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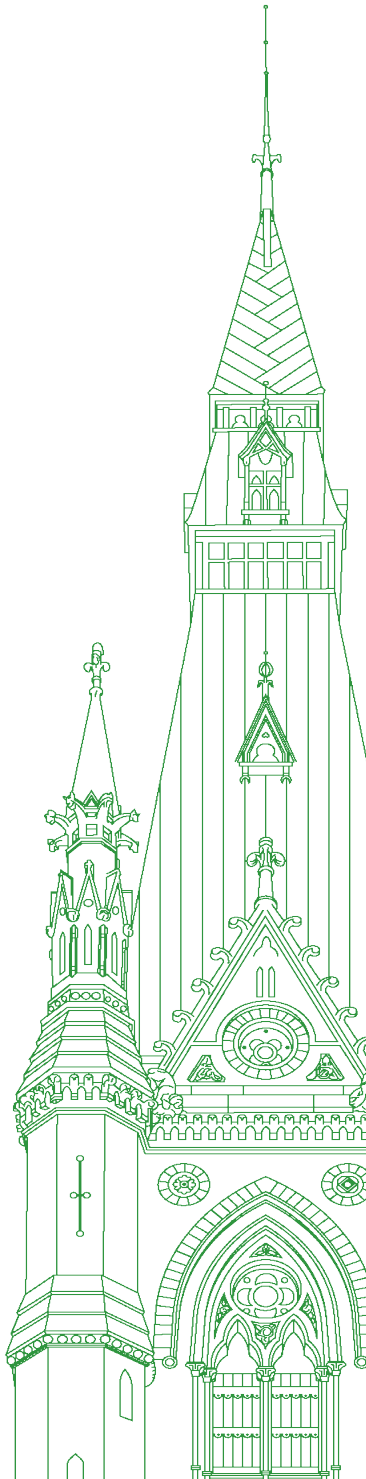

Chair: Mr. Randeep Sarai

Standing Committee on Justice and Human Rights

Wednesday, March 8, 2023

● (1645)

[*English*]

The Chair (Mr. Randeep Sarai (Surrey Centre, Lib.)): I call this meeting to order.

Before we begin, I'd like to mention, in the name of all colleagues and personally, that we wish everyone—particularly all our female colleagues and panellists present today—a good International Women's Day. As you can see, our agenda reflects that important day today.

Welcome to meeting number 53 of the House of Commons Standing Committee on Justice and Human Rights.

Pursuant to Standing Order 108(2) and the motion adopted on January 30, 2023, the committee is beginning its study on Canada's bail system.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Members are attending in person in the room and remotely using the Zoom application.

I would like to make a few comments for the benefits of the witnesses and the members.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mike, and please mute yourself when you are not speaking. With regard to interpretation for those on Zoom, you have the choice, at the bottom of your screen, of either English, French or floor audio. Those in the room can use the earpiece and select the desired channel.

I will remind you that all comments should be addressed through the chair. Members in the room, if you wish to speak, please raise your hand. Members on Zoom, please use the "raise hand" function. The clerk and I will manage the speaking order as best we can, and we appreciate your patience and understanding in this regard.

The Speaker's ruling in the House on March 7 regarding virtual meetings.... Briefly, I'd like to remind all of us of Speaker Rota's ruling regarding virtual meetings as per Tuesday. Interpreters "will not be able to provide simultaneous interpretation if members, and also witnesses in the case of committees, participating remotely are not wearing the appropriate headsets."

Thank you. Now we'll resume our study on Canada's bail system.

Appearing today, we have, as an individual, Dr. Nicole Myers, an associate professor from Queen's University, my alma mater. Also, from the Canadian Association of Elizabeth Fry Societies, we have Emilie Coyle, executive director, via video conference; and from London Abused Women's Centre, we have Jennifer Dunn, executive director.

We welcome you and are glad to have you here. You have the floor for five minutes, and as usual your opening remarks will be followed by questions from the members of the committee. I have cue cards, so when you have about 30 seconds remaining, I'll raise the yellow card, and when you're done, the red card. I'll just ask you to wrap up at that time so that I don't have to interrupt you.

The same goes for members.

Welcome, Ms. Vecchio, to the committee.

I'm a little old school. I use cue cards.

We'll begin with Dr. Nicole Myers for five minutes.

● (1650)

[*Translation*]

Mr. Rhéal Fortin (Rivière-du-Nord, BQ): Mr. Chair, I'd like to make sure that the sound checks were done.

[*English*]

The Chair: Sound tests have been done, and we are good to go, Mr. Fortin.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

[*English*]

The Chair: Thank you.

Dr. Nicole Myers (Associate Professor, Department of Sociology, Queen's University, As an Individual): Thank you, Mr. Chair and members of the committee, for the invitation to speak with you today.

My name is Dr. Nicole Myers. I'm an associate professor at Queen's University. I've been studying issues around bail and pretrial detention for almost 20 years.

Following a tragic event, it is understandable that people, especially the police, are upset and concerned about what's happened and would like to find a way to make sure it does not happen again in the future. I agree that our bail system merits review and attention.

