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• (1105)

[English]

The Chair (Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.)): I call this meeting to order.

Welcome to meeting number 18 of the House of Commons Standing Committee on Justice and Human Rights.

Welcome, Ms. Damoff, who will be replacing Mr. Kelloway today. Thank you for being here.

To ensure an orderly meeting as we continue our study into domestic violence, I will outline a couple of rules. For all witnesses and members, understand that there is an interpretation button at the bottom of your Zoom screen that allows you to select the language that you would like for interpretation through your headset. You don't need to change the language if you are speaking in a language other than what is being interpreted.

Before speaking, please wait until I recognize you by name. As you are on video conference, please make sure that you unmute yourself before you start speaking. If you are not speaking, I'd ask that you please keep yourself on mute.

As a reminder, all comments by members and witnesses should be addressed through the chair. We have a platform for respectful dialogue, and we'll be maintaining that as well.

We're very happy to have the witnesses here today.

With the speaking list, the clerk and I will do our best to ensure that we maintain an orderly list. You can raise your hand if you would like to speak. Please note where that "raise hand" function is at the bottom of your Zoom screen. Again, if you'd like to speak, unmute yourself before starting to speak and mute yourself once you're finished. I have this one-minute card and this 30-second card, which allow you to judge how much time you have left for speaking.

At this time I'd like to welcome our witnesses. As an individual, we have Janine Benedet, dean pro tem and professor of law at Peter A. Allard school of law at the University of British Columbia. We have Jennifer Koshan, who is a professor, faculty of law, at the University of Calgary. We also have a representative from Hiatus House, Genevieve Isshak, who is the clinical director of residential and community services. Welcome to the witnesses.

You will have five minutes each for your opening remarks. We'll be keeping time. We'll start with Janine Benedet.

Your time starts now. Please go ahead. Thank you.

Professor Janine Benedet (Dean pro tem and Professor of Law, Peter A. Allard School of Law, University of British Columbia, As an Individual): Thank you very much, Madam Chair.

Thank you to the members of the committee for inviting me to participate in this hearing.

As you heard, I'm a professor of law at the University of British Columbia and my research focuses on legal responses to violence against women, with a particular focus in recent years on sexual violence. I'm pleased to see that this committee is seriously considering how to address the problem of coercive control in intimate relationships, which is inflicted in most cases by men against women and girls.

I think it is important to note that while addressing this problem may serve to prevent further serious violence, and certainly the private member's bill in question speaks to the terrible mass killings in Nova Scotia, it's also important to understand that this coercive and controlling behaviour causes great harm to victims, affecting their sense of self-worth and throwing up real barriers to accessing the resources they need to get away from an abuser.

It's also important, and I would say this based on my own work, to recognize that coercive control may be a precursor to sexual violence in addition to or instead of physical violence. I agree with the aims of the bill, and in general I think such an offence could be useful for police and Crown counsel. I can see that this offence forms a useful middle step between an assault charge and a peace bond in some cases.

Having said that, I think it does bear saying as well that there is a history of some police and Crowns failing to use the tools they already have at their disposal, and creating one more offence will not solve the troubling tendency to disbelieve women when they report violence or the lack of other supports in the community to address the violence that they experience.

In the time remaining to me in my opening remarks, I would like to address some of the relationships and behaviour that may be overlooked when we speak of coercive control and mention a couple of features of the text of the offence that could raise concerns about whether it will achieve its important aims.

For the past several years my colleague, Isabel Grant, and I have been researching sexual violence across women's lifespans, focusing on the particular challenges that arise when prosecuting sexual assault against older women and against teenage girls, for example.

In our research we saw numerous examples of coercive control against these victims that were age-specific. For example, in our study of cases involving teenage girls we saw that the single-largest group of perpetrators were male family members, most often fathers but sometimes brothers, uncles and grandfathers. Most of these men lived with the girl in question but some did not. Controlling behaviours included controlling what a girl could wear, taking away any privacy she might have, isolating her from other family members and friends, and refusing to let her go to school or ride the bus. In one case we reviewed, a father refused to let his daughter speak to her brother, going so far as to separate them at meals so that they couldn't have contact with each other.

In the cases of older women, our primary conclusion was that the barriers to detection and prosecution when the abuser is a family member are significant. In the cases we could find we saw coercive behaviour by husbands but also sons, nephews, and grandsons. These sometimes took age-specific forms such as controlling access to necessary medication or doctor's visits or cutting the woman off from transportation so that she wasn't able to get around on her own. It also included cases of making the woman believe that she was forgetful and incompetent, that she was in the early stages of dementia and, therefore, couldn't manage her own affairs.

I want to say that while it is spousal or dating relationships that may come to mind first when we think about coercive control, I would urge the committee not to overlook these other kinds of relationships in which this behaviour also occurs and is often a precursor to other violence.

I'll conclude by saying there's a lot to discuss here in terms of the offence itself, in particular, the mental element. Fundamentally, what I would say is that it's important not to create an offence that replicates some of the problems we've had with the criminal harassment or stalking offence, and I see some of those challenges here.

I'm looking forward to discussing that more with the members of the committee.

• (1110)

The Chair: Thank you very much, Ms. Benedet, for being right on time.

We'll now go to Jennifer Koshan, who is a professor, faculty of law, at the University of Calgary.

Go ahead, Ms. Koshan.

Professor Jennifer Koshan (Professor, Faculty of Law, University of Calgary, As an Individual): Thank you, Madam Chair, and good morning.

I am grateful to be joining you today from Treaty No. 7 territory, and I appreciate this opportunity to speak with members of the committee about the criminalization of coercive control.

I'm part of a research team that's reviewing domestic violence laws across the country. Our focus is on how different laws and

policies intersect both within and between Canadian jurisdictions in ways that can create barriers, injustices and safety issues for survivors and their children. Our research is informed by the recognition that the harms of domestic violence are gendered and can be intensified and unique for persons experiencing intersecting inequality, such as indigenous, racialized and migrant women.

I have four key points to make today about the criminalization of coercive control.

First, we should consider criminalization in the context of other laws in Canada. We now have recognition of coercive control in the Divorce Act and some provincial family law and civil protection order legislation, but it's not yet recognized across all Canadian laws.

The criminal law could, in theory, help to increase recognition amongst members of the public and legal actors that coercive control is a significant form of abuse. This recognition might help move us away from the current incident-based approach to domestic violence, which focuses on discrete physical acts rather than the ongoing and cumulative effects of coercive control.

A new criminal law could also lead to validation of survivors' experiences and protection of survivors and their children from the harms of coercive control, and we know that these harms include death, because coercive control is a risk factor for femicide. A criminal law could, in theory, also have positive impacts on other areas of law, both in legislative definitions of domestic violence and in how judges and other legal system actors understand and apply those definitions.

However, I think we also need to look at how law on the books translates into law on the ground. We do have some experiences in Canada to draw upon here. British Columbia was the first province to include coercive control in its family legislation, and case law shows that the reform has had mixed impacts on judicial decisions. Judges sometimes have difficulty seeing coercive control and, conversely, some survivors have been accused of coercive control when they were trying to protect their children from abuse, with negative consequences for their cases.

I also think it's important to think about how criminalization of coercive control would impact family law and child protection cases.

My second point is that we should examine whether the criminalization of coercive control and its implementation will have unintended consequences and take steps to avoid those consequences if criminalization does occur. I worked as a Crown prosecutor in the 1990s and witnessed first-hand how mandatory charging and prosecution policies led to mutual charges in domestic violence cases, where police would charge both parties and leave it up to the judge to sort it out.

Based on this and other experiences with criminalization, we must ensure that survivors of violence are not caught by new laws on coercive control. As Professor Benedet mentioned, we know that women continue to be subjected to myths and stereotypes about their credibility when they make allegations of domestic violence, and we need to ensure that isn't used against them, either by abusers or by the legal system itself.

It's also crucial that we think about how criminalization disproportionately affects indigenous and racialized people. Criminalization of coercive control may also affect the willingness of survivors to call the police for immediate safety needs, which we already know to be an issue for these and other groups, such as migrant women and LGBTQ+ folks. We cannot call these consequences unintended or unanticipated anymore and must think about them in the context of criminalizing coercive control.

My third point—and I'll be brief here—is that we should fully consider the experiences of other jurisdictions with the criminalization of coercive control, again looking not just at law on the books but also at how their laws have worked on the ground. I also think it's important to look at those jurisdictions that have decided not to criminalize coercive control. Experience from those other jurisdictions shows that if a new criminal law is passed, it must be accompanied by specific police and Crown policies, along with training, not just for police and Crowns but for judges and lawyers more broadly, as well as supports for survivors.

• (1115)

My overarching recommendation is that whether to criminalize coercive control should be examined in the context of a national action plan on violence against women. We know that WAGE is moving forward with this sort of action plan. Consultations will be happening across the country. I believe it's important to think about how the criminalization of coercive control will intersect with the other kinds of recommendations that WAGE will be bringing forward and justice has an important role to play here.

Thank you.

The Chair: Thank you very much.

We'll now go to Hiatus House, which is represented by Genevieve Isshak.

Please go ahead for five minutes.

Ms. Genevieve Isshak (Clinical Director of Residential and Community Services, Hiatus House): Thank you, everyone.

As the clinical director of residential and community services at Hiatus House in Windsor-Essex, Ontario, I really appreciate the opportunity to speak with all of you with respect to Bill C-247.

Our mission at Hiatus House is to break the cycle of domestic violence, one family at a time, by providing 24-hour crisis help and emergency shelter to abused women and their children. This is combined with public education, research and specialized counselling services for all family members impacted by domestic violence.

We know that one in four women have reported that they have experienced domestic violence. Because this does not include the unreported instances, we believe this number is closer to one in three, which is similar to what the World Health Organization reports worldwide. Keeping these numbers in mind, I would like to ask you to just consider how many of you know or have known of a family member, neighbour, co-worker or friend who has experienced domestic violence. Should one of these women in your life ever need assistance, Hiatus House is the only shelter for women experiencing domestic violence in Windsor-Essex.

Amidst the current pandemic, we know that survivors of gender-based violence are most at risk of violence in their own homes. We know that the most common location of abuse for women and their children is in their homes. We hear the necessary pandemic messaging that staying home is staying safe, but what happens when home isn't a safe place to begin with? Being coerced to stay home results in people feeling even more isolated and leaves little opportunity for escaping their abuser and finding safety.

