way are no different from some of the inmates we who basically say, "We're not looking to participate in programs".

The legislation that has just passed, Bill C-10, gives us another set of tools for looking at offenders who are engaged or non-engaged in their plans so that we can address them in a different fashion. So we're looking to encourage those inmates who are motivated and have the desire to fulfill their obligations, as bestowed upon them by the courts.

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

We'll now move to Mr. Leef, please, for five minutes.

Mr. Ryan Leef (Yukon, CPC): Thank you, Mr. Chair.

Thank you, both, for coming today.

I won't go too far down the road on that constitutionality issue. I just have a quick question about citizenship.

When inmates are held in federal prisons, obviously in a provincial jurisdiction, do they take on the residency of that province? Are they residents of that province? Are they bound by provincial requirements? I'm from the Yukon. Does any federal inmate who leaves the territory and goes to British Columbia, for example, become a citizen of British Columbia? How does that aspect work?

Ms. Alexandra Budgell: I think it would depend on the context.

Mr. Ross Toller: Different medical provisions, for example, are administered by the province. If you're a resident of British Columbia but are residing in Ontario, the health care regulations for Ontario would apply. I probably need a little bit more specificity about the—

Mr. Ryan Leef: We'd be looking at whether, provincially, you're bound to obligations to pay child support and those sorts of things, when you're now held in a federal institution and could be moved all over the country. How would you be bound by provincial regulations, as you transfer from institution to institution, and not by federal guidelines for this payment?

I know that you've already addressed the fact that you're not dealing with constitutional law. But from a basic perspective, I was wondering what citizenship inmates take on as they move from province to province within a federal institution. Or do they basically have national citizenship versus provincial?

Mr. Ross Toller: I think we'd have to go back to our constitutionality answer.

Ms. Alexandra Budgell: I would say that it would really depend on the particulars of that issue.

Mr. Ryan Leef: Okay.

I'll change pace, then, a bit. Do you have any idea of how many inmates might possibly have financial obligations for spousal and child support, legal restitution orders, or victim surcharge orders?

Mr. Ross Toller: Some of them I do. I mentioned those that come to us through the court system. Right now, the total number of restitution orders we have in our system is 576. Fines, which I understand are not quite part of the proposal here, are at 1,136. And surcharges are at 725. Now, there could be a double count there, but those are the numbers that show up in our system relative to those areas.

Mr. Ryan Leef: Are those outstanding, or are those just on...?

Mr. Ross Toller: These are ones on the system that we've recorded and will show up.

You mentioned the family systems. We are currently revamping our offender management system, as a result of Bill C-10, to add that particular segment. But again, at this point in time, we couldn't give you any data on that in terms of the numbers. It's not captured.

• (1610)

Mr. Ryan Leef: Okay.

When looking at those raw numbers—the 576 for restitution, the 1,136 for fines, and the 725 for surcharges—you'd have a rough idea of how successful your encouragement of accountability is through case management. If you look at the numbers, in terms of their paying and taking accountability, how successful is your encouragement of accountability, based on those numbers you've provided?

Mr. Ross Toller: What I don't have is whether there are ones on there that have satisfied the orders that have come on. It would be really difficult for me to make a comment on that specifically.

Mr. Ryan Leef: Okay.

What role right now do family groups and victims groups play in the operation, policy development, day-to-day life, and engagement in the institutions across Canada?

Mr. Ross Toller: Do you mean family groups of inmates?

Mr. Ryan Leef: No, I mean family groups outside, not of inmates. What role do family groups and victims organizations play, or how substantial is that role, in terms of policy development or institutional operations from locale to locale across Canada? How significant are they, in terms of the CSC working with them?

Mr. Ross Toller: I'd say a couple of things. Each facility has a citizen advisory committee, where we look to hear the local citizens' perspectives. They meet with the inmates on any input they can provide from that particular level or perspective. Certainly in policy formulation, we look to other stakeholders who might have input into some of the areas we're developing. With respect to the Corrections and Conditional Release Act, section 74, we also look at policies that will affect major inmate issues.

In terms of victims, there's a lot of contact with victims. There's a national victims advisory committee. Each region has a regional victim advisory committee that gives us input on policies and issues. Bill C-10, again, just expanded the definition of a victim. It would also provide information to victims that they did not receive in the past. That came as a result of considerations and developments through Parliament and with input on policy development.

There is lots of communication with external groups.

Mr. Ryan Leef: Thank you.

[Translation]

The Chair: Thank you, Mr. Leef.

Mr. Rousseau, you have five minutes.

Mr. Jean Rousseau (Compton—Stanstead, NDP): Thank you, Mr. Chair.

Mr. Toller and Ms. Budgell, welcome.

My first question is for you, Ms. Budgell, since it touches a little more on the application of the legislation. Could the current bill be applied to the situation of a citizen held for a certain period of time, but who we determine was wrongly convicted and who is compensated by the state—and this is very hypothetical—for the time spent in detention? If so, could you talk about that?

[English]

Ms. Alexandra Budgell: The only comment I would make is that, obviously, so long as he is an offender, he will fit the definition of an offender before the appeal process goes through. Since the bill uses the term “offender”, he would be an offender so long as that appeal process has gone on.

[Translation]

Mr. Jean Rousseau: Could it apply if he had subsequently been wrongly convicted of an offence and compensated by the state for it?

[English]

Ms. Alexandra Budgell: Of course, that wouldn't be known until after the appeal process has been concluded. So if you were to look at today, would somebody fit the definition of offender? You would say yes or no, depending on the status of the appeal, and then it's only once the appeal process has been concluded that the person is no longer an offender.

[Translation]

Mr. Jean Rousseau: Can you comment on that, Mr. Toller?

Mr. Ross Toller: No, it's okay.

Mr. Jean Rousseau: All right. This question is for you, Mr. Toller.

Clause 1 of Bill C-350 proposes adding to section 3 the principle according to which the correctional system aims to encourage “the accountability and responsibility of offenders, with a view to ensuring that their obligations to society are addressed.”

Does introducing a clause like this impose a new management approach on institutions with respect to human and, particularly, financial resources?

[English]

Mr. Ross Toller: I'd say again that the encouragement factor I've spoken about is often predicated on public safety; it's about fulfilling your obligation. This one here basically puts a stronger emphasis on the financial obligations in terms of payment, so again it would be one of the tools in the tool box that would accentuate the concept of offender accountability.

•(1615)

[Translation]

Mr. Jean Rousseau: I imagine that there should still be interventions by caseworkers already on site. I know people who have worked in the prison setting. They often tell me that there aren't enough psychosocial caseworkers to treat inmates for all kinds of social problems. Shouldn't there be a completely new intervention mechanism for inmates?

[English]

Mr. Ross Toller: If you're referring to mental health considerations, I could say a couple of things there.

We do provide psychological services, with different levels of intervention across the country at five regional treatment centres that are accredited mental health facilities, staffed by a psychiatrist for acute care. For those who with psycho-social rehabilitative types of needs, we have a unit where we have an intermediary mental health unit, where people begin to step down from the acute needs that you would find in a more concentrated type of hospital. We also have a complex needs unit, where we would look at some of the more extreme outliers or self-harmers. So there is an array of tools and responsibility for mental health consideration.