While a tragic incident may be what motivates a critical review of the law and the operation of the system, systematic empirical data needs to be what informs our conclusions about the system and the directions for change. When we think about bail, we must be mindful of the foundational principles of the criminal justice system and the rights enshrined in the Charter of Rights and Freedoms, including the presumption of innocence and the right to reasonable bail.

The Supreme Court of Canada has emphasized that restraint must be exercised in the bail decision, with the starting position being that accused are to be unconditionally released. To hold people accountable for their actions and to sanction and punish behaviour, we must first convict people of the offence for which they've been charged.

What do we know? We know that Canadian crime rates, including violent crime rates, continue to be at historic lows. However, the bail decision in Canada has become generally more restrictive and more risk-averse over time. For example, in Canada the number of people in pretrial detention has exceeded the number of people convicted and sentenced to provincial custody since 2005-06. In 2021-22, 70.5% of the provincial jail population across Canada was in pretrial detention. The rate at which we use pretrial detention has more than doubled in the last 40 years, and the number of people in pretrial has quadrupled in this time.

Given the rate, number and proportions of people in remand, it is clear that Canada is not lenient when it comes to pretrial detention. Many people are serving time before they have been found guilty.

One of the biggest difficulties we face is that there is no accurate, reliable way to predict who is going to go on to commit crimes in general or serious violent offences in particular. Our criminal justice system cannot and should not be expected to identify, address and eliminate all future risks. Any attempts to predict risk are both unreliable and discriminatory, especially against indigenous people, Black people and other racialized communities.

The law already provides mechanisms to keep people in pretrial custody where appropriate, including for reasons of public safety.

Keeping people in pretrial detention removes them from the community and may provide some short-term public safety. This protection, however, is temporary and is undermined by longer-term negative public safety outcomes.

Custody is not only incredibly expensive; it is also criminogenic. Even short periods of time in custody make it more, not less, likely that someone will commit further offences in the future.

The specific proposal to create more reverse-onus provisions is not an effective way to achieve the objective of enhancing public safety. Reverse-onus provisions are problematic and unnecessary, as they fail to acknowledge the inequality of power and resources between an accused and the state. When a person's liberty is at stake, the state ought to bear the onus of demonstrating that detention is justified, rather than an accused person bearing the onus of demonstrating why they ought to be released.

If the risk of an accused is significant, the Crown will make these submissions to the court, and an accused can be detained; if they are released they will be subject to conditions and monitoring in the community. It is a slippery slope to pursue, making the system more restrictive when our provincial jails are already full of legally innocent people. Tightening the bail system and increasing our reliance on pretrial detention will have discriminatory outcomes on the most marginalized, the most over-policed and the most disproportionately incarcerated in society, compounding disadvantage, having the opposite of our intended effect of making the communities less rather than more safe.

The best way forward is through a thorough and principled review of the law that brings together justice system actors and community stakeholders to consider the purposes of bail and how to best balance rights with public safety. We might consider that rather than making amendments to section 515 of the Criminal Code, we step back and reconceptualize and fully replace the law on bail, with recent Supreme Court of Canada decisions in mind, explicitly outlining principles, objectives and directions for how decision-makers are to exercise their discretion.

We should set up and encourage the police to use their powers of release, including judicial referral hearings that were created by Bill C-75. Having fewer minor matters starting in bail court will give the courts more time and resources to focus on those that are more risky or more serious.

We should improve efficiency and case processing, including access to justice. More funding for legal aid will help reduce the number of people who are held in custody as well as the amount of time that people are detained or subject to conditions in the community. We might think about developing specific, principled hurdles to detention.

● (1655)

The crisis in our bail system is not one of an overly lenient or lax system. What happened is undoubtedly tragic. Allegations of violence, especially repeat violence, are concerning. There are opportunities for reflection and change. The question, however, is one of priority. Are we more interested in short-term or long-term public safety? I encourage everyone to uphold the principled purposes and limits of the criminal law by prioritizing the latter.

Thank you.

The Chair: Thank you, Ms. Myers.

Next we'll go to Emilie Coyle from the Canadian Association of Elizabeth Fry Societies.

Ms. Emilie Coyle (Executive Director, Canadian Association of Elizabeth Fry Societies): Thank you so much. I will be reading from my notes on my computer, although I will be looking periodically to see if you're holding up a yellow card.

Hello, everyone. It's lovely to be with you this afternoon. As many of you know, the work of the Canadian Association of Elizabeth Fry Societies, or CAEFS, has been playing a key role in shaping services and policy direction for Canada's population of federally sentenced women and gender-diverse people, as well as those at risk of incarceration, since 1978. We do this all while envisioning a world with strong and well-resourced communities, where everyone has what they need.

I come to you today from the traditional land of the Lenape people, on what is now known as Manhattan.

CAEFS also works to address the persistent ways in which the women and gender-diverse people who are impacted by criminalization are routinely denied their humanity and are excluded from considerations of community. The efficacy of our bail system is a critical conversation to have, as many of the criminalized women and gender-diverse people we work with and alongside are denied humanity and excluded from community through lack of access to bail.