Abusive partners use isolation—both physical and psychological—as a means to control their partner's contact with friends and family to emotionally bind the partner to them with the shackles of fear, dependency and coercive tactics of control.

We know that the risk to women in abusive relationships is dynamic and that these women are subject to isolation, emotional and psychological abuse and controlling acts of violence. This abuse invariably escalates over time. These abusive behaviours are intended to cause fear and gain power and control over a woman's thoughts, beliefs and actions. Controlling another person's thoughts, beliefs and actions does not require specific overt acts of violence, although those acts certainly may be occurring as well.

As such, the bill will help keep women safe and hold abusive partners accountable for their violence, whether that is an overt act of violence or the type of emotional and psychological abuse that is most common in the intimate abusive relationships that I have just detailed.

Our interest in the bill is focused on the safety of women who are subjected to gender-based violence including intimate partner abuse, and the eradication of all forms of gender-based violence. We are grateful for the possibilities that the bill offers and commend MP Garrison for his initiative in bringing this critical piece of legislation forward.

As you are all well aware, the question of finding the most appropriate criminal response to intimate partner abuse has challenged the violence against women movement, politicians, policy-makers and shelters for decades. While we think Bill C-247 offers important ideas, we believe it is imperative to also take the time for a fulsome and inclusive discussion about integrated legal responses before committing to just one approach.

We believe that the national action plan on violence against women currently in development is important to consider. Such an inclusive discussion would ensure that unintended negative consequences as well as possible benefits—of any law or policy reform—are carefully considered and appropriate and adequate resources are put into place to support those reforms. We urge you to create space for these diverse voices when the Standing Committee on Justice and Human Rights examines this bill.

We also offer our input at any time it may be helpful. Our expertise and experience over many decades of working with women with diverse experiences of violence has taught us much in the implementation. We concur with the intent of the bill and value its genesis in the context of COVID-19-related surges in intimate partner violence.

With that, I thank this committee for inviting my opinion on behalf of Hiatus House today. I hope that you will consider providing careful study and adequate resources to effectively and appropriately implement the bill and allow it to accomplish its well-intended goals.

An end to violence against women and their children in Windsor and Essex County and across all of Canada—creating a life where all family members are empowered to live violence-free—is our vision for the future.

Thank you,

● (1120)

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

We'll go into our first round of questions, which will consist of six minutes. We'll start with Mr. Lewis.

Mr. Chris Lewis (Essex, CPC): Thank you, Madam Chair.

Thank you to all the witnesses for this very important testimony. I certainly appreciate all the information and dialogue.

Specifically, I want to thank Ms. Isshak for coming on this today. Thank you for all you do for Windsor-Essex. It's very important. As you mentioned in your opening remarks, there is probably not many of us, unfortunately, who don't know somebody who has reached out for those types of services. Thank you very much to all of you.

Ms. Isshak, can you comment on the impact of COVID-19 on instances of domestic violence over the past year, and do you have

recommendations on how the government can ensure better support is provided to survivors?

Ms. Genevieve Isshak: In terms of what we saw initially in Windsor-Essex during the first phase of COVID, it was quiet. Our crisis calls from women who were reaching out and wanting to access shelter were quiet—to the point where it was scary that they weren't reaching out. I think this was because there were so many unknowns and fear and the fact that they are being told to stay home, not knowing what was happening with COVID and the mixed messaging.

Once the restrictions started to lift, we did see a surge in calls and a surge in women accessing our shelter but also all of our outreach services. Obviously we had to suspend some of our outreach services in person, but we continue to provide them virtually. Our shelter has been open, and we continue.

The problem we're encountering is capacity. As you know, population-wise, we do not have enough beds to adequately accommodate women and children. We have 42 beds for all of Windsor-Essex County. The provincial government did help us access a hotel. At one point pre-COVID, we were turning women away because we didn't have beds.

This is where you can help me. Together in Windsor-Essex County, our population is over 400,000. When you look at the stats we are so underserved. I know we're not the only community. I urge, in every community, all politicians and the government to provide more resources, not just for shelters and community-based services but for all services because there just isn't enough to meet the demand. We do everything. We safety plan with every woman, but we cannot always provide adequate shelter space for them.

I hope I've answered your questions.

● (1125)

Mr. Chris Lewis: You certainly have. Thank you. That was a very good answer.

You mentioned in your opening remarks one in four women, but you believe it to be closer to one in three. On that same tone, because I was wondering before this meeting.... You answered my question but it takes me down another path, because if we indeed have a lot of couples at home now, would you suggest that perhaps that number could even be closer to one in two?

Have you seen a change in the type of domestic violence during COVID-19, be it mental or physical? I'm very curious on that front.

Thank you.

Ms. Genevieve Isshak: From our experience, we know that initially the violence starts off very subtly. We see the isolation and the psychological abuse, and over time it does escalate. I've been working in this field and with women for 22 years, and I learn from the women with lived experiences. I used to work in London and now I work in Windsor and Essex County.

I can tell you that COVID-19 has, in some situations, escalated the severity. For some of our clients, we are seeing the severity of risk increase. We are seeing many more threats to kill, threats to harm. I don't know what the criminal statistics are in terms of convictions and charges, but we have seen an increase in the last little while in terms of the severity.

Violence against women and those severe cases and the complexity have always been there, but we are seeing much more, certainly, in Windsor and Essex County in terms of the dangers also with being across the border. Being close to the border, we are also seeing many more cases of human trafficking. That's something that we never used to see.

Mr. Chris Lewis: Thank you so much. I know that my time is up, so I want to say thanks very much for coming and thanks for all the hard work you continue to do.

The Chair: Thanks you, Mr. Lewis.

Ms. Genevieve Isshak: It's my privilege. Thank you.

The Chair: Thank you.

We'll now go to Ms. Brière for six minutes.

Mme Élisabeth Brière (Sherbrooke, Lib.): Thank you, Madam Chair.

[*Translation*]

My thanks to all three of you for all your work on this important issue.

My question is for Ms. Koshan or Ms. Benedet.

In fact, Ms. Koshan, congratulations on the Ramon John Hnatyshyn award that you received last year.

Domestic violence today is taking increasingly varied forms. Power and control over an intimate partner are central to the dynamics of violence. Just think of cyber-violence where the partner may be monitoring, controlling or harassing the spouse. This could even mean publishing personal or intimate content about the partner as a means of revenge or control.

In your opinion, does the Criminal Code adequately cover this aspect of domestic violence?

Would this bill help to fight against this phenomenon?

• (1130)

[*English*]

Prof. Jennifer Koshan: Thank you for that recognition of my award, Madam Brière.

I agree that cyber-violence is increasingly an issue that we as a society need to grapple with. I don't have specific expertise on cyber-violence. For the most part, I've been looking at provincial laws that now prevent the disclosure of intimate images and allow courts

to grant injunctions and then create a tort if those images have been disclosed without the consent of the victim.

I think that we have room to improve the way that our criminal law is addressing cyber-violence as well. I wonder if I can turn it over to Professor Benedet, who's more of a criminal law expert than I am, for her thoughts on this one.

Prof. Janine Benedet: Thank you.

It's a very good question, and of course one of the realities of this kind of cyber-violence is that it makes it very difficult for the woman to truly separate from her abuser. The idea of starting over in a new place or having a fresh start becomes very difficult when there are these continued ties electronically.

In terms of the way the bill is currently drafted, there's certainly no reason why coercive and controlling behaviour done through electronic means couldn't be covered. It certainly could be part of the controlling or coercive conduct, but there might be value in signalling that by including the phrase "including by electronic means", which we see for some other offences in the Criminal Code. That might be a useful signal that it's not just necessarily....

It also brings me back to the point I was alluding to in my opening remarks. I'm a little concerned. I understand the need to try to define this in terms of certain relationships, but the idea that people necessarily have to be part of the same household doesn't really always speak to relationships that could involve someone being quite controlling through electronic means, even when people are not resident together. Those are two things to think about in that arena.

[*Translation*]

Mrs. Élisabeth Brière: Thank you.

Professor Benedet, specifically on this issue, the term "relationship" is used in the bill, whereas the Criminal Code has already defined "intimate partners." In your opening remarks, you pointed out that this can indeed occur between spouses, but it can also be much broader than that.

Here's my question. The use of the term "relationship" in the bill may be too restrictive; should it be broadened?

[*English*]

Prof. Janine Benedet: Yes. That was an immediate concern I had when looking at the draft legislation.

I don't want to detract from the fact that most of the time that is what we're talking about, intimate partners, and the way this is drafted it's not required that spouses, common-law or dating partners live together. However, once we get beyond that to former spouses and other kinds of relatives, it seems to be, as I read this, that it's required that they be members of the same household. That seems odd to me and not really in keeping with the way that coercive control can work, even as a woman is trying to extricate herself from a relationship or for very vulnerable victims, children and older adults, who have no ability to extricate themselves or really to control someone's access, even if they're not living together.

Therefore, I would encourage taking a look at that definition and maybe thinking a bit more broadly about the kinds of relationships and situations where this behaviour can occur.

[*Translation*]

Mrs. Élisabeth Brière: My first question can also apply to former spouses who continue to use cyberviolence.

• (1135)

[*English*]

Prof. Janine Benedet: Yes. That's exactly right. If we limit it, then, to former spouses who are members of the same household, that seems strange to me when you think about the ways in which cyber-violence can be inflicted.

The Chair: Thank you, Ms. Brière. You're out of time.

We'll now go to Mr. Fortin.

[*Translation*]

Mr. Fortin, you have six minutes.

Mr. Rhéal Fortin (Rivière-du-Nord, BQ): Good morning, Madam Chair.

Good morning, everyone.

Ladies, thank you for joining us today as witnesses.

We are dealing with an important subject. Your insights are invaluable for making informed decisions on these matters. I think mistakes can easily happen, both in good faith and in bad faith. Hearing from people like you, who are out in the field every day, will probably prevent the most damaging mistakes and allow us to be truly precise and effective.

This morning, I have heard a great deal about domestic violence in your testimony. I am sure you can imagine that no one here will say that it is not serious. We all consider it to be a serious issue that needs to be addressed. There are already provisions in the Criminal Code or elsewhere that condemn violence, domestic or otherwise. Domestic violence has a pernicious side since most of the time the victim lives with the abuser on a daily basis. This is all terrible and we agree on that.