I guess for me the connection of the financial piece in this would depend on exactly what we're talking about. From the mental health perspective, inmates who have money can still be encouraged to accept their levels of responsibility. Sometimes again, depending on the magnitude of what we're talking about, the programming for some of the more acute individuals is as simple as learning to brush their teeth after they eat meals, or learning to wash their hands after they go to the washroom. So it's incremental.

I would also add, too, that we have strong connections with the mental health community upon discharge. Social workers are involved in the treatment centre elements, so that the person's ability to function in the community continues to be supported.

[Translation]

Mr. Jean Rousseau: Would there not be a certain group that might be quite unreceptive to these new measures, since they are imposed by the state?

[English]

Mr. Ross Toller: I would say that again we have to look at each case individually. With some inmates, if there was a financial award, you might have to have mechanisms put in place for their complete understanding, but these are the extreme levels of inmates.

[Translation]

Mr. Jean Rousseau: Do I have any time left?

[English]

The Chair: Thank you. Your time is right on five minutes.

We'll go back to Ms. Hoepfner.

Ms. Candice Hoepfner: Thank you.

There are just a couple of things I wanted to go back to, if you could clarify them. You said that 576 inmates owe money for restitution, 1,036 for fines, and 735 for surcharges.

Mr. Ross Toller: Just to make a small correction, it's 1,136 for fines.

Ms. Candice Hoepfner: Okay, 1,100.

Mr. Ross Toller: And there are 725 for surcharges.

Ms. Candice Hoepfner: So those are the inmates who, through the OMS, if they are awarded anything, you can compel to pay in those three categories. Is that correct?

Mr. Ross Toller: We can't compel; we can only encourage and motivate.

Ms. Candice Hoepfner: You can't compel. That's the difference.

Mr. Ross Toller: We would have an awareness.

Ms. Candice Hoepfner: With those, as well as inmates with a widow or spousal or child support, do you have any data on how many actually will come forward and say that they need to pay? You mentioned that they can access their money only four times a year. Would they say, "Listen, I owe my child support and I want to pay"? Do you have any data of what kind of voluntary participation there is of inmates in fulfilling this obligation?

Mr. Ross Toller: No, I'm sorry, I don't.

Just to make sure it's not completely misunderstood: inmates can access their money. There are two accounts. I was referring to the savings account, where four times a year money can be brought down for expenditures. There's also a current account where, for example, inmates who work and are paid a certain amount of money a day have 90% of their earnings deposited, with 10% going into their savings account. If there were a monetary award, that would go into their savings account with the restrictions that we have.

Conversely, inmates are allowed to send out money at different times for family support. They use their money if they're going on temporary absence or for work releases. There are two separate accounts.

Ms. Candice Hoepfner: I want to follow up on what Mr. Rousseau was talking about—inmates with mental health issues or who might not really like this type of legislation. I think any one of us, if we weren't forced to pay our debts and there was no accountability, could just say that we didn't want to pay a judgment against us and would also say, please don't create such a law because we won't like it. I think we would all probably enjoy not having to pay our debts. I would too. But we all do because we have to; there's accountability.

Are we missing a piece here, even if it's mentally ill inmates?

• (1620)

Mr. Ross Toller: I think the numbers of inmates who have complete competency issues, who are incapable of making competent decisions are very few. These are often cases who—

Ms. Candice Hoepfner: Sorry, can you repeat that? You believe there are very few who actually cannot make competent decisions?

Mr. Ross Toller: That's right, for those who are deemed incompetent and unable to make the decisions, we use the Mental Health Act for the formulations of decisions to be made on their behalf. Often these are acute cases. Sometimes, it could be through a decompensation, a change in medication, substance issues. These are the types of offenders we bring into a treatment centre and provide acute services for. We use the mental health legislation that requires the normal requisite steps for decision making powers. The vast majority of those inmates are managed and become competent to make their decisions.

The other mental health group is competent but needs that extra support through social worker or parole officer interventions. Would elements of responsibility and accountability continue to be discussed with them? Yes, absolutely, no question.

Ms. Candice Hoepfner: Whether or not someone is able to make decisions, this legislation would say that if you are awarded a monetary settlement from the Government of Canada, you need to pay your obligations. Would you say that's fair, to make someone whether they're capable of making that decision themselves or not...? If they're capable enough to receive the settlement, are they not capable enough to pay out their obligation?

Mr. Ross Toller: Again, I was really referring to cases of decompensation, where they go through the mental health system. In those cases, decisions would be made by—I forgot what they call the term—their guardians. Everything is a matter timing. If the award happened two months before, when they were competent, it could be a different conversation. If they become competent later on, that would come into play. The point for me is that any element associated with offender accountability support is work that we do at Correctional Service of Canada.

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

We'll now move to Mr. Rafferty.

Mr. John Rafferty (Thunder Bay—Rainy River, NDP): Thank you, Chair, and my thanks to you both for being here today.

I don't know if you can give me an estimate on this, but when there are legal actions initiated by an inmate, how long do they usually take, assuming they go past the stage of being vetted? What sort of timeframes are we looking at?

Ms. Alexandra Budgell: On actions? There would be different types—

Mr. John Rafferty: I'm thinking of actions and a solution payment, or, from beginning to end.

Ms. Alexandra Budgell: If it's an action, it could go on for a number of years. That's a lawsuit where there is a claim for damages. Judicial review applications tend to go a little faster.

Mr. John Rafferty: What happens with actions that are initiated when an inmate is incarcerated? When the inmate is no longer there, what happens with those actions? Let's say it's against Corrections.

Ms. Alexandra Budgell: It would depend on whether he continued to pursue it. Of course, the ball is usually in the plaintiff's court as to whether or not he or she is going to continue with the lawsuit. It would depend on whether the offender, after he is no longer an inmate, decides to continue.

Mr. John Rafferty: Do you see that often, sometimes, or almost never?

Ms. Alexandra Budgell: It would be hard to say, objectively.

Mr. Ross Toller: It's hard to tell objectively. But here's one point for your thinking in the committee: inmates, when they are released, will spend a period of time under supervision—generally a third of them. They're still under our control until the warrant expires. It seems that most continue, but I have seen some who get abandoned. It's really hard to give you an exact figure.

Mr. John Rafferty: The reason I ask is that I think that when we talk about this bill, most of us assume that we're talking about people who are incarcerated for a long term, when in fact the person could be two years in a federal penitentiary.

You've had a look at this bill, Ms. Budgell. Does this bill address the situation where they're not formally incarcerated but they might be on parole for two or three years?

•(1625)

Ms. Alexandra Budgell: The bill uses the term “offender”, and this term is defined in the Corrections and Conditional Release Act, so it will include both an inmate who is in prison and someone who is in the community under the supervision of the Correctional Service of Canada.

Mr. John Rafferty: Let's say an action takes place after incarceration. This bill says “offender”, but I think most of us are thinking about those who are incarcerated. Say there's a civil suit. They sue the city because they've fallen and broken their ankle on a curb or something. They would still fall under the purview of this bill if they are on parole, for example.

Ms. Alexandra Budgell: Certainly, if they are an offender, they are an offender. It's easy to determine whether somebody is or isn't an offender. In the circumstance you have, it wouldn't be a lawsuit against the Government of Canada if they sued the city.