A clear demonstration of this was a discussion that was related to me recently about the locating of bail court at the Finch Street courthouse in Toronto. This decision was applauded by some, as it meant that it was closer to the Vanier jail, the provincial jail for women, and a shorter distance to transport the people who were denied bail. I believe this message is quite clear.

Today, I'm so happy to be joined by Dr. Nicole Myers. Those of you who have paid attention to our website recently will know that CAEFS, along with the Canadian Civil Liberties Association and Dr. Nicole Myers, sent a letter to the Prime Minister and the Minister of Justice on this very topic at the end of January. I will discuss some of what we wrote in that letter, as well as some additional reflections on this topic.

We addressed our concerns with the letter sent by the premiers of the provinces on bail reform. In our letter, we highlighted the contradictions in what we believe is the direction the premiers have proposed be taken for bail reform. In particular, we're deeply concerned with what appears to be a complete lack of attention paid to an extensive body of research documenting the current operation of judicial interim release in Canada.

As Dr. Nicole Myers has already pointed out, there are more people today in pretrial detention than there are people serving custodial sentences in our provincial and territorial jails. We emphasize the foundational premise of our judicial system, which is the presumption of innocence. Hand in hand with that premise is the right to reasonable bail. The dismal reality is that too many people are serving time in detention before they've been found guilty.

I cannot underscore enough the importance of this presumption of innocence. We know this because in our work, we see overwhelmingly the power of the state in the lives of the people we work with. These are people who have very little power. They're being swept along by the tide of the criminal justice system, without a means to steer their own ship.

As such, we caution that criminal law reform needs to be undertaken very carefully, as any changes could potentially have unintended consequences, particularly for those who are already marginalized. When a change in reverse onus is suggested, as was proposed by the premiers in their letter, it fails to recognize this tremendous power imbalance between the state and accused persons. Decisions like this must never be made lightly or reactively.

Finally, our letter summarizes some of the more salient points of the evidence pertaining to the operation of bail in Canada. I won't go into it, but I'd be happy to answer any questions. Actually, I'm sure Dr. Nicole Myers would do a better job on it than I would.

Beyond the issues raised in our letter, I would be remiss if I did not speak about those who lost their lives in jail while awaiting trial. In Ontario alone, over 280 people have died in custody since 2010. The link between deaths in custody and bail reform is undeniable. If, in Ontario, over three-quarters of the people in our jails are on remand, then there is a direct link between the number of people in our jails who are on remand and their deaths.

As highlighted in a recent report on deaths in custody in Ontario, released in December 2022, being on remand increases a person's risk of death for a variety of reasons, including heightened risk of suicide, which is four times that of the sentenced population, and of drug overdose. The report further expands upon these reasons and points to “the challenges of adjustment, uncertainty, drug or alcohol withdrawal, disrupted personal relationships, isolation, restrictive conditions, and first time incarceration.”

● (1700)

I'll end there, but I welcome all your questions. I hope to get to the rest of my comments then.

Thank you very much.

The Chair: Thank you, Ms. Coyle.

I hope members give you the opportunity to flesh out the rest of your comments.

Next we will go to Jennifer Dunn from the London Abused Women's Centre.

Ms. Jennifer Dunn (Executive Director, London Abused Women's Centre): Thank you, Chair, and thank you to committee for inviting me here today. It is very nice to see all of you again.

My name is Jennifer Dunn. I am the executive director of the London Abused Women's Centre, or LAWC, here in London, Ontario. LAWC is a feminist organization that supports and advocates for personal, social and systemic change directed at ending male violence against women and girls.

LAWC is a non-residential agency that provides women and girls over the age of 12 who have been abused, assaulted, exploited or trafficked, or who have experienced non-state torture, with immediate access to long-term, trauma-informed, woman-centred counselling, advocacy and support.

We know that under the law in Canada, a person accused of a crime is presumed innocent until they are proven guilty. Granting bail means they can remain out of jail while they move through the justice system. We also know that the court process can take many, many months.

I read that the cost of keeping an accused person in custody is a lot more expensive than the cost of supervising them in the community while they wait for their turn in court, but I ask this: It is a lot more expensive to whom? What is the cost to a woman who has to serve a life sentence for being brutally assaulted at the hands of a man while he is out on bail?

At the London Abused Women's Centre, we have a group of women with lived experience who are paid for their time to help advise us on our work. A couple of weeks ago, I had the privilege of sitting with this group of women for about an hour. I said to them, “Let's talk about Canada's bail system.” I took the time to listen to every story they wanted to share. With their permission, I bring some of this to you today.

I quote: “They gave him every accommodation. They wanted to give him consideration of not interfering with his work. He is a well-established businessman.”

I spoke with a woman victim whose perpetrator is on bail. He is allowed to go to work. She also works there, I might add. He is supposed to be supervised at work. He is supposed to stay a certain distance from her, but this simply does not happen. Because this particular man is in a very high position of power, the business seemingly looks the opposite way. Firmer bail conditions in this situation could help this woman to work without fear. She isn't the one at fault. She shouldn't have to find another job to stay safe.