I would like to hear more from you about the purpose of the committee. We are working on issues related to controlling and coercive conduct. The concept is somewhere between violence and non-criminal behaviour. Violent acts such as assault are criminal, there is no need to add new criminal provisions, because they are already there. Harassment is also a criminal act that is already recognized and for which there is a penalty.

At the other end of the spectrum of difficult relationships, discussions between couples may sometimes be a little tough. The woman may tell her partner that she is not happy with something or other, that it seems to her that the woman next door is looking at him strangely and that it is not right; or the man may tell his wife that he is fed up with her going out dancing with her friends. Spouses have discussions that are often not pleasant, but are legal. We don't want to punish them because we think it's okay in relationships to have discussions, even if sometimes they are more difficult.

Coercive and controlling behaviour is somewhere between heated discussions on the one hand and the criminal acts of harassment, assault, and so on, on the other hand. In that respect, I for one am having difficulty grasping the parameters. Could you help me understand? I would like you to clarify what you consider to be controlling and criminal behaviour versus controlling but not criminal behaviour.

Ms. Koshan, I would like to hear from you first, and if any of the other two witnesses want to add anything, I would be happy to hear what they have to say.

[*English*]

Prof. Jennifer Koshan: Thank you very much.

I agree. This is an important opportunity for us to ensure that we get this right.

As I raised in my opening remarks, one of my concerns, if the offence isn't drafted properly, is that actual survivors might be caught up in the criminal offence, and they may be criminalized simply for trying to protect their children. That could be seen, I suppose, on a certain level, as being controlling behaviour, even if they're doing it for very good reasons, so I agree that we absolutely need to get the language in the Criminal Code right.

This is also where, in my opening remarks, I talked about the importance of looking at what other jurisdictions have done. We have, in this bill, adopted the model that England and Wales have put forward. One of the other models that I think is really interesting and important for the committee to look at is what Scotland has done. It passed a law creating an offence for domestic abuse more generally, which includes coercive controlling behaviour but also includes things like physical violence, sexual violence and harassment. Everything is encompassed within the same offence.

One of my concerns with the bill the way it's currently presented is that it may continue to result in police laying multiple charges in cases. They may charge an accused with coercive control, with physical assault, with sexual assault. If we think about a more encompassing offence that includes all of those different kinds of behaviour, that might be a model to take a look at. I'd really encourage the committee to look at how laws in other jurisdictions that have grappled with this issue have ended up being interpreted and applied by the courts, and how they have worked on the ground, because I think that will help decide what is best for Canada.

• (1140)

[*Translation*]

Mr. Rhéal Fortin: I don't have much time left. In 30 seconds, can you give me your personal opinion as to which behaviours should be allowed and which ones should not? I'm not talking about assault, which is clearly a criminal act.

[English]

Prof. Jennifer Koshan: May I turn it over to Professor Benedet for this? I know she has something to say on this.

Mr. Rhéal Fortin: I don't think we have a lot of time.

[Translation]

Madam Chair, I may ask you, at some point, to extend the speaking time in French by one minute to allow for—

[English]

The Chair: You have a whole minute, Monsieur Fortin.

[Translation]

Mr. Rhéal Fortin: The reality is that we lose a certain amount of time for the interpretation of what is being said. I leave that to your discretion.

Thank you very much.

[English]

The Chair: Thank you.

Ms. Benedet, just be very brief, please.

Prof. Janine Benedet: Right.

What I would say is that, of course, assault requires physical contact. The offence of criminal harassment requires that the victims fear for their safety.

If we are thinking about a coercive control offence—and it's distinct from those two kinds of offences—it needs to focus on behaviour, on a course of conduct that has the effect of maybe making somebody fear for his or her safety, as well as create a substantial interference with that person's freedom and ability to carry out his or her day-to-day life. I think that's really where the focus has to be, and that's the wording that we're looking for, possibly as part of a larger offence.

The Chair: Thanks very much. I appreciate that.

We'll now go on to Mr. Garrison for six minutes.

Go ahead, sir.

Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP): Thank you very much, Madam Chair.

Good morning to the witnesses. I thank you for being with us this morning.

I want to start with a couple of questions for Ms. Isshak, but first of all let me thank her for the front-line work her organization does, and of course that's common to all the front-line organizations across the country that work in difficult circumstances and are always under-resourced.

I also thank her for the kind remarks that she made at the beginning. I do want to stress that, while there is a specific bill, we're also looking in this study at other things that can be done to address the problem of intimate partner violence.

In your discussion, Ms. Isshak, could you tell us how often you run across the pattern of controlling and coercive behaviour in those clients who seek your services?

Ms. Genevieve Isshak: Very often. In fact, the common denominator is the controlling behaviours, the psychological abuse, the isolation. Especially with COVID, that has just amplified it.

Pre-COVID and in the years that I've worked with women in abusive relationships, that is very common right from the stalking to the.... What we're seeing now—I didn't mention this because of time—is the legal bullying. They're using the family court system. I can talk all day about the cases, but it's the psychological, the verbal, and it's over and over. Their intent is to instill that fear and to try to gain control over the woman's thoughts. It's the incessant calling and texting. We see that very often, and we see that more than the physical violence.

We know from the women. They tell us that those psychological effects, the controlling, are much more long-lasting. The psychological consequences, as we all know, are difficult to measure, but we know, and the research does support, all the consequences that result from that—walking on eggshells and not being able to live their lives fully and now being trapped because of the stay-at-home orders, which hopefully will get lifted soon, once COVID passes.

• (1145)

Mr. Randall Garrison: Ms. Isshak, how often in those cases that involve physical violence would you say it's preceded by coercive and controlling behaviour?

Ms. Genevieve Isshak: It's definitely the majority. We get about 3,000 calls a year. We see on average about 300 women and 250 kids in the shelter. Again, with limited capacity we've had to turn some women away because we are underserved in our area. However, I would say it's the majority and our data would support that, and I think the research probably supports that too.

The researchers on this panel I'm sure could respond to that.

Mr. Randall Garrison: Thank you very much.

Professor Koshan, I would ask that you step in on that point at this time.

Prof. Jennifer Koshan: I'll try to be brief on this. From the judicial decisions I have read, I think a real problem is that judges don't recognize coercive control, especially in the family law realm. They tend to see violence very much as an incident-based scenario, and they tend to rely much more on physical violence. That's why I think the Criminal Code has a role to play in helping judges to be able to see coercive control.

That's what my research can contribute here.

Mr. Randall Garrison: Thank you very much.

Professor Benedet, on the same question, is there really a continuum that we're dealing with here of coercive, controlling behaviour and physical violence?

Prof. Janine Benedet: There's certainly a connection and the two overlap.

I think Ms. Isshak's comments were in this direction. I would discourage you from thinking that somehow coercive control is less, that it's just a step en route to physical violence, which is invariably more serious. Sometimes this behaviour is so enormously degrading and harmful that it eclipses the physical violence in the woman's experience.

But, yes, there's absolutely a connection between the two. It's there. It's omnipresent as the backup to any resistance to the controlling behaviour.

Mr. Randall Garrison: Thanks very much.

Ms. Isshak, certainly the private member's bill I proposed is one suggested tool for dealing with this problem of coercive, controlling behaviour. You talked about an integrated legal response. Very quickly, can you give me some idea of the other measures that you had in mind?

Ms. Genevieve Isshak: As you know, the national action plan of violence against women is currently in development, so I think somehow...because all the systems have to work together. We know there's a disconnect between the criminal court system, the family court system and the community-based agencies. Unfortunately we still work in silos, but I think if we have everybody working together, it's complex but it can be done.

I look at the U.S. They have a violence against women act. There aren't enough legal consequences, but it has to be done in an integrated, collaborative fashion because we have to worry about the unintended consequences.

The Chair: I'm so sorry, Ms. Isshak. We're completely out of time.

We will go now to our second round of questions starting with Madam Findlay, for five minutes.

Go ahead.

Hon. Kerry-Lynne Findlay (South Surrey—White Rock, CPC): Thank you, Madam Chair.

Thank you, witnesses, for sharing your expertise here today. It's very much appreciated.

I have a daughter at UBC Law and one at U of C in law, so I ask you, professors, to be kind.

With that, I will say that over the course of my legal career doing a lot of family law, I dealt with all of these issues. I found the hardest thing in advising was to help women walk through their fear and find their voices again. This is a slow process. It's not a quick process, because often it has been lost for a very long time.

I have only five minutes, so I'm going to open with a couple of questions, which I hope we can get through, and then maybe I will have a chance to ask another one.

Starting with Professor Benedet, I understand you're a leading scholar on this topic and also active in pro bono work representing victims of sexual violence. I thank you for that work. I understand

that some of your more recent research has focused on barriers to the criminal justice system for victims of sexual assault.

Can you tell us about how these existing barriers have been affected by the pandemic, and what changes you would like to see to increase confidence in the justice system, in the public's mind, to address under-reporting.

• (1150)

Prof. Janine Benedet: Thank you. That's a really good and complicated question in a short amount of time.

The barriers my work looks at include the unwillingness of those in the first line of response—the police and later Crown counsel—to actually see and to recognize the experiences of women. This is my concern. I think it's very useful to look at legislation and to think about strengthening the Criminal Code, but sometimes it gives us a bit of a false sense of security because, in fact, if you have women who won't even bother to report because they feel they are going to be treated with contempt by the police and that their cases will not be properly investigated, there becomes a privatization of violence against women, the idea that it's meant to be solved by women alone, perhaps in conjunction with some community supports but that there's no state responsibility to interfere with male violence.

What needs to be underpinning all of this—these new offences and action plans—is the idea that this isn't for women to navigate on their own but that there's a state responsibility to step in and to interfere with that violence.

Hon. Kerry-Lynne Findlay: Thank you, Professor.

To Professor Koshan, I know you have an article coming out, “COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence”. In that article you talk about increases in domestic violence cases being traced to the impact of the virus itself, as well as to societal responses to contain the virus such as stay-at-home orders that lock women and children in homes. Listening to the testimony, I would also say it's a matter of increased perpetrator access when they are at home in one place.

What services ought to be more accessible? Is it a matter of a true lack of availability of services or a lack of awareness of the services that are available, or both?