Mr. John Rafferty: No, but it would still be an award that this person would receive while under the care of Corrections.

Mr. Ross Toller: Up until that point of supervision in the community, it would fall within that domain. Once the warrant expiry date hits, there is no jurisdiction for us. They have satisfied the court sentence and become citizens without an offender label. If something occurs after that, it would go through the normal process.

Mr. John Rafferty: If an inmate starts an action against Corrections, it could turn out to be a legitimate concern and perhaps in the end it could help Corrections function better. It could be a positive result for Corrections.

Do you think that inmates would be discouraged from pursuing these sorts of things because of this bill? Do you know what I mean?

Mr. Ross Toller: I'm trying to sort it through. My experience tells me that it's likely no. Often, when they're looking at elements, they're not doing it to make the service better. Sometimes that is very much the outcome of what you've talked about. But speaking intuitively from my experience, I don't think it would have a great dissuasive impact. If they feel aggrieved, if they feel wronged, they will take the actions that they feel are necessary.

Mr. John Rafferty: Actually I said that was the last question, but I have another one.

Have I run out of time?

The Chair: Mr. Rafferty, I wish I could hear more from you—

Mr. John Rafferty: No one interrupted me, so I thought I could continue.

The Chair: —but our time is up. Unfortunately, I had a great question that Mr. Norlock was just waiting for, but I won't be able to ask it either.

I want to thank both of you for appearing today on behalf of the Correctional Service of Canada. There may be a time when we would like to receive more information on some of these accounts that offenders have and some of the dynamic of how these work, so we may make another request of you.

But at this point our time is up. We will suspend to get ready for our next group now.

Mr. Garrison.

Mr. Randall Garrison: Thank you, Mr. Chair.

I'd like to raise a point of order. We launched into our hearings on this bill without any specific plan for the number of sessions. Perhaps what I'm really asking, because we have other business for the committee.... We have asked for the minister to appear on estimates. Then maybe we need a session on committee business. Maybe that's really what I'm asking, so that we can get an idea of the amount of time we intend to spend on the bill. I don't think there is any controversy to what I'm saying, it's just that we haven't done that as a group.

The Chair: I don't know if that's a real point of order, but I'll certainly take it up.

Generally with studies, we would allocate so many days to the individual study we've asked for. Legislation can be somewhat different. As we get into the bill, depending on how big the bill is, there may be a difference. I don't think we have allocated anything.

•(1630)

Ms. Candice Hoepfner: We haven't. We just agreed on an agenda.

But maybe what Mr. Garrison is asking for—and I would be fine with it—is that at the next meeting we should take the last 15 minutes, go in camera, and then regroup on committee business and future business. Let's do that.

The Chair: I know we have asked for witnesses. Is that correct? We do have witnesses on this.

Ms. Candice Hoepfner: We have, because there was a deadline for witnesses.

The Chair: The witnesses have been notified. My sense is that we would go through this witness list and then proceed to amendments or—

Ms. Candice Hoepfner: We would be able to have the conversation.

The Chair: Yes. I think we're still—

Mr. Randall Garrison: The departmental secretary and I may have a conversation, but my recollection is that on two previous bills we dealt with, we did allocate sessions. That was bill C-19?

Ms. Candice Hoepfner: That was on bill [*Inaudible—Editor*].

Mr. Randall Garrison: Yes, I remember that one.

The Chair: Just looking at the witness list, I don't think it's going to be a long.... Maybe that's something we'll do at committee business.

Mr. Randall Garrison: Okay.

The Chair: I think there's a will to have that type of thing.

Ms. Candice Hoepfner: Yes, leave 15 minutes at the next meeting.

Mr. Randall Garrison: We'll try to give ourselves a little more direction.

The Chair: Mr. Toller is sitting here saying, "Can you do this after I'm gone?"

Mr. Ross Toller: Yes, I know.

Voices: Oh, oh!

The Chair: Thank you both very much for attending.

We are suspended

- _____ (Pause) _____
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The Chair: In our second hour today we're going to continue with our consideration of Bill C-350, An Act to amend the Corrections and Conditional Release Act (accountability of offenders).

Our committee welcomes this afternoon Ms. Susan O'Sullivan, the Federal Ombudsman for Victims of Crime.

Welcome here. It's good to have you.

Ms. Susan O'Sullivan (Federal Ombudsman for Victims of Crime, Office of the Federal Ombudsman for Victims of Crime): Thank you for the invitation.

The Chair: We look forward to your comments. I noted that you sat in on the last presentation. If you would also field a few of the questions afterward, we would certainly be appreciative.

Ms. Susan O'Sullivan: I will do my best.

The Chair: And you always do well.

Ms. O'Sullivan.

[*Translation*]

Ms. Susan O'Sullivan: Mr. Chair and members of the committee, good afternoon.

Thank you for giving me the opportunity to speak to you today about Bill C-350, which concerns offender accountability.

[*English*]

As you may know, the Office of the Federal Ombudsman for Victims of Crime was created to provide a voice for victims at the federal level.

We do this through our mandate, which includes: receiving and reviewing complaints from victims; promoting and facilitating access to federal programs and services for victims of crime, by providing information and referrals; promoting the basic principles of justice for victims of crime; raising awareness among criminal

justice personnel and policy-makers about the needs and concerns of victims; and identifying systemic and emerging issues that negatively impact victims of crime.

The office helps victims in two main ways: individually and collectively. We help victims individually by speaking with victims every day, answering their questions, and addressing their complaints. We help victims collectively by reviewing important issues and making recommendations to the federal government on how to improve its laws, policies, or programs, to better support victims of crime.

I would like to thank the committee for inviting me here today to speak to the payment of court-ordered debts owed by offenders, and its impacts on victims of crime.

Bill C-350, if adopted, would help to ensure that offenders are held accountable for the monetary debts they owe, including spousal and child support, restitution, the federal victims surcharge, and civil judgments. This bill will ensure that offenders who are successful in obtaining monetary awards from government are mandated to pay their court-ordered debts.

With respect to restitution and the federal victims surcharge, this bill provides a mechanism to further hold offenders responsible for providing reparation to victims for the harm they have caused, and to promote a stronger sense of responsibility and accountability. Similar to the garnishment of spousal and child support already occurring at the federal level, this bill will go further to ensure that offenders are responsible and accountable for their debts.

Our office supports measures that seek to better address the needs of victims of crime. Given that Bill C-350 seeks to hold offenders more accountable and ensure that victims of crime receive the money they are owed and have access to services following a crime, our office supports its passage into law.

To provide some context related to the financial impacts of victimization, a recent study by the Department of Justice estimates that the total tangible and intangible costs of Criminal Code offences in Canada in 2008 were approximately \$99.6 billion. When looking at the combined costs measured in the study, the financial burden on victims, which can include lost wages, medical attention, and stolen or damaged property, is estimated at 83% of the total cost of crime. This, frankly, is unacceptable.

Given this burden, tangible supports, including restitution and the federal victim surcharge, become extremely important to victims. They are a means through which to recover loss and to promote access to much needed services. They also serve to acknowledge and provide reparation of harm to victims on behalf of offenders.