I will quote again: “The onus is on you to keep yourself safe, instead of the onus being on the abuser to follow his conditions.” I heard from another woman, whom I quote: “As a victim, I feel I have to prove that I'm the victim more than he has been accused of his actions.”

One woman said, “My abuser was arrested in my driveway for domestic assault. Less than 12 hours later, he was out on bail. At that time, the abuse had gone on for many, many years, but I had never reported the abuse previously. He breached his conditions every single day and had no true consequences.”

On Monday, Justice Minister David Lametti said, “Canadians deserve to be...and...deserve to feel safe.” I read that the minister said it's “important to note that bail laws are clear that detention of an accused person is justified if it is necessary to protect the safety of the public”, but on the ground, from the London Abused Women's Centre, this doesn't particularly make sense to us.

We have seen instances in which police have issued public safety warnings, yet a repeat offender continues to receive bail. I'm referring to an ex-police officer who spent more than two-thirds of his career suspended with pay for criminal charges and professional misconduct. He was charged with sexual assault, sexual assault with choking, sexual assault causing bodily harm and forcible confinement, and the list goes on. It was in December that the police first issued a public safety warning with his picture and some of the names he has been using online. He now faces charges involving four different women and has pled guilty to breaching his bail conditions. Just last week, on February 27, he received bail again.

We see time and time again privilege in the system, where perpetrators who have money for the best lawyers are receiving all the benefits. Even the surety system is made for people with money. The ease with which a perpetrator can receive bail is often seen as excusing the offender's actions, can show a failure to hold offenders accountable and can be seen as minimizing violent crimes.

The women I spoke to are fearful. They are fearful not only of their perpetrators, but of the system that is supposed to be protecting them. I quote: “He scores goals, he's well established, he's well known. Bail shouldn't be based on privilege, but sometimes it is.”

In closing, the London Abused Women's Centre and the women we serve would like to recommend that this committee be sure to use a lens that focuses on those who are most vulnerable. Think of violence against women while studying Canada's bail system. The government must prioritize the rights of victims.

Thank you.

● (1705)

The Chair: Thank you, Ms. Dunn, and thank you again for coming to the committee.

We'll go next to our first round.

We welcome Ms. Vecchio for five minutes.

Mrs. Karen Vecchio (Elgin—Middlesex—London, CPC): Thank you so much for having me on this committee today.

It's very important that we make sure that we protect people when we're talking about bail reform, the criminal justice system and victims of violence, sexual exploitation and those types of things that are interfering in women's lives and affecting how we move forward.

Jennifer, I've had the opportunity to work with you several times on different things like sex trafficking and exploitation. We've talked about these types of things.

You've talked about some of your clients and the fact that they are scared. When we're talking about bail reform, we already know it's very difficult for women to go forward and make.... We already know it's difficult to go to the police, but when there is bail reform and these people are allowed back out, it is also a very.... They feel lost. They feel like no one's listening.

What other stories are you hearing, Jennifer, from some of these women who are talking about the fact that their spouses or their perpetrators had been released on bail? Can you give me an example of how many times they've been out on bail? Is it one, two or three times? What types of data do you have on that?

Ms. Jennifer Dunn: It's nice to see you, Mrs. Vecchio.

We have many stories every single day that we could go through that are exact examples of this.

A good example would be the one I gave while I was speaking. It's about the ex-police officer who has been in the news as of late here in the city. He has four charges from four different women against him now. He has repeatedly been released on bail, even after pleading guilty to breaching. It's problematic, because we have women who access our service every single day who are constantly looking over their shoulders and constantly feeling unsafe and unaware of what's going to happen next, and that's where the problem lies.

You mentioned that women sometimes don't report. Sometimes that's very tricky for women, because when they see in the media or other situations that this is happening—maybe to people they know—that an individual is being released after doing something absolutely horrible or it seems as if justice was not served, it makes it that much more difficult for a woman to feel like she will be trusted when she decides to share her story.

Mrs. Karen Vecchio: Thanks.

Jennifer, I just want to ask, because you're speaking about this. In Bill C-75, we're talking about reverse onus. You've talked about this police officer showing that they're good, and they have to have this reverse onus proving that they're not going to do it again. Are we hearing the exact opposite, though, from what you're talking about with this police officer and other people within our own community?

Ms. Jennifer Dunn: With what we're seeing on the ground here from the London Abused Women's Centre and this ex-police officer, for example, I don't think there's any option for him to prove that he's going to do better. Because he is who he is, he's able to get away with what has happened in this particular situation.

In most of the stories we hear, and I've referenced them in my speaking notes, it's often that these men are in positions of power—I gave the example of the businessman—or in positions in which they feel like they can get away with whatever they want.

What we know from the work we do is that the best predictor of future behaviour is past behaviour. Most of the time, it's as if our justice system is working on reaction instead of prevention, so—

● (1710)

Mrs. Karen Vecchio: I'm sorry, Jennifer. I just don't have very much time, but I have lots of questions.

I want to go to Dr. Nicole Myers. When we're talking about the reverse onus of C-75, do you support the reverse onus when it comes to those who have been sexually exploited and trafficked and suffered domestic violence? What are your thoughts on that, if you don't mind sharing?