Prof. Jennifer Koshan: Our research does show several barriers that have arisen for victims during COVID-19. One barrier we haven't talked about is the one that the courts themselves have created through hearing only urgent cases, and especially in the family law area that has really made it difficult for women to even get into court.

To echo Professor Benedet's point, that results in the privatization of violence because women don't even have access to a judge who will hear their concerns about custody and access issues and how they are being impacted by COVID, for example.

Something else I think we should be looking at is increased access to legal aid and other funded legal representation for victims. In the context of the bill specifically, I think it's really important to think about supports for victims, including independent legal advice, because they are going to have to testify about very terrible traumas that have happened to them, and they will need supports to assist them in being able to do that.

The Chair: Thank you.

Hon. Kerry-Lynne Findlay: Thank you.

I'm out of time already, and I had so much to talk about.

The Chair: I understand that.

We'll now go to Ms. Damoff for five minutes.

Go ahead, Ms. Damoff.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you, Chair.

I want to thank all of our witnesses for being here.

Mr. Garrison, I really want to thank you for bringing this forward and highlighting such an important issue.

On January 28, 2020, Dr. Jennifer Kagan went to court with an urgent motion to suspend access by her ex-husband to her daughter. On February 9, 2020, little Keira Kagan was taken by her dad to Rattlesnake Point. He jumped off the cliff, killing them both.

I've had numerous meetings with Dr. Kagan and her husband, who is a lawyer in family court, and we've had several conversations about exactly this: coercive control and the lack of knowledge by the judicial system about intimate partner violence, particularly coercive control. She had been trying for three years to convince judges what this ex-husband was like and was continually denied. That resulted in the death of this wonderful little four-year-old girl.

Having laws in place is one thing, but one of the things that Keira's stepdad has expressed concerns about, because he's a lawyer in the Ontario family court, is that putting it in law does not solve the problem if we don't have the education.

I see Ms. Koshan shaking her head and also Professor Benedet.

I wonder if you could comment—not just on judges but on the police and the Crown—on how critical that is so that we can protect little girls like Keira and women like Jennifer.

• (1155)

Prof. Jennifer Koshan: Thanks very much for that question.

Yes, I absolutely agree that there needs to be judicial education around coercive control. I would say that we should be educating lawyers about coercive control as well, because one of the issues right now is that lawyers don't screen for domestic violence in family law cases, and if their client has been subject to coercive control, that can completely affect the way the family law matter unfolds.

I think there needs to be—even starting in law schools—education around coercive control. There also needs to be training for police and Crown prosecutors and, to go back to what I said in my opening statement, there needs to be policies so that the police and

the Crown are appropriately applying whatever law comes out of these consultations.

Ms. Pam Damoff: Professor Benedet, did you want to comment on that? I know that you train lawyers.

Prof. Janine Benedet: Yes, as does Professor Koshan, and I do a lot of judicial education as well.

Sometimes that's right. It is about awareness and understanding that behaviours on their own might look either not like offences or like minor offences: things like destroying joint property that's owned by them or the spouse driving erratically and at high speed when the wife and children are in the car. There are recognized risk factors and patterns of behaviour here. We're not starting from zero, and we need to be able to recognize that.

We also have to name and reject the persistent stereotype that women engage in these family court processes only in order to punish dads and to keep them away from their kids as some kind of vindictive move for having been scorned. That's a pernicious stereotype. It's a myth, frankly. Women don't engage themselves in the family court system generally unless they absolutely have to. That's part of what feeds into the denial about just how serious this behaviour is.

Ms. Pam Damoff: Thanks, both of you.

Ms. Isshak, thank you for the work you're doing. I know it's not easy.

I have a question for you. In speaking with women's shelters, I often hear about the prevalence of how firearms are used, not just in intimate partner violence but for coercive control. I wondered if you could maybe speak about your experience with that, and if there's time, maybe some others want to pipe in as well.

Ms. Genevieve Isshak: Yes, we do see it. We don't see it often, actually. We see the other weapons more: knives and, really, any weapon. I would say we see more of the knives, the bats and sometimes boots. It could be anything and everything, which is surprising. We don't see a lot of guns, but certainly it does happen.

For the guns that they do use, though, a lot of times it's for threats. It could be a hunting gun. They have a gun and they threaten to kill them if they leave, or they're going to kill the horses or the dogs—whatever the pets are. That's what we see more of.

Ms. Pam Damoff: Thank you.

I think that's my time.

The Chair: Thanks very much, Ms. Damoff.

We'll now go to Mr. Fortin for two and a half minutes.

Sir, go ahead.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Madam Chair.

I will continue along the lines of the last question.

Ms. Isshak, I think you were talking about the husband who tells his wife that he has a gun and that, if she leaves, he will kill her. Are those not threats that are already criminalized, just like forcible confinement? What's your view on that?

Would you like me to ask another witness?

• (1200)

[*English*]

The Chair: Who was the question for, Mr. Fortin?

[*Translation*]

Mr. Rhéal Fortin: I'm going to drop it, because one minute will have gone by without receiving a single answer.

My concern is to define what is allowed. The Criminal Code already has many prohibitions. I am not against adding prohibitions on what is unacceptable, but I am concerned about what is considered unacceptable and is not already criminal.

Confining a person and detaining them against their will is a criminal act under section 279 of the Criminal Code. It is an indictable offence to threaten someone; it is an indictable offence to harass someone; it is an indictable offence to assault someone. It is even a crime to spit on someone. I won't go over all the prohibitions, but I'm explaining this to you to express my concern. I'm looking for the limit. What do you want to prohibit? Perhaps we should look at it in a different way.

Perhaps my question should be: what do you consider to be acceptable in a relationship, other than "bear hugs"? What would be acceptable? Where is the line between acceptable and unacceptable?

Clearly, I will need more than five minutes to get answers. I hope I make a good witness.

[*English*]

Prof. Janine Benedet: What I can say is that we are talking here about behaviours that aren't necessarily covered by any other provision. Threatening to destroy someone's property or keeping them away from their friends doesn't really amount to the offence of unlawful confinement, which requires physical restraint of the person. It's a kind of psychological terror and punishment that has the effect of restricting people's day-to-day lives in a way that doesn't necessarily involve overt threats of violence or overt physical force. That's the line we're attempting to draw. I recognize it needs careful drafting to—

[*Translation*]

Mr. Rhéal Fortin: Isn't it more a matter of educating young people than of new criminal prohibitions?

[*English*]

The Chair: Thank you.

[*Translation*]

I'm sorry, Mr. Fortin.

[*English*]

You're out of time and we are also running a little bit behind.

We'll now turn to Mr. Garrison for two and a half minutes.

Go ahead, sir.

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

I'd like to give each of the witnesses maybe 30 seconds to respond very directly to this question: Do you think an initiative like criminalizing coercive and controlling behaviour is a useful contribution to a strategy of confronting the very high levels of physical violence between intimate partners in this country?

Maybe we'll start in the order they testified.

The Chair: Ms. Isshak, we'll go to you first for that.

Ms. Genevieve Isshak: Absolutely. At the end of the day, for me it's an opportunity to criminalize behaviour, and it's behaviour that is obviously unacceptable. It's abusive. We believe that any learned abusive behaviour can be unlearned, but this is one way to hold the abusive person accountable. Coupled with that there needs to be training and counselling services for all family members who are impacted by domestic violence, including the abusive person, because we know that if you provide help to him, that behaviour can change and that will make a difference, so it's all of it.

Mr. Randall Garrison: If we can just interrupt, I'd like to give 30 seconds to each of the other witnesses to respond to this.

Professor Benedet.

Prof. Janine Benedet: I would say there are two big benefits. The first is that it permits early intervention because it allows people such as neighbours and friends to go to the police with information, and it's a basis for the police to actually do something. He has taken the tires off of the car and won't let her go anywhere. It's that sort of thing.

The other thing is that it names and makes visible a behaviour that sometimes is treated as not really anything because it hasn't escalated to violence.

It has those two benefits.

• (1205)

Mr. Randall Garrison: With the indulgence of the chair, perhaps we can hear from Ms. Koshan very briefly.

The Chair: Yes, very briefly.

Prof. Jennifer Koshan: Thank you.

I agree that criminalization of coercive control can have the kinds of benefits that my colleagues have mentioned, but I would really urge the committee to ensure that it's done correctly so that the offence doesn't have unintended consequences or impacts on members of marginalized groups and that it fits within the overall scheme of laws that we have in Canada.

The Chair: Thank you very much for that.

With the consent of members, we have Mr. Moore and Mr. Sarai for five minutes each on the list. Is it okay if we finish this round before we go to our second panel?

Ms. Findlay.

Hon. Kerry-Lynne Findlay: Madam Chair, I just want to know whether I could ask that Professor Koshan's article, "COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence", be tabled with the committee. It's squarely on point to what we're studying and I did bring it up in my questions.

The Chair: Thank you. I appreciate that.

Professor, if you can share that with the committee, that would be really helpful for our deliberations.

We'll go to Mr. Moore, then, for five minutes. Is that okay with everyone?

Mr. Randall Garrison: Yes, Madam Chair, provided that we are not cutting our next panel short as well.

The Chair: It's a give and take.

Mr. Randall Garrison: I would not agree if we're going to cut the next panel short.

The Chair: Okay.

Hon. Rob Moore (Fundy Royal, CPC): Madam Chair, thank you.

Seeing the time is 1:07 p.m. Atlantic, I would think we should probably go to the next panel. I'm prepared to ask a question of the next panel. I do appreciate all the time and the testimony from this panel, but we've divided our questions based on one hour for each panel.

The Chair: Thank you. I appreciate that.

Given that we don't have consensus, I thank the witnesses for their testimony in this hour. We'll suspend as we move on to our second panel.

Thank you, everyone, very much.

• (1205) _____ (Pause) _____

• (1210)

The Chair: I call this meeting back to order. Just very quickly before I introduce the witnesses, for the benefit of all the witnesses, I will outline a few things.

Before speaking, wait until I recognize you by name. When you are speaking, please unmute yourself and then mute yourself once you've finished speaking. That obviously applies to all members as well. Address all of your comments through the chair. Interpretation is available at the bottom of the screen, so please select the language that you would like to hear. When you are speaking, speak slowly and clearly, and when you're not speaking your microphone should be on mute.