Further, when one considers that victimization often occurs within the family context, the payment of spousal or child support may also be extremely important for victims. A statistic that illustrates the familial ties between federal offenders and victims is the number of homicides solved in 2009, where 33.6% of victims were killed by a family member. As victims of crime are estimated to bear 83% of the cost of crime and federal offenders are often family members of victims, measures to ensure that victims receive the debts owed to them, including spousal and child support, and restitution, are necessary to address the needs of crime.

To elaborate, restitution is a payment made by an offender to the victim to cover expenses resulting from the crime, such as property loss or damage, or personal injury. Where a restitution order is made, the offender must pay the amount ordered directly to the victim named in the order. If the offender does not pay the amount ordered, the victim can file the order in civil court and use civil enforcement methods to collect the money.

Legal advice and representation is often needed to pursue these methods of collection, which are cost-prohibitive for many. For victims of crime who have already experienced loss and trauma, the additional legal and financial burden of having to track down moneys owed to them as a result of a crime committed against them can simply be overwhelming. This cannot and should not be the reality. Victims do not deserve to be revictimized. It is for this reason that measures that encourage the enforcement of the payment of restitution by offenders to victims are a necessary and welcome step forward.

• (1635)

In addition to restitution, the federal victim surcharge is also an important payment made by offenders to provide financial support to provincial and territorial victim services and to promote a link between an offender's crime and his or her accountability to the victim. The government recently made an announcement to introduce legislation to double and automatically apply the federal victim surcharge. This is indeed a very positive step forward in response to recommendations made by our office.

While the doubling and automatic application of the surcharge will serve to better meet the needs of victims, mechanisms to ensure that offenders pay the surcharge, such as Bill C-350, are necessary to help ensure that provincial and territorial victim services are given the funding they need and deserve. This bill is one small measure that will contribute to offender accountability.

However, measures to ensure that offenders pay their court orders, regardless of whether they have received a monetary award from government, need to be implemented to ensure that offenders are held accountable for their debts and for providing reparation of harm to victims. To this end, my office has made several recommendations to government to promote the reparation of harm to victims and to mandate that offenders be held accountable to victims for their court orders.

These recommendations were made in our most recent report, *Shifting the Conversation*, and they include the following: requiring judges to consider restitution in all cases involving a victim and to state their reasons for not ordering restitution, similar to provisions for the federal victim surcharge; giving victims the right to make an

application for restitution and the right to appeal if an application is refused; providing victims with detailed guidelines on how to document their losses for the purposes of restitution; removing the requirement that a restitution amount be readily ascertainable, or allowing a court to order a "to be determined" restitution order if the costs are not fully known at the time of sentencing; examining the ability of the federal government to deduct restitution awards from federal government payments, such as GST rebate cheques and employment insurance payments; and holding offenders accountable by including conditions to ensure that they fulfill their court orders for restitution and the federal victim surcharges by authorizing the Correctional Service of Canada to deduct reasonable amounts from an offender's earnings.

These recommendations to government are aimed at promoting reparation of harm to victims and mandating that offenders be held accountable to victims for their court orders.

In conclusion, if adopted, Bill C-350 would help to ensure that offenders are held accountable for the monetary debts they owe, including spousal and child support, restitution, the federal victim surcharge, and civil judgments. This bill will ensure that offenders who are successful in obtaining monetary awards from government are mandated to pay their court-ordered debts.

From a victim's perspective, ensuring that an offender pays his or her financial debts, including restitution and the federal victim surcharge, upon receipt of a monetary award would seem to be common sense. In fact, many victims, and even Canadians at large, would perhaps be surprised to know that this is not already the case.

For this reason, we support the passage of Bill C-350, but we encourage members to understand that increasing offender accountability in relation to court-ordered restitution and the federal victim surcharge will require more comprehensive solutions above and beyond the measures proposed in this bill.

Merci. Je serai heureuse de répondre à vos questions.

• (1640)

The Chair: Thank you, Ms. O'Sullivan.

We'll move into the first round of questioning.

Mr. Norlock, please.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you very much, Mr. Chair.

I thank our witness for appearing today. It's good to see you again at this committee.

Ms. O'Sullivan, you mentioned the possibility of re-victimizing people who have been the victims of crime. Many times, of course, these are appropriate statements to make, but do you have any particular circumstances that you've seen in your job as ombudsman that might help the committee better understand the implications of the bill?

Ms. Susan O'Sullivan: I knew that Mr. Toller would be giving testimony ahead of me, and so I tried to look at how much money would be involved. I think I have been able to get the same data Mr. Toller presented, or data similar to it.

But I can tell you that on a daily basis we hear from victims of crime across this country, and when we talk about the cost of crime, and I talk about tangible and intangible costs of crime, these are very real people involved. I realize that I'm speaking as a federal ombudsman and that the responsibility for direct services to victims is largely that of the provinces and territories, but I can tell you that there isn't.... We have to be looking at better ways of meeting the financial burden on victims of crime.

Again, I realize why it was so important for the federal victim surcharge to come in. That goes to directly fund the provinces and territories that provide those services. When you hear from victims across this country who can't afford to get counselling—again, I know it's a provincial responsibility—or who can't afford to get some of the basic services they need, the more we can do to provide for that and take the burden of the costs off the victims of crime, the better.

I can tell you that it was only six years ago, I think, that we started to fund victims attending parole hearings, providing them with the basics of transportation and accommodation to attend a parole hearing. That funding only became available, as I say, about six years ago. So we're talking about some very basic support—tangible supports—for victims of crime, who carry the burden of the cost of crime in this country.

So this is a small measure. Also, I want to say that my final comments talked about the fact that this is one measure, but we need to be looking more widely at the whole issue of restitution.

Mr. Rick Norlock: Of course, an aspect of victims getting on with their lives is the importance of a healing process. A healing process often encompasses—and that would be my question to you—a realization, on the part of the person who did the victimizing, of their responsibility.

I wonder if you feel that's part of the healing process, and how you might explain to us how that healing process progresses, from your perspective.

• (1645)

Ms. Susan O'Sullivan: What I can tell you from speaking to victims of crime is that every victim is unique, and that what we need to provide victims is choice and options. For some victims, sentencing is a huge issue. For some victims, restorative justice or offender mediation is an important issue. For other victims, those aren't their priorities.

So the healing process means different things to different victims. What we need to provide within the criminal justice system is choice and options for victims. If a victim's choice is to enter into some kind

of process that will involve the offender or involve restorative justice or offender mediation, then we need to make sure that victims have the information they need to make those appropriate choices.

As I say, each victim is unique, and I certainly want to acknowledge that there are many different choices and options that victims will see as priorities.

Mr. Rick Norlock: Now, we've heard from some expert witnesses that many of the awards or some of the awards that a victim, or the families of victims, such as.... We know that many offenders have families, and we know that some of the offenders have ended up having family court orders. We've been told that it is primarily a provincial responsibility, but is there a federal component to this?

Ms. Susan O'Sullivan: I do believe there are lawyers who could answer this much better than I could, but what I was able to get through the Department of Justice—

Mr. Rick Norlock: Through your research, yes.

Ms. Susan O'Sullivan: —is that the federal government provides assistance and support to provinces and territories in their enforcement activities, and that the federal role in enforcement of child support orders is administered through the family law assistance services section. That section was established to fulfill the federal government's responsibilities under the Divorce Act and the Family Orders and Agreements Enforcement Assistance Act. I got that directly from the Department of Justice. It's their information.