Dr. Nicole Myers: The difficulty with reverse-onus provisions is that we're speaking of them and trying to apply them to specific circumstances. The Crown absolutely has the ability to make arguments for the detention of someone, whether they are the one who bears the onus or the accused person bears the onus.

Some of the difficulty that then comes in is that, when we think in a principled fashion about the difference in power between the state and an accused, if we're talking about denying somebody's liberty, perhaps it should be up to the state to make those kinds of arguments.

Mrs. Karen Vecchio: I really appreciate that. I think part of the problem I have—Emilie, if you want to come in on this one too—is that we know with abuse cases it's not just one, two and three times, but it continues. We know, unfortunately, that the justice system is not always working. There's Bill C-233 regarding judges' training, and hopefully that's going through, but we know sometimes these aren't taken into consideration.

You mentioned the 70.5% who are in pretrial detention. Do you know what the data is on that in terms of how many of these are abusers of women and children?

Dr. Nicole Myers: This kind of data is not made widely available, unfortunately, for academic research.

Mrs. Karen Vecchio: Would it be possible for us to get data on that? Do you know if it's available?

Dr. Nicole Myers: I don't know. If you can, I think that would be fantastic. That's one of the biggest challenges we have—access to high-quality systemic data to do those kinds of analyses.

Mrs. Karen Vecchio: Thank you very much. When I look at this, the last thing we want is more women to be abused and constantly re-abused by an abuser who has not gone through the justice system properly.

Thank you very much.

The Chair: Thank you, Ms. Vecchio.

Next we go to Ms. Brière for six minutes.

Mrs. Élisabeth Brière (Sherbrooke, Lib.): Thank you, Mr. Chair.

I thank all our witnesses for being with us here today. I will ask my questions in French. The first one will be directed to Ms. Coyle.

It's good to see you again.

[*Translation*]

First, can you talk about how remand affects the personal lives of women?

Second, can you describe the effects of remand on women with mental illnesses or substance abuse issues?

[*English*]

Ms. Emilie Coyle: It is important to remember that among the people who are held in pretrial detention are people who have been harmed themselves, hundreds and sometimes thousands of times over in their lives. The harm that comes from being detained—these are the people we work with—is something we don't often think about. Being in detention and the impact that has on very marginalized and vulnerable people's lives is something that isn't widely discussed.

Being in jail for even two weeks can impact a person's life in unimaginable ways. People who have been in pretrial detention for what some might consider very short periods of time can lose their employment; they lose their housing. In the case of many parents we work with, they lose custody of their children.

As many of you know, in the federal system, half of the population we work with in the prisons designated for women are indigenous women. That number is higher in the provincial and territorial jails, particularly in the Prairies.

All of you are very aware of the efforts we're making to address colonization in this country. Bail reform that places more people in pretrial detention actually has an adverse effect on our efforts to address colonization, because we have an epidemic of indigenous children being taken away from their parents. This is part of it, because our bail system is part of a larger cycle of poverty, discrimination and incarceration. We think that could largely be avoided with appropriate community supports and social services. As one of the other panel members suggested, prevention is key.

The other thing to remember, if I may...or did you want to ask another question? I understand you have limited time.

● (1715)

Mrs. Élisabeth Brière: Mental health and addiction.

Ms. Emilie Coyle: Thank you.

Most of the people we are working with suffer from substance abuse and the issues that stem from that. The people who are imprisoned and go through the revolving door of the jail system are people who are often suspended or revoked on breaches that are related to substance abuse and the poverty that comes with that.

In addition to that, mental health disability is something we see as prevalent within the prison system. We don't have enough services to support people who have mental health disabilities in our communities. It would be beautiful if we did and if we were studying that. If we could put money towards that, it would really go a long way toward preventing harm.

[*Translation*]

Mrs. Élisabeth Brière: Thank you.

Ms. Myers, the Gladue principles help to ensure that systemic racism and discrimination affecting accused are taken into account.

Can you talk about the importance of those measures, and explain how an accused's race and background in general influence bail decisions?

[*English*]

Dr. Nicole Myers: As we very well know, Gladue principles have historically been focused more on the sentencing stage. What we now see is a desire for a greater application of these at the bail stage. While we want to think about how important it is.... These provisions are meant to be remedial. They are meant to target, address and understand our long-term colonial practices of overpolicing and overincarcerating indigenous people, and all the harms that flow from that.

However, the Supreme Court has also been quite clear that it's not meant to result in what might be colloquially called a “get out of jail free card”. That is not what is happening here. It requires a close analysis that considers the greater context and historical space of an individual so we can make the most appropriate decision possible. We can see these decisions are just as applicable at the bail stage as they are at the sentencing stage, because we are talking about people's liberty and the harms that come from custodial time, whether that is spent pre trial or post sentence.

I apologize. I think there was a second half to your question that wasn't quite related to Gladue.

[*Translation*]

Mrs. Élisabeth Brière: I wanted to know how an accused's race and background can influence the decision to grant bail.