Welcome to our witnesses. We have Carmen Gill, who is suffering some technical challenges right now. She is from the department of sociology at the University of New Brunswick. We also

have the Office of the Federal Ombudsman for Victims of Crime, represented by Heidi Illingworth; and Sagesse Domestic Violence Prevention Society, represented by Andrea Silverstone, who is the executive director.

At this time, we'll turn to Ms. Illingworth for her opening remarks, for five minutes. I will give cues of one minute and 30 seconds to members and witnesses as you grapple with the timing.

Ms. Illingworth, please go ahead.

• (1215)

[*Translation*]

Ms. Heidi Illingworth (Ombudsman, Office of the Federal Ombudsman for Victims of Crime): Madam Chair, thank you for inviting me to appear here today.

[*English*]

I am the federal ombudsperson for victims of crime. My office is an independent, arm's-length organization within the Department of Justice Canada. We work with victims by taking and reviewing their complaints and making recommendations to federal decision-makers to ensure that victims are treated fairly and with respect across the criminal justice system.

I want to pay my respects to the first nations, Métis and Inuit ancestors, and affirm my office's commitment to respectful relationships with one another and this land.

I would like to begin by thanking the honourable member Randall Garrison for his efforts to bring awareness to the issue of coercive control in Canada. I do appreciate that the subject is very meaningful to him personally. In fact, my office commissioned a paper on this subject last spring and I wrote to the Minister of Justice to request that he introduce such legislation. This is because at my office, we hear regularly from survivors of intimate partner violence who feel that they are not heard, believed or treated fairly when they report their experiences to the police. That is why there is a need, in my view, for legislation to criminalize coercive control, which is a pervasive form of psychological violence.

Briefly, coercive control consists of repeated behaviours that aim to isolate and intimidate an intimate partner. These behaviours can include limiting the victim's freedom, verbal abuse and threats of harm to the victim, their child or pet.

Currently, IPV is approached as an incident-based problem. It is treated as an episodic or one-time event and the repetitive dynamics of coercive control are not recognized. This makes it extremely difficult for law enforcement to intervene effectively. Experts have identified coercive controlling behaviours as important precursors for femicide worldwide. This harmful and dangerous behaviour has been criminalized in other jurisdictions, such as England and Wales, Ireland, Scotland and several American states.

As you undertake this study, it is important to consult with diverse experts who serve survivors on the front lines. It is also critical to apply a GBA+ analysis and hear the lived experiences of survivors, especially those from indigenous communities, Black people, people of colour, individuals with disabilities and members of the 2SLGBTQIA community to ensure diverse voices are considered.

The following data shows us how prevalent intimate partner violence is in Canada. In 2020, between January and September, the Calgary Police Service responded to 15,038 domestic incidents. This is 55 calls a day in a city with a population of approximately 1.5 million. In Winnipeg, a city with some 817,000 residents, they typically record 16,000 domestic incidents a year. That's 44 per day. Statistics show us that victims of IPV are disproportionately female. We also know that this plagues our society and costs us billions of dollars every year.

Honourable members, I put this to you: It has to stop. That is why I support the study of this legislation. Several provisions of Bill C-247 bring positive change for victims. I especially welcome the proposed broad definitions of the concept of connection found in proposed subsection (3).

We are submitting a written submission as well, which will address some of these issues more fulsomely.

Honourable members, I would like to say in closing that I believe the Canadian legal and justice systems must be more responsive to the lived realities of victims and survivors. I work directly with survivors, and that is why I think it is time that we address this gap. Victims deserve access to justice, which is often not possible due to our limited legislative framework. By making Criminal Code amendments, we can improve women and children's safety. We must also take the time to address the current police limitations in recognizing these coercive and controlling behaviours.

I welcome the opportunity to answer your questions. Thank you.

• (1220)

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

We'll now turn to Andrea Silverstone for five minutes.

Go ahead.

Ms. Andrea Silverstone (Executive Director, Sagesse Domestic Violence Prevention Society): Good afternoon, Ms. Khalid and members of the justice committee. Thank you for having me today and for providing me with the opportunity to discuss a topic I am incredibly passionate about: coercive control as a framework for understanding and addressing violence.

I am the executive director of Sagesse Domestic Violence Prevention Society, which is a provincial organization in Alberta that supports individuals, organizations and communities to disrupt the structures of violence. I am also a graduate student at the University of Salford in Manchester, United Kingdom, working towards the completion of my master's degree in the psychology of coercive control.

Coercive control is a pattern of behaviour that seeks to strip away a person's freedom and their sense of self. It is a liberty crime.

Focusing on coercive control as a criminal offence is crucially important in devising measurements of criminality, because it reflects the multiple tactics of coercion and control employed by perpetrators of violence.

The current framework of criminal offence does not reflect the experiences of victimization or the harm perpetrated to victims of domestic violence. This is evidenced by high attrition rates, sentencing data and low conviction rates in cases of domestic violence.

Relationships with coercive control result in greater injury to the victim and are characterized by more frequent and severe violence that's less likely to desist. The increase in severity makes the need for legal intervention in cases of coercive control even more imperative, in order to interrupt the escalation and frequency of abuse.

Because the current criminal framework to address domestic violence does not take into account coercive control, the justice system is not viewed by many victims or victims' advocates as a tool to address domestic violence in society. This is evident not only through the low conviction rates and high attrition rates I already mentioned, but also through the fact that less than a quarter of victims of domestic violence report it to the police.

It should be noted that when the justice system in the United Kingdom changed its working definition of domestic violence—years before the legal system changed to make coercive control a criminal offence—calls to the police increased by 31%. This is because once the definition changed to encompass the true experience of the severity of coercive control, victims believed that the abuse they were experiencing would be addressed by the police and, by extension, the courts.

Because our current criminal justice system focuses only on events that are deemed criminal offences, it ends up excluding many other threats that make up ongoing coercive control, blinding the justice system and leaving it without the tools to actually address violence in our society.

I've been working in the domestic violence sector for over 20 years, and I believe that including coercive control as a criminal offence is a game-changer. It's going to give the justice system the opportunity to intervene in violence before it escalates. Coercive control is present in 95% of relationships where there's domestic violence. It's one of the best indicators of lethality. If the police and justice system have the ability to address coercive and controlling behaviour criminally, it's going to allow them to prevent the escalation of domestic violence.

It will change how society views domestic violence. If our justice system puts the lens of coercive control on domestic violence, it will create a discourse in the public in which all Canadians will understand that violence is much more than a black eye and that people stay in violent relationships because of a loss of personal agency. It will destigmatize domestic violence, allowing us as a society to do a better job of addressing violence.

It will save our system of care—non-profit agencies, police and health—and businesses money. It's way more economical to intervene before the domestic abuse becomes physical. It allows the perpetrators to get support before the lethality of their crime increases. It breaks the stigma around domestic violence, allowing both victims and perpetrators to get support.

Domestic violence is at epidemic rates in Canada and is rapidly increasing due to the effects of COVID. We need to improve and innovate our approach to addressing and stopping the violence before it escalates. Making coercive control a criminal offence in Canada is our opportunity to do this.

I'd like to end by making four recommendations. The first is that we immediately implement a new nationwide working definition of domestic violence to reflect coercive and controlling behaviour. The second is that the Canadian criminal law be changed to reflect the criminality of coercive and controlling behaviour. The third is that support be provided for nationwide training for police, judges and Crown prosecutors on the framework of coercive control and domestic violence. The last is that we appoint a coercive control and abuse commissioner for Canada, with expertise in all forms of abuse, to provide public leadership and expertise to legislators about abuse issues and to play a key role in overseeing and monitoring the provision of abuse responses with a focus on coercive control.

I want to take this opportunity to thank Mr. Garrison for bringing forward his private member's bill and bringing attention to this issue, and I want to thank the committee for allowing me the opportunity to present to you today on an issue that is so important to me and for all Canadians.

I look forward to the opportunity to answer any questions and to continuing this dialogue.

• (1225)

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

We'll now go to Carmen Gill, professor in the department of sociology at the University of New Brunswick.

You have five minutes. Go ahead.

Professor Carmen Gill (Professor, Department of Sociology, University of New Brunswick, As an Individual): I'm really happy to be here before you to share my position about the criminalization of coercive control.

I prepared a brief. I don't know if you have it with you, but I will refer to the document I already submitted yesterday.

It's clear that intimate partner violence encompasses different forms of violence that are physical and non-physical. However, from the criminal justice perspective, it is difficult to recognize certain behaviour as being part of an intimate partner violence dynamic. This is the case with coercive control that does not necessarily involve physical violence or a single incident, but instead consists of repeated and continuous patterns of behaviour that occur over a lengthy period of time.

Since we're not covering this particular form of behaviour in the Criminal Code of Canada, it's completely hidden from the criminal

justice system response. Intimate partner violence is multi-dimensional in nature and will encompass numerous forms of violence.

I would like to talk a little about what coercive control is and the difficulty in addressing coercive control from a law enforcement perspective.

Coercive control encompasses acts of both coercion and control through the use of force, deprivation, humiliation, intimidation, exploitation, isolation and domination. A number of behaviours that we see in coercive control seem to be normal, but if you combine all those behaviours together, they become part of what we call coercive control in the dynamic of intimate partner violence.

This is done to produce a victim's obedience, ultimately eliminating their sense of freedom in the relationship, something that Evan Stark has referred to as the entrapment of women in their relationship. This form of violence is continuous, and resulting harms are cumulative over time, and therefore, unable to be explained by a single event. The intent is to remove the victim's sense of individuality, autonomy, liberty and capacity to make decisions for themselves, effectively trapping them in their own personal lives.

It's about microregulation that is associated with traditional gender roles and the division of labour in which women are stereotypically more passive, dependent and responsible for household and child care duty. In this type of pattern, it's going to be emphasized that the traditional role of masculinity, where men have the responsibility to pursue female partners, and the general physical advantage that men hold over women, results in the unlikelihood that a woman would be able to achieve the same kind of dominance over her male partner that would be reflective of coercive control.

There are numerous tactics that we can highlight about coercive control. Of course, there is physical violence and sexual violence, but there are tactics, as well, that are going to include limiting transportation, denying access to household, controlling food consumption, disconnecting phone lines, breaking cellphones or preventing them from going to work or going to school. If you accumulate all those forms of behaviour, combined together, they are going to fall under coercive control.