As I say, there are people with much more expertise to speak to that. But there is a role to play there.

Mr. Rick Norlock: So there is a role for the federal government to play, and that basic role is to assist the provinces—

Ms. Susan O'Sullivan: That's from my understanding of the information that we were able to glean.

Mr. Rick Norlock: Very good, because I think it's important to see that there is a connection between the federal government and family court orders. While there may not be a direct ability for the federal government to be involved in it vis-à-vis ensuring that offenders do cover their family responsibilities, there is a federal component.

Thank you for bringing that to our attention, because I think we need to be reminded of that from time to time.

I think—as a matter of fact, I'm sure, and I know in your preliminary statement you indicated—that the bill puts the concerns of victims before criminals. Or at least that's the impression I got. We see, or at least I have seen in my past work, and I think you could allude to that also, that we have so many checks and balances that take into account the people who are brought before the criminal justice system. As a matter of fact, it concentrates on the accused, the charged person. Of course, of late we've seen both in our newspapers and through this government and through other agencies such as yours a realization that the victim should form as important a part of our criminal justice system.

I'm wondering if you believe that this bill once again begins to address the victim, the plight of the victim, vis-à-vis the circumstances through which a person's accused. In other words, to put it in the simplest terms, do you believe this bill puts the concern of the victim before the criminal?

And I just wonder if you could expand on, as you mentioned, the re-victimization—

The Chair: Thank you. I'm sorry, you're out of time, Mr. Norlock.

Mr. Rick Norlock: Oh. Sorry.

The Chair: We'll move back to Ms. Doré Lefebvre.

[*Translation*]

Ms. Rosane Doré Lefebvre: Thank you, Mr. Chair.

Thank you very much, Ms. O'Sullivan, for being here and telling us about how you see things. To be honest, it's nice to hear a point of view that's different from the one around this table. Given the work you do, in particular, you are fully aware of the needs of victims.

I agree with several aspects of Bill C-350. Usually, in society, a person must fulfill his or her obligations. In fact, all victims should have access to compensation of this kind. In your presentation, which calls for greater respect for victims, you made a number of very interesting recommendations that should be taken into consideration.

Like you, I think that Bill C-350 includes improvements, especially with respect to the previous one, Bill C-292. Among other things, compensation will from now on be shared more equally among the parties. And an order of priority has been set.

However, Bill C-350 seems to take on only a small part of this large problem of victim compensation. Would you like more improvements made to this bill? I'll go even a little further and ask this: if you could amend the bill or make it perfect, what changes would you suggest to us?

• (1650)

[*English*]

Ms. Susan O'Sullivan: Thank you for that, because I'd like to add all the recommendations relating to restitution included in our report, *Shifting the Conversation*.

I think what we're talking about here is balance. This bill is dealing with, as I said.... I tried to find the data to look at what would be the actual moneys, and they are a smaller amount. We're talking about the huge of cost of crime here, and I think that the recommendations on restitution that we make in the report are very specific ones to get us as a country to make a fundamental shift to start putting the victim and the losses they've suffered to that.

Again, when I've been before committees, I do talk about balance because it's not an either/or here. When we look at our criminal justice system and healthy and safe communities, this include everything from prevention to intervention, to early intervention, and to where we end up at the other end of the criminal justice system. And for many victims, their needs go way beyond the point where the criminal justice system or court case has finished.

What we can do is to start with some of the very practical recommendations we have in this report. I think of the recent announcement for making mandatory the federal victim surcharge and doubling that, which will help raise funds for the provinces and territories. But I think we do need to be making some very concrete moves towards actual restitution and in how we're managing that on a national level in terms of providing some actual compensation.

One of the things that often comes up in these conversations—and I did have the opportunity to hear a few as well—is the offender's ability to pay given small amounts they earn. But when they come back out....

There is something in the United States I think we might want to look at. I need to do a little more digging into this. There's something called the inmate financial responsibility program in the United States. It basically works with offenders so that they can understand financial responsibility, including payment of debts once they are out of the institution and back in the community. I think it reflects some of the comments made that these debts are still owing. I go back to my position that difficult as it is for a lot of people to pay these, I'm going to put the victims forward.

When they aren't getting some of the basic services, the victims understand that the majority of offenders are coming back out into the community and don't want them to reoffend. There's not one victim I have talked to who does. They will tell you that they don't want what happened to them to happen to anyone else. They understand that the inmates need supports while they're in the institution and when they're back in the community. What they can't understand is why they don't have access to the supports that are in place and available to offenders.

So it is about a rebalancing and the practical things we can do to really take the costs off victims, Really, with 83% of the tangible and intangible costs of crime in our country borne by victims, we need to be looking at newer ways. And so there are some very positive recommendations in the report.

I thank you for that question .

[*Translation*]

Ms. Rosane Doré Lefebvre: You spoke about a program in the United States that aims to make offenders accountable. In everyday life, they must pay the restitution, which seems fairly interesting. Do you think it is working well?

[English]

Ms. Susan O'Sullivan: I don't have any data on the efficacy of this program. We've just started looking into it. What I like about it is its longer term view, that there's a balance and that it understands the accountability. When you talk about repayment of debt here, if it is restitution or the federal victim surcharge, what you're talking about is not just reparation of harm to victims. It is also about the accountability and responsibility of the offender. I would argue that rehabilitation and their correctional plan is what it's about. When the offender does go back into the community and either has a job or is getting moneys, they should be able to repay that debt. It can't continue to be the burden of the victims of crime in this country.

• (1655)

[Translation]

Ms. Rosane Doré Lefebvre: I fully agree with you on that. In any event, when these people return to the community, these are things that they will be required to do as citizens. We all have to pay our debts. It's normal. I find it really interesting that you talked to us about balance and that the victims also understand just how important it is that the offenders, the people who committed offences, do not do the same thing in society, and that it's all balanced. It's a fairly healthy and interesting perspective.

I know that back in the 1990s, victims had access to compensation. This unfortunately no longer exists in certain provinces and territories because of a lack of funds. Do you think that if we reinvested in this type of fund, at the federal and provincial levels, that it would help and touch more victims?

[English]

Ms. Susan O'Sullivan: That's a very complex and complicated issue. I believe it was 1992, and I think decisions were made. I think it would perhaps be best to ask the provinces and territories that carry that burden.

One of the things I can tell you is that I've had the privilege of being in different areas and talking to different people across this country, and every province and territory is unique and has unique challenges. They understand their communities. I recently had the opportunity to be up north and to see not only some of the challenges they encounter there but also some of the really inspiring things going on up there to support victims of crime. So I think those are the kinds of conversations that probably should be involving the provinces and territories.

I can tell you that from a victim's perspective, what they do see is huge variability across the country.

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

Ms. Young.

Ms. Wai Young (Vancouver South, CPC): Ms. Sullivan, thank you for coming here today and sharing some of this with us.

I want to ask if you have a particular case that you want to share with us today, to shed further light on this bill and the impact it would have on these victims, as well as on the rest of Canada.