[*English*]

Dr. Nicole Myers: Criminal record is certainly one of the biggest things considered by the Crown when making its position on bail, as well as by the justice or judge. You look at the seriousness of the current charges, the strength of the allegations and the individual's criminal record. We balance that with what the Supreme Court said we absolutely have to do: As our starting place, we have to remember that people are presumed innocent and are to be released unconditionally.

The Chair: Thank you, Ms. Brière.

Next, we'll go to Monsieur Fortin for six minutes.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Ms. Coyle, I understand your position. In your view, what circumstances warrant extending the remand of an individual awaiting trial? What circumstances should be added?

[*English*]

Ms. Emilie Coyle: I don't have any to add, beyond what is currently there. I believe we should be looking at making bail reform less restrictive, not more restrictive.

● (1720)

[*Translation*]

Mr. Rhéal Fortin: All right.

Ms. Dunn, I'm going to ask you the opposite question. As compared with the way things currently are, under what circumstances should an individual be released instead of kept in pre-trial custody?

[*English*]

Ms. Jennifer Dunn: I can speak specifically to some of the situations the women we serve have explained to us.

It's difficult, because—I said this to Mrs. Vecchio before—women should not have to look over their shoulder all the time, going to the grocery store or to an appointment. Here at the centre, we've had situations in which a woman's perpetrator was, for example, sitting in the parking lot. That situation was a little different. He had served his time and been released. However, it seems as if, sometimes, that doesn't matter.

How far do we need to go to protect the victims in this type of situation? We need to think about the victims on the other side when we're talking about crime and bail, so I don't—

[*Translation*]

Mr. Rhéal Fortin: Sorry to interrupt you, but every second counts.

I'd like you to answer the question you put to us. Under what circumstances should or could we better protect victims?

Obviously, the presumption of innocence is a principle I think we all agree on. However, the rules stipulate that a person awaiting trial is to be kept in custody when it's determined that there is a risk they will not attend court or that their release could pose a risk to public safety.

You told the committee that more people should be kept in custody. I understand, because victims are having to deal with accused who commit crimes while out on bail. Under what circumstances should this approach apply? What provisions need changing so that victims can walk around without fear of their attacker striking again? Which crimes or circumstances warrant stricter decisions about pre-trial custody?

[*English*]

Ms. Jennifer Dunn: We definitely need to look at all of this through a lens of violence against women, to be honest with you. Coming from where we come from and given the work we do, that is the answer I can give.

With respect to the situation I was speaking about, of the ex-police officer who is on bail now, for example, he has GPS tracking. He's not allowed to use technology. It's situations like that. Perhaps—and we don't know because it hasn't happened before—when this particular individual was on bail before and he ended up offending again and again, if some of those things, such as GPS tracking or a technology ban, had been put in place toward the beginning, they might have been helpful. In that situation, he had to get to the fourth charge before those types of things came into play.

Every situation is going to be different, and there's really no umbrella approach, if you will, when you're talking about domestic violence, sexual assault and that kind of thing. Every situation is going to be completely different. It's difficult to give you an umbrella—

[*Translation*]

Mr. Rhéal Fortin: Sorry for interrupting again, but every second counts, and I have less than a minute left.

Ms. Myers, I gather from your opening remarks that you are satisfied with the current rules. However, you heard Ms. Dunn, among others, say that victims need to be better protected. In your view, what circumstances could warrant a higher burden of proof in the decision to release an accused? What measures could be taken to ensure the safety of victims?

[*English*]

Dr. Nicole Myers: The challenge is that reverse-onus situations are not going to be what's most effective. Nobody here is arguing against public safety. We absolutely want to protect those who are most at risk of the most serious offences. What we need to then do is focus on those cases and reduce the number of minor or other types of cases that don't present the same kind of seriousness or risks, so we can focus our attention and resources on that which is most serious.

Something else we might want to do is look at how we can improve case processing to get people through the system, so that we convict people and then sentence them appropriately rather than trying to do everything on the front end. Then it's a matter of saying we want to protect people, but let's do this and think about this in a way that doesn't focus on specific incidents but steps back and realizes that we have thousands and thousands of people in pretrial custody. Not everybody needs to be there. Let's focus on who's most serious and figure out how to intervene and let the others out.

● (1725)

The Chair: Thank you, Mr. Fortin. Now we go to Mr. Garrison for six minutes.

Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP): Thank you very much, Mr. Chair, and thank you to all the witnesses for being with us today.

I have a question for Ms. Coyle from the Elizabeth Fry Society. I know the Elizabeth Fry Society runs community-based bail supervision programs. We're talking here about how too many people end up in detention, with all of those negative impacts and the lack of services.

Could we tackle that problem by having additional resources devoted to community-based bail supervision programs?

Ms. Emilie Coyle: My short answer is yes.

A longer answer is that—

I'm being told that my Internet is unstable. Can you hear me?

The Chair: Yes, we can hear you, Ms. Coyle.

Ms. Emilie Coyle: Okay. Good.

The CAEFS network is made up of 23 local member societies all across the country. They do the essential on-the-ground work of supporting the most marginalized people in their communities. Many of them have bail beds, but most of them don't. That's a problem.