In Canada, the Government of Canada recognizes coercive control in various documents, but it has not been translated into an offence in the Criminal Code.

What I would like to go for here is to talk about the police response to coercive control.

Police have the responsibility to assess and manage the risks that are posed by an intimate partner perpetrator, and of course, they are going to assess those situations in light of the tools that are offered to them. The tools that they have are risk assessment tools, and without having an offence around coercive control in the Criminal Code, they are not likely going to see certain behaviour as part of the dynamic of intimate partner violence. It's going to be hidden, because they are going to look for the one incident and for evidence of physical violence.

I will stop here, because I have already spoken too much.

• (1230)

The Chair: You're right on time, Professor Gill. I appreciate that. Thank you.

We'll go into our first round of questions for six minutes.

Mr. Moore, go ahead sir.

Hon. Rob Moore: Thank you, Madam Chair.

To the witnesses on this panel, thank you for your expertise in this area.

Dr. Gill, hello from a fellow New Brunswicker. I know that you've written extensively on this. I'll get right into my questions, as time flies in this format.

You talked to CBC last May about the unique situation we're in now, where persons are living in an environment where they're suffering domestic violence but now being told to stay home and stay safe. In Nova Scotia their slogan is, "Stay the blazes home". We're all being told to stay home, and that it's safe at home. You touched on this, that governments are telling Canadians that the safest place for them is in their homes, but for individuals in an abusive relationship, that's certainly not the case.

I know we're having a broader discussion around this bill, but I think one reason we're studying it right now is in the context of COVID. Could you comment on what you have seen in your research over the last year with lockdowns and people spending more time at their homes due to COVID?

Prof. Carmen Gill: Thank you for this question. It is true that I've been speaking a lot about coercive control during the pandemic. I've been saying that the most dangerous place for women is their own homes. We are more likely to be victimized by someone we know—basically, someone from our home, such as a spouse or somebody else within the home. When you are in an abusive relationship and you have no possibility of getting out, you are completely confined in the home, and when we talk about coercive control, we're talking about being confined. We're talking about isolation. This is the perfect context in which an abuser can really control his partner. There is no way for them to get out of the house.

Especially when we were all in lockdown in March and April, there was no possibility to reach out. It was extremely difficult for those who were in an abusive relationship. It provided the perfect context for abusers who were already controlling their spouse, even before the pandemic. In a pandemic it will be exacerbated, because clearly they will be on them constantly.

Hon. Rob Moore: Thank you.

Dr. Gill, it was mentioned by earlier panels, on Tuesday as well as today, that the challenge for police is that they are often looking for that one incident that is chargeable, something that's clearly within the parameters of our Criminal Code. You said something in your remarks that I'd like you to elaborate on. I think there is a struggle around nailing down what exactly it is we're talking about and when something becomes coercive control. You mentioned that it can seem to be normal, but the cumulative effect is coercive control.

Can you give some examples of that? We know that in the family relationship all kinds of dynamics go into play. How is something that can be normal and maybe non-criminal in one context, but with that cumulative effect—this gets into the difficulty of charging someone under the Criminal Code—could be coercive control?

• (1235)

Prof. Carmen Gill: That is another excellent question.

I am working with police forces right now across Canada and I give them scenarios. I'm hosting workshops with police forces and I'm doing this across Canada. I'm giving them scenarios where it's a story about a man and a woman who are in a relationship and there are different things happening, not necessarily physical violence but an accumulation of different situations that are going to end up having a tremendous impact on the person who is controlled. The person is going to be controlled in their daily activities. They are going to be prevented from doing certain things.

When you present this to police officers, they are going to tell you, "What am I supposed to do with this? I know this is part of violence, but there are no offences in the Criminal Code that would allow me to pursue charges in this particular situation."

Basically, police officers are responding to a domestic dispute call. They show up in the residence. What they have to do is determine whether this is intimate partner violence or just an argument between two adults. How do they do that? They look at the tools they have. They look at the Criminal Code, the offences they have within that, and the risk assessment tools they can use. Unfortunately, they can only assess what is providing physical evidence.

If you look at the Home Office, in England and Wales they have developed a whole series of behaviours that are going to be encompassed under coercive control. As well, for police in England they're using a particular assessment tool that is going to look at different forms of behaviour that are going to be combined to be considered coercive control.

I know it's an abstraction when we talk about coercive control, but it's real. People are victimized; people are dying because of coercive control. Women are killed because they are under the control of a partner, and I can talk for longer about that.

Hon. Rob Moore: Thank you, Dr. Gill.

I think my time is up. Is that what the chair is saying?

The Chair: Absolutely, you're way over. Thank you, Mr. Moore.

We'll now go to Mr. Virani for six minutes. Go ahead, sir.

Mr. Arif Virani (Parkdale—High Park, Lib.): Thank you very much.

Thank you to all the witnesses for your insight and all of the work and the advocacy that you're doing. It goes without saying that this is a really important study.

I just want to put in a comment and then ask two questions, possibly three.

First, I think there have been some steps made in the right direction towards the training piece with Bill C-3 on the judicial sensitization towards sexual assault law. All of us know that the definition of “family violence” in the Divorce Act has been coupled with training that's being put out by the Department of Justice for public legal education and information materials, and for legal advisers. Those are important steps in the right direction. The message I am getting is that we need a lot more of that.

I have a couple of questions, and I am going to start with Ms. Illingworth.

Thank you for your letter to Minister Lametti asking for this to be addressed. The question I have relates to what we heard in the last hour, and you heard the people. Your testimony just now and your letter talk a lot about intimate partner violence and no doubt that is at the crux of what we're talking about here. Some of the testimony we heard just in the previous hour also talked about women who are often on the blunt end of this kind of control, but who aren't necessarily in an intimate relationship. It might be an aunt, a mother, a grandmother or a niece. They're having relationships that are controlling, but don't have that nexus of intimacy.

I am wondering how we can ensure that whatever we do is comprehensive enough to ensure that it's dealing with coercive control that deals with intimate relationships, but not to the exclusion of some of those other relationships.

Ms. Illingworth, could you try to tackle that maybe in about 90 seconds? Thanks.

Ms. Heidi Illingworth: Sure, I can try.

I think we have to be careful in our definitions. The proposed bill has the concept of close relationships and not this.... It encompasses family members who may not be in an intimate relationship, so I think that's something that has to be considered, as you suggest, perhaps with aunts or mothers, and that sort of thing, who may be experiencing this as well.

Yes, we have to examine this carefully and look at what the lived realities of people are. That's why it's so important to keep hearing from those experts on the front lines, like Andrea, who are responding to this every day. Who is coming to them for assistance? Who is experiencing the bulk of coercive control in relationships? Are they spousal relationships?

We know that a lot of coercive control happens in dating relationships as well, so that can't be overlooked, and in same-sex relationships as well. We have to look at all of these contexts. If we're creating a law, it has to be able to respond to the Canadian context and what we're seeing all across the country.

• (1240)

Mr. Arif Virani: Thank you, Ms. Illingworth.

I'm going to pivot from there to my next question, which is related to something you mentioned—and Ms. Silverstone, you could jump in. We heard this in the last hour as well, about the disproportionate impact of this on people who are racialized, people who are indigenous, etc. Can you try to tackle it from both ends based on your experience? I want to know the prevalence of this kind of con-

trol among Black people, people of colour and indigenous people, particularly women.

I also want to hear a little bit, from your perspectives, about some inhibitions that there might be, given the overrepresentation of Black and indigenous people in particular in the criminal justice system. Might there be some reluctance on the part of women in those communities to come forward because the men from those communities are already overrepresented?

It's a tough issue, but if I could have your thoughts on that....

Perhaps, Ms. Silverstone, you could go first and then Ms. Illingworth. Thank you.

Ms. Andrea Silverstone: That's a great question, and it's one that I think we have to be really sensitive in answering to make sure that people have equitable access to whatever it is, whatever solutions we put out there around addressing domestic violence.

It's important to note, actually, that coercive control doesn't just relate to domestic violence. It relates to all forms of violence, which I think is of particular importance when looking at marginalized communities, such as people who are from equity-seeking groups, because often the violence that happens in those communities is lateral violence, not just intimate partner violence. Coercive control is also something that can be laid over those communities.

The more we, through our legislation, represent the experiences of people who experience violence, the more likely they are going to be to reach out to the system to get support, because they will see themselves in the system. If we don't just limit it to spousal violence, intimate partner violence, even domestic violence, but understand that lateral violence does exist in different types of communities, I think that we're a little more likely to get the outcome we want of people from marginalized communities feeling that they can come forward.

Having said that, I think that we, as Canada, can always do better in making sure that marginalized communities feel that we, as a country—and our systems—are there to serve them.

Mr. Arif Virani: Thank you.

Ms. Illingworth, do you want to respond to my second question?

Ms. Heidi Illingworth: Thank you.

I would just agree with Andrea. We have to look at what the response of the criminal justice system is to these communities. Traditionally, it hasn't been positive. They are disbelieved and the violence they've experienced is minimized. The response of police in criminal justice has not been positive.

Very likely, people are not going to reach out, so we have to consider this when we're developing these programs and legislation. We have to figure out how we can provide a response that will be a criminal law response when a person wants that, but then also how we can provide them the support necessary to get through this if they don't want a criminal law response, if they don't want to go that route.

Mr. Arif Virani: Thank you very much.

The Chair: Thanks very much, Mr. Virani.

We will now go on to Monsieur Fortin.

[*Translation*]

You have six minutes.

Mr. Rhéal Fortin: Thank you, Madam Chair.

First, my thanks to all the witnesses who are here today.

I think your testimony is important. We are addressing a sensitive topic. As I said earlier, there are many pitfalls, and we have to be very careful how we deal with these situations. So your insights are valuable to us.

My question is going to be for Ms. Gill.

I appreciated the part of your testimony where you help me to identify what needs to be addressed in our work. There are already offences in the Criminal Code for violence, assault, harassment, forcible confinement. All of those are already criminally prohibited and prosecuted when such incidents occur.

At the other end of the spectrum are the behaviours in relationships, sometimes stormy relationships, that are perfectly okay and should be allowed in a normal society. So we are somewhere in between when we talk about coercive and controlling conduct. What I take from your testimony, Ms. Gill, and from the other presentations, is that we are looking for some sort of model to determine what will be reprehensible controlling and coercive conduct that we want to avoid.