Ms. Susan O'Sullivan: Obviously, I can't speak to any individual cases due to confidentiality, but I can speak to the issue of what we often hear. If a victim contacts our office and it's not a federal issue,

we will get them to where they need to go to get the best information. So we will receive calls about issues, be they support issues or financial support issues, that are the responsibility of the provinces. So we will direct them to the appropriate office at the provincial-territorial level, particularly if it is specific to child support or that kind of family support issue.

When it comes to the costs of crime and the lack of resources for victims, I thank you for that question because what we're trying to do is put a human face on it. Anybody listening here can think of someone they know who has been a victim of crime. There are a lot of great things happening in our country as well in terms of the front-line support that is available and the people who are doing phenomenal work delivering those supports. We don't want to lose sight of that. What we want to make sure of is that they have the resources to do that and to deliver that service. And that's why we have to be looking, if I can say this, at respecting the levels of governments' mandates, but also thinking together strategically on how best to mobilize and ensure that those supports are in place. It's exactly what this committee is looking at.

So what we have here with this legislation, which we would support, is a very practical priority list, which we understand is in line with the provinces' priorities. But I think we have to look at better ways in this country of supporting victims of crime with tangible financial supports, because if somebody does need to get some very practical services, again there is variability across the country depending on what the provinces and territories can put in place. Also, quite frankly, there are different issues depending on the remoteness of areas and access. What I am hearing about is issues around capacity, and training people to do that as well.

There is whole series of issues that we have to look at. But at the end of the day, if you were a victim of crime in this country, you should be able to get the supports you need. Again, I go back to the issue of every victim being unique. Those supports may be financial support for some, or housing, or support through the court process, or long-term counselling. So there are some very practical needs that victims of crime have, which we need to be ensuring they have access to in a very timely way.

• (1700)

Ms. Wai Young: Might I follow that up then with a question around balance and accountability, which you talked a lot about? With regard to the accountability aspect, do you often find that the inmate will step forward to make restitution, if they have been awarded something or have their own resources?

Ms. Susan O'Sullivan: We haven't specifically had this issue in the office of an award to an offender and any monetary.... Most of our issues have been around restitution or an inability to get access to that. I can say—though I almost hesitate to, because I've had one opportunity to speak with a group of offenders and I don't like to make an assumption based on one meeting—that I have had the opportunity to listen to offenders on some of these issues, and some of them did bring forward the issue that they had no mechanism. They wanted to be able to provide.

Again, I couch those comments; that was only on one meeting with a group of offenders, but I thought it was interesting. We shouldn't be making assumptions either on what the offenders can or cannot do, because it was fairly apparent from my one meeting that some of them wanted to be able to do more in that way.

Ms. Wai Young: Right. So we should also be looking at the broad spectrum of the fact that offenders also want to use this mechanism.

Ms. Susan O'Sullivan: Again, I hesitate to generalize based on one meeting, but my message is that sometimes we don't want to be making assumptions about what they can or can't do or what they want to do. At the end of the day, and I listened to Mr. Toller on this, we need to have mechanisms in place that allow for...if there are.... This legislation is example. I was asked if it should be broader. Yes, it should be. We should be looking at restitution, in general, in this country as well. And how are we supporting victims of crime financially to get the resources and the supports they need, when they need them?

Ms. Wai Young: Are there any down sides to this bill?

Ms. Susan O'Sullivan: From my perspective, it's basically saying that the priorities are in line with what the provinces see, and I think most Canadians would think that if there is an award, it should go to pay to support offenders' victims and issues around that.

I understand there were some other comments in other areas that aren't my expertise. I'll leave those to people who are better prepared to answer them.

Ms. Wai Young: Based on your extensive experience in community, as well as with victims, would you agree with the prioritized list that has been proposed?

Ms. Susan O'Sullivan: Yes. My understanding is that there were discussions with the provinces and the territories, and that it's very much in line with what their priorities are as well.

Ms. Wai Young: Thank you for your time.

The Chair: You have another 30 seconds. We'll just give them to Mr. Scarpaleggia.

Mr. Scarpaleggia, you have seven minutes.

Mr. Francis Scarpaleggia: I'll step forward, as they say.

Thank you for your appearance and testimony.

To continue along the lines Ms. Young was following, in terms of the established order in the bill for distributing the proceeds from court awards.... Actually, I'll go off on a tangent. Mr. Lauzon was quite adamant in insisting that the families of offenders are victims as well. He talked a lot about that. I'm just curious as to how you view those comments. Obviously, they were not the object of the crime per se, but they have to live with the consequences. The idea here isn't to rank the victims. Obviously, the victim of the crime is the bigger victim.

How do you see this idea that the family members are victims as well?

Ms. Susan O'Sullivan: I think you can look at that statement. I think it's reflective of the data that I used in my opening comments. When I used the data from 2009 for homicide, they indicate that 33% of the victims are family.

Mr. Francis Scarpaleggia: I'm talking about secondary victims, if you will, the affected family.

Ms. Susan O'Sullivan: I think what's presented here in this bill is the right priority. I don't want to minimize any of the comments that talk about—

Mr. Francis Scarpaleggia: No, I'm not asking you to. But do you agree that in some way they're secondary victims and that's not to be ignored?

Ms. Susan O'Sullivan: I'm here to speak about victims of crime. When you talk about victimization, there are many aspects to that, but I think that the priority laid out here is appropriate and is very much in line with what....

● (1705)

Mr. Francis Scarpaleggia: Maybe my next question isn't pertinent, but once we've gone through the priority ranking, the bill says that if there's any money left over, it can go to the offender.

Do you think that residual amount should maybe be topped up or go to the direct victim? Do you think it should go to the dependants of the offender, who are secondary victims? How do you feel about the idea that if an amount is left, it can go into the offender's bank account?

Ms. Susan O'Sullivan: I commented earlier that when we look at balance, after the courts have viewed a set of circumstances and information and have made a decision to award, we need to consider the needs of victims of crime and the payment of those debts. Therefore, when it comes to the balance, the priority will be there to ensure that the victims' needs are met through restitution, the federal victim surcharge, and child support. The remainder is something that the courts have determined.

Mr. Francis Scarpaleggia: So you would say that the restitution order is just. When a court makes a restitution order, I imagine it says that the victim should be compensated so much. It's an imperfect world. They're trying to compensate the victim justly, but as you say, the victim lives with this for the rest of their life.

I suppose it's the best the court can do in certain circumstances, but we all know it is nowhere near enough. It never is enough. If somebody loses a family member, maybe there's restitution, but it never comes close to compensating for the loss of that family member. I understand that legally it's probably "correct", but we all believe that the victim should get more.

You don't need to answer, because you mentioned why it's not appropriate for you to answer. That's why I'm saying that maybe the residual amount should go back up the list and compensate the victims, over and above the restitution order, or compensate the secondary victims, who are the dependants. They've lost their breadwinner because the person has committed a crime and is in jail, and so forth.

Anyway, you don't need to answer that.

Ms. Susan O'Sullivan: I think there's a bigger issue here. From what I've seen from the data that we can gather, there aren't going to be huge amounts of money. The bigger issue here is what are we doing in this country to ensure that we have proper restitution in place, that we are gleaning restitution and looking for ways to ensure that victims have the tangible supports they need? We need to be looking at avenues to do that.

There are some recommendations in the report we have put forward, *Shifting the Conversation*.