We don't have Elizabeth Fry Societies in the north of Canada. There are very few resources for people who could be released on bail into their communities in the north, particularly, because those are people who may need a place to stay. They may need to have a bed to stay in, in order for them to be released on bail.

It may actually surprise you to learn that there are only four bail beds for women in Canada's most populous city, Toronto. Those beds are available to indigenous women only. For the most populous city to have no bail beds for women is a problem. Then, if you go into the northern part of Ontario, for example, we have a couple of Elizabeth Fry Societies that have bail beds, but they don't have adequate resources to meet the demand. Certainly more resources for bail beds would go a long way for the people we work with.

Mr. Randall Garrison: I'll turn to Dr. Myers.

In terms of contributing to public safety, there's certainly a perception from the public that people on bail aren't well enough supervised, but we put that also up against your very valid remarks that we could shorten the time before we convict people—that would help.

Do you think that community-supervised bail programs would help contribute to public safety and not just the perception of public safety?

Dr. Nicole Myers: I guess the short answer is yes. Any effort to keep people in the community is what is going to give us better measures of public safety—restricting very closely those who need to stay in and letting others out, providing the kind of supervision and support that people may need. Nonetheless I think we also need to be somewhat concerned about how some individuals may be oversurveilled or overconditioned in the community. We may be setting people up to fail, leading them to come back into the system.

Again, if we can restrict ourselves from bringing in so many minor matters, it will allow us to best focus on that which is more serious and to monitor those folks in an effective manner.

Mr. Randall Garrison: In some of the stuff that's been presented to us as committee members, we see some data on the very high rates of breach of bail conditions. Can you talk about why that normally happens in terms of those conditions?

Dr. Nicole Myers: There are many difficulties around conditions of release. They tend to be very numerous. For example, on average we're looking at six to seven different conditions that create a brand new criminal offence once attached to a court order. Lots of these conditions may not be specifically tailored to individuals. Why? It's because the courts are busy. They are overwhelmed by the sheer volume of individuals they're having to manage and address.

Again, it's about wanting to take the time to focus so we can carefully craft conditions that are reasonable to comply with but also relate to the grounds for detention as well as the allegations of the offence, rather than simply imposing conditions that we might like or that modify behaviour, which the Supreme Court has indicated is not what conditions are supposed to be doing.

Mr. Randall Garrison: I'll go back to Ms. Coyle.

In terms of conditions being imposed, Bill C-75 was supposed to create this better link that Dr. Myers referred to between the conditions and the offences and the reasons for detention.

Do you find that's what's actually happening on the ground, or are we still having blanket abstinence conditions imposed on people who have addiction problems, setting them up to fail? Is that still happening?

● (1730)

Ms. Emilie Coyle: Yes, that still happens. It goes back to an earlier question around how many people we are seeing enter the system due to mental health disability or substance use, which are connected, undeniably, in the work we do. Social science will tell us that there's a reason people with trauma and mental health disabilities use substances, which is that we don't have the resources to support them in their wellness journeys. They are trying to deal with their pain in the only way they can.

Onerous conditions of release continue to be an issue as [*Technical difficulty—Editor*]—

The Chair: Now you're having some technical difficulty.

Ms. Emilie Coyle: —the overwhelming number of [*Inaudible—Editor*] defence counsel who works with our....

Oh, I apologize. Did you hear me?

The Chair: It's good. It caught up, so you're good.

Ms. Emilie Coyle: I apologize. You would think that in New York the Internet would be good, but apparently not.

I was just saying that one of the defence counsels who works with one of our Elizabeth Fry Societies was saying that sometimes people are waiting up to two weeks in order to have a bail hearing. I think that is unacceptable. It's something that disrupts people's lives, sometimes irreparably.

The Chair: Thank you.

Thank you, Mr. Garrison.

Next we will go to five-minute rounds, starting with Mr. Caputo.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Thank you.

Out of an abundance of transparency, my wife and Ms. Coyle work for the same organization, so I'll try not to fire any difficult questions there.

I want to pick up on something. I think we can all agree, and I'll just ask somebody to say yes. Somebody has a constitutional right to go before a judge within 24 hours.

Professor Myers, would you agree with that?

Dr. Nicole Meyers: Yes.

Mr. Frank Caputo: If we're talking about somebody waiting for two weeks for a bail hearing, that's not typically on the prosecutor. A prosecutor can typically get a three-day remand, but beyond that, that's a defence delay, generally, if they're waiting for two weeks. I don't know how that could possibly happen otherwise. Can you envision a scenario in which that's on the court or the Crown?

Dr. Nicole Myers: Yes, it is on the court and the Crown. Many of these adjournments are being requested for the purposes of getting defence counsel. That's mostly because people want to secure a consent release, understandably, rather than going to a show cause hearing.

The Crown's the driver of the decision-making process in bail, mandating that individuals need to have a surety or a bail program, or that there are a variety of conditions that they need to meet. Often, these adjournments are happening to enable individuals either to secure legal counsel to represent them at the hearing, or to try to put together the kind of bail plan that is going to meet what the Crown is seeking.