First, am I correct in saying that we are going to find what we want to avoid when controlling and coercive situations keep repeating?

Second, is it really necessary to make it a criminal offence, or do you think there may be other ways to better combat this type of harmful behaviour that is detrimental to everyone's life?

• (1245)

Prof. Carmen Gill: That's an excellent question, thank you.

I agree with you. A number of offences in the Criminal Code allow us to deal with different forms of violence. However, if we decide to make controlling or coercive conduct an offence, a paradigm shift is needed to deal with domestic violence in the criminal justice system.

With physical violence, the focus is usually on one incident. One incident is examined and—

Mr. Rhéal Fortin: The offence will be limited to the particular incident.

Prof. Carmen Gill: Yes, that's right.

In my head, I'm thinking in English and I'm speaking to you in French.

Mr. Rhéal Fortin: Your French is excellent. This is good news for me because there will be less delay between questions and answers.

Prof. Carmen Gill: So we're talking about one incident. But when we talk about controlling or coercive conduct, we are talking about a series of behaviours, a situation, not a single incident.

Criminalizing controlling or coercive conduct forces us to look at the issue of domestic violence in all its complexity.

Mr. Rhéal Fortin: Isn't there a danger of censoring or criminalizing conduct that you and I might consider acceptable?

Take, for example, a couple arguing. They raise their voices. The woman doesn't want the man to go hunting and she hides the car keys. Whatever the situation, there are some behaviours that are a little extreme, but that are deemed to be okay. We don't want to criminalize it.

Where do you draw the line? How do you sort through and determine what must be criminal and what must be acceptable, even if it is a little harsh?

Prof. Carmen Gill: It is agreed that an argument between two adults is not an offence under the Criminal Code.

However, if you start seeing that a number of behaviours have accumulated in a relationship, then it can become an offence under the Criminal Code. Clearly, if we consider that it is normal for a man in a relationship to make major financial decisions or for a woman to leave her job to take care of the children—

Mr. Rhéal Fortin: It's actually the opposite for some people I know.

Prof. Carmen Gill: Many of the behaviours that are associated with traditional gender roles are considered to be completely normal. However, some people will use those behaviours and roles to start taking control of another person.

As I said, in England, the Home Office has developed a number of situations that constitute coercive or controlling behaviour in the Statutory Guidance Framework. When the police intervene, they are not just looking at one incident. They are assessing what is happening in that situation.

Mr. Rhéal Fortin: That can't be easy for the police.

Ms. Gill, I'm sorry for rushing you, I don't mean to be rude, but you know that our time is short. There are 30 seconds left.

In your opinion, are there any methods other than creating criminal offences to prevent unwanted situations from happening? Wouldn't other methods such as education be more effective?

Prof. Carmen Gill: It is important to be effective in all areas. I would say it starts with the Criminal Code.

If you criminalize coercive or controlling conduct, it's going to have a ripple effect on other sectors and it's going to raise public awareness about behaviours that people live with but that cannot be identified as criminal.

• (1250)

Mr. Rhéal Fortin: Thank you.

I am sure that we will return to this.

[English]

The Chair: Thanks very much.

We'll now go to Mr. Garrison for six minutes.

Go ahead, sir.

Mr. Randall Garrison: Thank you very much, Madam Chair. I want to express my thanks to the witnesses for being here today and also for their kind words.

The victims ombudsman made reference to my personal situation. I just want to say that I did grow up in a family where coercive control and behaviour many years ago was seen as the rule and normal. Unfortunately, I think what we're finding in these hearings is that it's still quite often seen as natural or the rule that should apply in families.

My reason for bringing this forward really is in direct response to the many women who have reached out during COVID for assistance and help as the already-existing problem of intimate partner violence, domestic violence and coercive and controlled behaviour has become worse during the pandemic as access to services have been more restricted.

I want to go to Ms. Silverstone. She talked about people staying in abusive relationships because of the loss of independence and how that's related to coercive and controlling behaviour. Maybe she could just tell us a bit more, in her experience and the organization she works with, about the significance of the loss of independence.

Ms. Andrea Silverstone: Thank you so much. I would be happy to talk about that.

What's most important to recognize about coercive control is that it's a pattern of behaviour that is low-level, repetitive, often doesn't involve physical violence and takes away a person's sense of personal agency. They no longer make decisions based on what their own best interests are or what their driving motivators are, but they make decisions based on fear of what the other person in the relationship is going to do to them if they don't make a decision in a certain way.

The questions that were just asked to Carmen are really pertinent questions also in relation to that loss of personal agency because, when a couple fights, if neither one of them changes their behaviour as a result of the fight, it's not coercive control. It is a mutually conflicted relationship, but if one of the parties starts to change their behaviour, lose their personal agency and lose decision-making that is in their own best interest, where their identity becomes assumed by the other individual's identity, that is how we define coercive control.

There's a wealth of research around identity theories and how coercive control takes away a person's identity, and that is the defining factor more than anything else. It means that when I wake up in the morning instead of eating cornflakes, I eat bacon because my partner has told me to, even if I don't like it.

Mr. Randall Garrison: Thanks very much for your clarity on that.

I want to turn to Professor Gill and her work with police, because it was actually the local police forces who brought my attention to this spike in domestic violence during COVID. Quite often people say police don't recognize this is a problem, but I also heard from police that they don't feel like they have tools once they do recognize this is a problem.

Professor Gill, would you comment on your work with the police on this question?

Prof. Carmen Gill: Thank you, Mr. Garrison.

Absolutely. Police officers are aware of what's going on when they respond to different situations, but they have the tools they are working with and they are called risk assessment tools.

In Canada, one of those risk assessment tools is called ODARA. In many places, they are going to use this particular risk assessment tool. This assessment tool is used when there is physical violence or a threat of physical violence. They perform an assessment when they see that, when there is evidence of physical violence. If there is evidence of other things, it's not necessarily going to be assessed.

I did a survey in New Brunswick with police forces. We were asking about their perceptions around intimate partner violence. I had two camps: those who are more traditional in their way of viewing IPV, and those who are more progressive. Those who are more conservative and more traditional are going to use the terminology from the Criminal Code of Canada, so they talk about assault and sexual assault, while those who are more progressive are going to talk about coercion, jealousy and oppression in the relationship or even isolation.

Police officers know that something is happening, but they do not necessarily have the leverage to really do something about the situation besides sending a victim to a shelter, or maybe to issue an 810 so that there will be a distance between the two partners. There's not much they are going to be able to do in terms of intervening. They can separate the parties, they can arrest a party, but there will be no charges that are going to be laid toward this particular person.

You need to find some evidence. In order to find that evidence about coercive control, we need to give them the tools to be able to identify what is coercive control. That's what I would say.

• (1255)

Mr. Randall Garrison: Thank you very much, Professor Gill.

Very quickly in the little time remaining I would like to ask Ms. Illingworth a question.

It turns out last year your office and my office were working on this issue independently, and I only found out when you wrote to the minister.

Can you tell us briefly why you wrote to the minister on this issue at the time you did?

Ms. Heidi Illingworth: Yes. Very briefly, this is a concern of mine that comes from my background in front-line services, working with survivors. It's an issue I continue to hear about in my role as ombudsman. Survivors don't feel there's an adequate criminal law response when they come forward to police. They feel they cannot get assistance, that the person cannot be charged for the serious psychological, emotional and financial violence they are suffering, and that the system doesn't view this as violence, this coercive and controlling behaviour.

I see it as a real gap that still needs to be addressed in Canada.

The Chair: Thank you.

Thank you very much, Mr. Garrison. That concludes your time.

Members, I see that there are three minutes left before 1 p.m. Do I have consensus from members to go into the second round of questions, which will take us about 25 minutes to get through? I leave it to members. I understand that this is a very important topic.

Mr. Garrison would like to go ahead. Mr. Cooper would like to go ahead, as well as Mr. Virani and Mr. Moore.

Mr. Fortin.

[*Translation*]

Mr. Rhéal Fortin: I have things to do before question period at 2 p.m. Perhaps we can extend the meeting by 15 minutes instead of half an hour. That's my suggestion.

It's a really important topic. We have too many witnesses to hear in a short period of time. Whether we are for or against it, it's a passionate and very important topic.

[*English*]

The Chair: Mr. Lewis.

Mr. Chris Lewis: Thank you, Madam Chair.

I am speaking in the House at 1:30 today, so if we go to 1:25 it's going to be very tough for me to log off this and then log back on to the other one. I wanted you to be aware. I didn't know that I had to bring somebody to cover for me.

The Chair: That's absolutely fine.

Would members be okay with it if we just went through one member per party, which would bring us to about 15 minutes? Is that okay? Okay.

We'll go ahead to Mr. Cooper for five minutes.

Go ahead, sir.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you, Madam Chair, and thank you to the witnesses.

It's certainly helpful to look at what other jurisdictions have done as we consider Bill C-247 as well as the issue of coercive control more broadly.

Ms. Illingworth, you noted that several U.S. states have passed laws in this area. I actually wasn't aware of that. I understood that there is a bill in the New York general assembly. As well, in the State of Tennessee, it's my understanding that its law on false im-

prisonment has been amended to include categories of behaviours that constitute domestic false imprisonment.

Can you point to the other states so that we could give those laws consideration as we study this very important issue?

Ms. Heidi Illingworth: Yes. I'm happy to.

Hawaii was the first state to enact anti-coercive control legislation. My understanding is that New York and Connecticut legislators have introduced similar laws. I don't know if they have passed there. That is the information I have from my awesome policy team.

Mr. Michael Cooper: Thank you for that.

I will direct my question to you, Ms. Illingworth, as well as Dr. Gill. Perhaps both of you could address this issue.

It's certainly one important step to pass a law, but it's another to make it operational in terms of making it an effective tool for law enforcement. When we look at upper jurisdictions, we have not seen a significant uptick in the way of prosecutions and convictions. For example, in the United Kingdom at the end of 2018, there were only just over 9,000 offences of coercive control in the context of two million incidents of domestic abuse in that year, and only 308 convictions.

I guess there are some practical issues at play in terms of how law enforcement can lay a charge and how the Crown can successfully prosecute these cases. Can you speak to some of those challenges and how, if this or a similar bill were passed, this tool could be an effective one to deal with this serious issue?

● (1300)

Ms. Heidi Illingworth: Would you like Carmen to go first?