We also need to be looking at better solutions, on top of those, to ensure that victims have access to the services they need in a timely way. I could go on, but I know you have time limits. Sometimes services are available, but there are huge gaps and expertise is required, depending on the type of counselling the person is getting. There are people who specialize in trauma counselling.

I don't want to get too much into the service level, but we need to look at frameworks in our country that ensure that we properly look at restitution, that we look at other ways to ensure there are tangible supports in place for victims of crime. It's much bigger than what could potentially come out of these awards, from what I'm hearing on the data.

Mr. Francis Scarpaleggia: Sure.

I'm done.

The Chair: All right. Thank you.

Everybody is 30 seconds early today, so we'll go back to Monsieur Rousseau.

[Translation]

Mr. Rousseau, you have five minutes.

Mr. Jean Rousseau: Thank you very much.

Ms. O'Sullivan, if I understand correctly, rehabilitation is one way to help victims of crime who find themselves before individuals who are often—we hope—more responsible and "accountable" upon their release. Do you have any suggestions on how we could use rehabilitation more to support the victims? For example, I'm thinking about the possibility of combining Bill C-350 with a program on fiscal responsibility, depending on the resources of our correctional system, of course.

• (1710)

[English]

Ms. Susan O'Sullivan: Under the recent legislation, Bill C-10, I understand that restitution will be included in the offender's correctional plan, but I don't have any of the details. For example, if the offender doesn't pay the restitution, is their parole suspended? We don't have any of those details yet. We're waiting to hear what that means practically, in terms of implementation plans. None of that detail is available yet because they are trying to assess that.

[Translation]

Mr. Jean Rousseau: Would it be a good idea to combine them to better help the victims with respect to the payment of restitution?

[English]

Ms. Susan O'Sullivan: Again, I'm just going to refer to the two sentencing principles when you're looking for restitution. One is for reparation of harm to the victim, but the other is very much around the accountability and responsibility on the part of the offender.

So, yes, we do need to be looking at better frameworks to ensure that there is that accountability, one that recognizes that when the offender goes back into the community and is earning again with a longer term view.... For example, we have recommendations in our report that they reasonably be able to look at Correctional Service Canada and gather some of the money while they're in prison.

What we need to look at is a framework that's going to allow us to look with a longer-term lens at the ability of offenders to be accountable for that reparation of harm, and for their own responsibility as well.

[Translation]

Mr. Jean Rousseau: Could the expertise of the Office of the Federal Ombudsman for Victims of Crime respond to an increased demand for intervention if this bill leads to a greater number of victims having your help available to them?

[English]

Ms. Susan O'Sullivan: What I can tell you is that we're looking at the increase. Right now, we have the resources we need in our office. We are a fairly new office, having been created in 2007, and so as we move forward part of our goal is to make sure that Canadians are aware of our office and what we do.

I will tell you that I hope that we will increase our ability to serve Canadians. I can tell you, just looking at the number of open files, that we've seen a big increase since last year. That's good news for our office. It means that we're reaching Canadians and that we're able to serve them and provide them with information about the federal resources that are available to them, but also about any complaints they may have, and those kinds of issues in our mandate.

[Translation]

Mr. Jean Rousseau: Practically, when victims come to your office and need your help, how much time does it take to have their appeal heard?

[English]

Ms. Susan O'Sullivan: Every one will be unique.

Some of them are more complex and complicated. Some of them involve more than one or two issues, so they might be multifaceted. It's like anyone who looks into complaints that people have. Some of them are easily resolved. Some of the issues....

One of the things I would like victims of crime to know is that as a result of many of the complaints that have come forward from them, we have made the recommendations we did in our report. It's because these have come from the victims of crime in this country who have seen those challenges. Some of them will require legislative changes and some an administrative process. It depends on the nature of the complaint that comes forward as to how long it will take to resolve that.

[Translation]

Mr. Jean Rousseau: Do you think that a number of them will withdraw the appeal because they don't want to punish the criminals again? We often hear that criminals are the victims' immediate family members or relatives. With this bill, do you think that some victims who will feel obliged to file appeals will instead withdraw them because the sentence will only be increased as a result?

The Chair: Thank you.

[English]

Go ahead and answer.

Ms. Susan O'Sullivan: Every victim has different capabilities in terms of whether or not they want to engage in making change. It can be on a daily basis. I can tell you that recently, during National Victims of Crime Awareness Week, I had the privilege of attending many different events. There were people and victims of crime who were doing things on a daily basis that you'll never hear about, and who are making a huge difference in their community. You will hear people who are on the national stage who have chosen to do that, and you'll hear more about that.

You have victims of crime across this country who want to participate in making a difference. I will give you one example I saw last week at the symposium of the Ending Violence Association in British Columbia and the B.C. Lions. Their mantra was "Don't be a bystander." We all own all that can be done by Canadians to prevent crime from happening when it does happen, and we put in place the supports to help victims of crime deal with what has happened to them.

•(1715)

The Chair: Thank you very much, Ms. O'Sullivan.

We'll move to Mr. Aspin, please.

Mr. Jay Aspin (Nipissing—Timiskaming, CPC): Thank you, Mr. Chair.

Thank you very much, Ms. O'Sullivan, for your appearance today before the committee.

When the sponsor of this bill, Guy Lauzon, appeared he said that the bill was basically a no-brainer. In large part, I agree with him. Do you see any negative aspects of this bill whatsoever?

Ms. Susan O'Sullivan: I would think most Canadians would already think this is happening, that if there is an award, it would rightly go to the outstanding debts per the priorities that are set here. I see this as very much about meeting the two sentencing principles: reparation of harm, and the accountability and responsibility of the offender.

Mr. Jay Aspin: Do you see this bill as making things right for victims?

Ms. Susan O'Sullivan: I think it's one step. As I said, I think we need to be looking far more broadly than just this bill if we're going to truly deal with some of the reparation of harm and the costs of crime, including the intangible costs. The report that makes those recommendations contains more steps that we can take in this country to provide supports for victims of crime.

Mr. Jay Aspin: Do you see this bill as important for the healing process?

Ms. Susan O'Sullivan: What I have learned is that every victim is unique. From what Mr. Toller presented, there are 573 restitution orders, 1,035 fines, and 725 federal surcharges that are outstanding. When we look at the costs of crime—and here I'm going to go back to \$99 billion in tangible and the intangible costs—I think this is one more positive step that recognizes that victims need to have those supports. This should help with that. I still say that there's more that we need to be doing to truly look at how we're going to address the tangible costs of crime for victims. It is definitely a positive step.

Mr. Jay Aspin: Okay, thank you.

The Chair: Thank you, Mr. Aspin.

Maybe I'll just ask a question here—and I'm sure it's one that Mr. Norlock has been waiting for.

I am not certain if this question should be posed to you or to Mr. Toller, but do you have any idea of the average amount in those offenders' accounts?

Ms. Susan O'Sullivan: That would absolutely be a question for Mr. Toller.

The Chair: We know they have two accounts: We know they have a savings account, and we know they have a current account. It would be a concern to suddenly find one offender with a massive amount of money in one of those accounts. Mr. Toller suggested that he would find out from other offenders if someone had received a payout. If all of a sudden one offender were granted a payout from a court and had a high account balance, I can see that there could be some danger, even within the institution, of his having that much money in his account.