Mr. Michael Cooper: It's for whoever wishes to answer first.

Prof. Carmen Gill: Okay. I will respond, because we have to be quick.

If you go through the England and Wales situation, you are going to find that the Crown prosecutors have developed a handbook on how they are using the coercive control offence. As well, police officers do have a risk assessment tool that they are using and that they call the DASH.

Of course, developing an offence like this will mean that there will be some resources needed to train those people to be able to implement this particular offence. It's the same thing with judges. If it moves forward, they will need to understand the offence of coercive control.

Ms. Heidi Illingworth: Yes, and I would just echo that. I know the last witnesses emphasized this as well, but implementation of the law is a separate challenge. There needs to be judicial education, training of police and Crown counsels and policies to accompany that ongoing training. You can't just pass criminal law and hope that the situation is going to change. There have to be resources behind implementation—monitoring, evaluation and ongoing training.

Mr. Michael Cooper: Thank you.

It seems to me that there are significant challenges and difficulties in operationalizing emotional abuse in a legal context. Even though you speak to some of the things that have happened in the U.K., the fact remains that we have seen very few convictions. I think Professor Gill, in your paper, you noted only 308 convictions. Was that since 2015?

The Chair: That concludes your time, Mr. Cooper.

Mr. Michael Cooper: Could I just get a yes or no to that question?

Prof. Carmen Gill: I believe it was for one year, 2018.

Mr. Michael Cooper: Thanks for that clarification.

The Chair: Thanks very much.

We'll now go to Ms. Damoff for five minutes.

Go ahead.

Ms. Pam Damoff: Thank you, Chair.

Thanks to all the witnesses.

I don't know, Ms. Gill or Ms. Silverstone, if you've done any research on this, but I've spoken to three women in prison, all of whom had arrived in prison for drug trafficking because of coercive control. Emily O'Brien locally here, who's now out, had travelled with her partner. He seized her passport—he had been threatening her throughout their relationship—and forced her to bring back drugs in return for getting her passport back and being able to see her family again. She served time because of mandatory minimums. I met women at the Edmonton Institution for Women who were in exactly the same boat. I'm wondering how often you see women who end up in prison themselves because of coercive control from their partner.

Professor Gill, perhaps you can start. I see you shaking your head.

Prof. Carmen Gill: Yes, I've seen this in Saskatchewan. When I was working at the University of Regina, I did a study of victims of intimate partner violence, and I've seen cases in which the woman was forced to prostitute herself, was locked in the house. There were all sorts of behaviours that she was subjected to, and she ended up being incarcerated because of what she was doing. In reality, she was victimized, but we have not necessarily seen this.

There are other examples I could give, but I will let Andrea speak.

• (1305)

Ms. Andrea Silverstone: I think you've hit the nail on the head. Part of what twiggged my understanding of coercive control and

why it was so important is that I actually started my career working in a halfway house for women coming out of federal corrections. Although they were there for federal corrections reasons, I would say that the majority of clients who were in the halfway house ended up in conflict with the law because of abusive partners who had coercively controlled them into drug trafficking, prostitution, theft and a whole variety of activities. That's why I think it's really important that we understand that coercive control is so much more than just domestic violence. It can also pertain to what I'll call modern slavery essentially—prostitution, non-consensual drug trafficking, sex trafficking and all of those things.

Ms. Pam Damoff: I think my colleague Mr. Maloney wanted some time as well, so I'll pass it on to him.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thanks very much, Ms. Damoff.

I don't think anybody disagrees with the fact that a law of this nature is vital and necessary, but it's the application that I'm struggling with.

Mr. Moore, Mr. Cooper, Mr. Fortin and others have touched on this. Professor Gill, you described it as an abstraction.

Ms. Illingworth, you said the application is more challenging, and I agree with that. What you're doing is criminalizing behaviour that individually may not be criminal while collectively it is. That puts a great burden on a police officer who's called into a situation and asked to investigate a complaint by a spouse for behaviour that, on its own, may seem sort of innocuous. I think this is what Mr. Fortin was getting at earlier.

Professor Gill, in your paper, you set out what the Home Office statutory guidance framework is. You can easily pick three or four things off of that list that, on their own, don't seem troubling, but collectively they are.

Maybe my question is for you, Ms. Silverstone, because I know you're in the business of training and working with groups. Do you feel confident that you could sit down with a group of judges, a group of police officers or any other group to train them in how they can apply this law so that you don't have difficulties at the expense of victims?

Ms. Andrea Silverstone: My answer is absolutely, yes. I think it has to be done with care and caution.

I'm very lucky in that two years ago I got to spend a month and a half in the United Kingdom meeting with the College of Policing and the Crown Prosecution Service to talk about exactly this issue, as they were trying to do training as well as enculturate people to use the law.

One of the things that has happened, because their training has gotten better and better and because they've had some statutory reviews on how they're doing it, is that the incidents of police officers using it as they become better trained and more comfortable with using it means they bring better evidence into court, which means the Crown is better able to do its job, etc. If you look year over year, the course of control legislation as used by police and Crown prosecutors is going up 30% every year. Although the number is very small and it was only about 3% in 2019, I think we're heading in the right direction.

We're very lucky in that other jurisdictions have done this work and are already doing it, so we have a model we can look at. I know that police want to use a tool like this and we would be giving them something they want, not something they'd be resistant to.

The Chair: Thank you very much.

That concludes your time, Mr. Maloney.

Mr. James Maloney: Thank you.

The Chair: We'll now go to Mr. Fortin for two and a half minutes.

Sir, go ahead.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Madam Chair.

I will ask Ms. Gill to share with me the list of countries that she suggests we look at. I understand that Scotland, England and Wales are on the list. What other states should we look at?

We talked about Hawaii with Ms. Illingworth.

Do you have any other suggestions for us?

Prof. Carmen Gill: I have two suggestions: England and Wales. There's also Scotland, where they looked at an offence of coercive control or—

Mr. Rhéal Fortin: Excuse me, Ms. Gill, I would like to discuss this all evening with you, but I only have two minutes. I'll keep that in mind. Thank you for your answer.

The other question I want to ask is about education. Ms. Silverstone was saying that she's very involved in the education of judges, police officers, and lawyers.

How do we legislate or control to prevent coercion? How are we going to educate people about this? Is there currently a program or another mechanism in place to educate the public?

We should work ahead of time to prevent young boys or girls—I know some very controlling girls—from developing this behaviour. I don't know who could answer that question. I'm talking about education, not of police officers, judges or lawyers, but of the public at large, from a young age.

• (1310)

[*English*]

Ms. Andrea Silverstone: I can answer that question. You have hit exactly where we need to be. We need to be getting upstream of this work and we need to stop violence before it begins. There are a lot of promising practices happening across Canada that are preven-

tion programs. Alberta is actually working right now on a primary prevention framework that is being led by my organization. There's a coalition of 500 organizations across Alberta working on that. I plan to submit a written submission and, in that, I could attach some research that has been done on that.

[*Translation*]

Mr. Rhéal Fortin: Thank you.

[*English*]

Ms. Heidi Illingworth: Can I just add really quickly?

[*Translation*]

Mr. Rhéal Fortin: Yes, go ahead.

[*English*]

Ms. Heidi Illingworth: A public health approach is really what we need in Canada, so education, training, criminal law responses, supports for survivors and taking a public health approach.

Absolutely, we need to prevent upstream violence from happening, and we can. We have an obligation to the United Nations to prevent violence against women in the SDGs, and homicide in Canada as well.

[*Translation*]

Mr. Rhéal Fortin: Thank you.

[*English*]

The Chair: Thank you very much.

Thank you, Mr. Fortin.

We'll now go to Mr. Garrison for two and a half minutes.

Go ahead, sir.

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

Of course, I think these hearings before the justice committee are part of what Mr. Fortin is talking about, which is our attempt to shine a light on this issue for the broader public. For that, I thank the witnesses for being present today.

I want to return to something that I think tends to sneak into our discussions, which is the concern that there is some difficulty in recognizing the pattern of coercive and controlling behaviour. Certainly, in my discussions with front-line workers, I don't find they have any difficulty in recognizing what behaviours we're talking about.

I would ask each of the witnesses to very quickly comment on whether they believe it is difficult to recognize and define these patterns of behaviour.

Ms. Andrea Silverstone: I'll begin quickly. I'll let you know that I think it's very easy to define. Not only is it easy to define, but we've created a new tool that is being used by family law lawyers, mediators and arbitrators, which is literally four questions clients can answer that will tell us whether or not there was coercive control in the relationship. It's very easy. We call it the fear factor. If one member of the relationship is afraid of the other person and adjusts their decision-making as a result of it, that's coercive control.

Prof. Carmen Gill: It is going to be easy to recognize coercive control if they know what it is in the first place. I understand that people will not see it if they are not aware of what it is, and with an offence, we would raise this particular awareness about coercive control.

Ms. Heidi Illingworth: I would reiterate that some education is needed. No matter what field you're in, in the criminal justice system, you may come to your job with the preconceived notion that psychological, emotional or financial abuse is not violence, but it is violence and patterns of it.... As I said, when you work on the front line and you talk to survivors, they can describe what they are going through instantly—the fear, the isolation and the control that they're being dominated with. It's just a matter of getting the tools that Andrea has described into the hands of those who are responding, the first responders.

The Chair: Thank you very much.

Thank you, Mr. Garrison.

At this time, I'd like to thank the witnesses for their very compelling testimony. If there are any references to written submissions or other documents, please make sure that you provide the committee with them. If there are any questions that were left half-answered or unanswered, please, you are welcome to provide written submissions to the committee.

Before members log off, I have two quick deadlines to remind you of, for your own benefit and to encourage people.

One is with respect to written submissions for this study from stakeholders. The deadline is February 28 by 12 noon. Please note that and do encourage stakeholders to write to us if they're not able to come in person.

The second deadline that I'd like to remind members of specifically is Tuesday, February 16, end of day. Members can submit their witness list for our next study, which is on the impacts of COVID on the justice system. I'll remind members that, based on discussions, we had eight witnesses for Liberals, eight for Conservatives, three for Bloc Québécois and three for NDP. The deadline for that is end of day Tuesday, February 16. If there are any questions, please get hold of me after the meeting.

Thank you again for a very worthwhile meeting, everyone.

At this time, the meeting is adjourned.

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