They are allowed to take out up to \$500 up to four times per year, right? If they take out more than \$500, it goes into a process with CSC. You have said that you don't believe this goes far enough. Right now, the offender earns up to \$6.90 per day. You would like to see some of those earnings from the \$6.90 per day given to victims, back to child support, or back to the spouses of those offenders, but specifically to the victims. But that's not the law.

You think that Mr. Lauzon's bill is very moderate and doesn't go far enough. Even if his bill is moderate, it does open the door for the Correctional Service of Canada to give out more money than what they are permitted to give out without special permission of the commissioner. I don't know if that makes any sense to you.

If all of a sudden someone gets a big amount of money, and he wants to put it in one of those two accounts, there are all kinds of potential dangers that could arise from the inmates knowing that he now has that much money.

•(1720)

Ms. Susan O'Sullivan: I would defer to Mr. Toller on the offenders' accounts and the issues around that.

I do want to say that I am here in support of Bill C-350, because it will help to ensure that offenders are held accountable for their monetary debts.

In looking at the bigger issue of restitution, I won't go over the recommendations; you have copies of the report, and they're there. I think we do need to be taking a bigger picture.

I did find some data. It's not my data, but I did find through the director of parliamentary relations at the CSC some data that looked at these awards—although the data clearly indicates that CSC does not keep statistics for claims against the crown paid to inmates where they are less than \$1,000. Again, the data is not comprehensive, but I was able to see, for example, that from 2006 through 2007 the claims against the crown totalled \$2,500,000. Of that, \$279,000 was paid to inmates in 26 cases. So there is some data out there, but again, it's not comprehensive and it's not my data.

I tried to find from Statistics Canada all the guilty cases in adult criminal courts in relation to restitution orders, but these weren't specific. They were lumped together—federal, provincial, and territorial. For example, in 2009-10, there were 6,000 offenders. It says here, “The following statistics represent all guilty cases in adult criminal courts in Canada, including offenders for restitution.” It looks like there were close to 7,000.

I was looking at the data and what it means. Part of the issue around restitution is of course that in many cases the courts aren't ordering it. There are many reasons for that.

I mean if you're a victim of crime and you want restitution, it has to be done at the time of sentencing. That means, and I'm going to use an example, if I suffered a property loss or I was injured in an assault and lost two weeks' pay, I would have to prove how much that loss was at the time of sentencing. You won't know to do that unless somebody tells you to do that. You have to be able to prove that with receipts and bills. Then you have to have the crown attorney ask for that restitution.

There are huge issues. I know you've got limited time here, but I wanted to paint a bit of a picture for you.

Even if a restitution order is given, if the offender doesn't pay it then the victim has to go to civil court to try to figure out how they're going to get money from the offender. We need to be doing a better job at how we are dealing with restitution in this country and putting in place some of those frameworks to do that.

Thank you.

The Chair: Thank you.

I'm a little over the time, but we're going to make sure Mr. Garrison gets his full time.

Mr. Randall Garrison: Thank you very much, Mr. Chair.

I do want to say thank you. We haven't had a chance to meet before, and from what I've seen today I have a lot of confidence that victims have an able and articulate advocate in your office.

Ms. Susan O'Sullivan: I've got a great team.

• (1725)

Mr. Randall Garrison: You also raised an important issue that we'll keep monitoring on this side, which is that you've opened a lot of new files. Our side will be monitoring the funding of your office and making sure that you're adequately funded.

You mentioned your recommendations and you said that you'd let us look at them again. Given that we're talking about Bill C-350, I wonder if there is any one of those recommendations you think might particularly relate to this bill that you would like to highlight for us?

Ms. Susan O'Sullivan: I think one of the things that resonated with me when we listened to the information from the Correctional Service of Canada is that we lack even the mechanisms and frameworks to be able to look at how offenders could pay.

Again, I think we need to make sure that we have mechanisms in place, that there are frameworks that allow us to do that. It would appear that we can't even get comprehensive data on how many awards there are, who has them, where they're held, and those kinds of things.

I balanced my comments and did share with you the point about whether there is a willingness to participate in that. That's why I referred to that example of a program in the United States, the inmate financial responsibility program there. Having that in place and teaching those skills can go way beyond that, once an offender is back in the community.

I recognize some of the comments from one of the members here in my saying that at the end of the day these are debts that are owed. It is about responsibility and accountability.

We just have to put in place a longer term view around that. Again, we may be able to be deal with it quickly, but it may also require a longer term. We need to be thinking about those things.

I'll go back to the actual recommendations in the report. When you look at our recommendations, I think it's mainly an issue of having a framework in place that's going to allow us to monitor and to be accountable for everything from the federal victims surcharge through to restitution orders. But we also need to look comprehensively at these issues in our country around restitution and tangible financial supports for victims.

Mr. Randall Garrison: Thank you very much.

I want to ask you a question about the distinction between restitution and compensation, but not in the sense of trying to attack the recommendations or your emphasis on them.

When we talk about restitution, we're talking about the individual offender paying back, and when we talk about compensation, that was the model we talked about from earlier in the nineties when it was the government doing that. Do you think the emphasis on restitution leaves it somewhat to chance which victims will actually get the compensation? That's my concern, because you talk about having to pursue offenders who may not be willing to pay. For some victims, an offender may both have resources and willingness to pay and the victim will therefore receive the restitution, whereas for others, they are left at the mercy of the deadbeat who is never going to pay.

Ms. Susan O'Sullivan: So it's not a case of either/or. We need both structures.

When I used the word “variability” in regard to what you are seeing across our country.... For example, I'm sure everyone here is aware that criminal injuries compensation is the responsibility of the provinces and territories, as per the member's comments, and when you look at that, there is variability across this country. Depending on which province or territory it is, there will be a different framework—and in some cases, there is no framework. So it's not an either/or. We need to be looking comprehensively at how we can ensure that tangible supports are in place, including both provincial or territorial compensation and restitution.

Mr. Randall Garrison: When you were talking just in passing, you commented that when this bill had been improved, there had been conversations with the territories and the provinces. I'm just wondering where that comment came from. Were you part of any of those dialogues?

Ms. Susan O'Sullivan: No, I was not part of those dialogues. That was the information we were able to glean, that in fact this part of it was congruent with what the provinces and territories had wanted.

Mr. Randall Garrison: Is this the first opportunity you have had then to have input into this bill?

Ms. Susan O'Sullivan: Yes. We were asked a couple of weeks ago whether we'd be interested in presenting here.

Mr. Randall Garrison: I guess I would say in conclusion that on both sides here we've talked about improving this bill, if it's possible to improve. So when you go away from here, if you have further thoughts on how we could improve it, we'd all be very interested to hear them.

Ms. Susan O'Sullivan: Thank you for that opportunity. I will get back to you in writing.

Mr. Randall Garrison: Thank you very much.

The Chair: All right, I think that pretty well concludes our time.

Again, we want to thank you, Ms. O'Sullivan, for appearing and for your good work as an advocate in looking out for victims. We appreciate your attendance here today, and we would welcome any further ideas; or when you go home, if you think of a question that you could have answered differently or expanded on, we would certainly welcome that too.

Ms. Susan O'Sullivan: I will follow up with a submission. Thank you.

The Chair: Thank you very much, ladies and gentlemen.

The meeting is adjourned.

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