Study over study indicates that most of the adjournments are coming from the defence for the accused. The reasons for those adjournments are to meet the demands that the Crown is putting forward.

Mr. Frank Caputo: That's only problematic if the demands of the Crown are unreasonable. Would you agree with that?

Dr. Nicole Myers: Yes, I would agree.

Mr. Frank Caputo: If we have a properly functioning system, a number of the issues that are highlighted aren't as problematic.

We can all agree, and I think all the witnesses would agree, that public safety is paramount. Can we all agree that's the number one issue? I hope so. I hope we can.

We also have this idea—and some of the witnesses today have highlighted it—that we're talking about different calibers of people who fill the courtroom. There are people who, in my experience, do not belong in court. They walk through those doors. They may have made a mistake. They may have made a few mistakes, but court is not home for them.

Do you get what I mean by that? It's not a friendly environment. Do you understand that?

I'll look to you, Professor, because you're here.

Dr. Nicole Myers: Yes, I think we can agree.

Mr. Frank Caputo: Certainly.

In a town like my hometown of Kamloops, which is a city of about 100,000 people, most of the time, we can agree, particularly when it comes to violent crime, there is a very small group of people who disproportionately commit a number of the offences.

Would you agree with that as well, Professor?

● (1735)

Dr. Nicole Myers: I believe that's what the empirical evidence demonstrates, yes.

Mr. Frank Caputo: Certainly.

If we accept that conclusion, we have to target bail at that small group of people. Is that a fair assumption?

Dr. Nicole Myers: That would be a reasonable way to go forward.

Mr. Frank Caputo: Where I think a number of people will probably part company on this thought is where that dangerous group comes in.

Would you agree with that?

Dr. Nicole Myers: Yes. It's very difficult to identify who those people are with accuracy.

Mr. Frank Caputo: It's difficult to identify with accuracy, but there are some objective indicators. You look at people—and I think you would probably agree with this as well—and the best predictor of future behaviour is past behaviour. However, it's not a 100% predictor, and you will never get a 100% predictor.

Is that accurate?

Dr. Nicole Myers: It is. It depends on our comfort level with getting it wrong and incarcerating people who should not be incarcerated.

Mr. Frank Caputo: Or our comfort level with getting it wrong and potentially grievously harming somebody else. That's the flip side. If you have a dangerous firearms offender and you get it wrong on the release end, the consequence could be that somebody's shot.

It's not just a matter of getting it wrong on the one side and somebody's in custody. There's also a flip side of getting it wrong and somebody's harmed.

Dr. Nicole Myers: Absolutely. That can also happen after they've been convicted and sentenced.

Mr. Frank Caputo: That's 100%, but after the conviction and sentence, there is no ability for the state to control.

Do you see what I mean?

Dr. Nicole Myers: I completely understand. I'm just saying that at that point, we've proven it.

Mr. Frank Caputo: Ms. Coyle, I'm sorry. Please go ahead.

Ms. Emilie Coyle: Thank you so much.

I just wanted to say that when we are talking about public safety, in the line of work we do, we have to remember that the people we work with and alongside—who are the many people who are criminalized; they are the women and gender-diverse folks who are often in prison—are also part of the public when we're talking about public safety. Merely saying that putting someone in custody, as an aside.... There's a lot more to that simple statement.

We are concerned about people doing irreparable harm. We're concerned about the state doing irreparable harm. That's a really key point for us. If somebody is put in prison or jail and they have been wrongfully convicted—there are many examples of that in our country that we know of, and many that we are aware of that are not public—then the state has done irreparable harm in that case.

The Chair: Thank you.

Ms. Emilie Coyle: Think of going to jail for two weeks, which is hard on people's lives.

Mr. Frank Caputo: I don't disagree. I can tell you this: When I was a defence lawyer I had a case that I believed was a wrongful conviction, and it still keeps me up at night, so you're not going to get any argument here from anybody about that.

My time is up, so I'll stop.

Thank you.

The Chair: Thank you, Mr. Caputo.

Next, we'll go to Mr. Naqvi for five minutes.

Mr. Yasir Naqvi (Ottawa Centre, Lib.): Thank you very much, Mr. Chair.

I want to thank all three witnesses for being here and presenting to us.

I'm going to direct my questions to Dr. Myers and Ms. Coyle.

I'll ask the same two questions, because I just want to very clearly understand your perception and your analysis based on your experience as we study our bail system.

For my first question I'll start with you, Dr. Myers. What do you perceive as the challenges we face in Canada within our bail system at the moment, perhaps in both practice and legally?

Dr. Nicole Myers: We face a variety of issues. It's not something that has a single answer to it.

We bring far too many minor matters into the court system to begin with, and some of this could be resolved by encouraging the police to exercise their powers of release, to use the judicial referral hearings that, at least anecdotally, have not been used in a widespread manner.

We also have difficulties of a risk-averse mentality in court, and this is an understandable mentality, because when incidents like this happen, when police officers are killed by somebody who is allegedly out on bail at the time.... We are also deeply concerned about the violence that women experience. We are understandably concerned about what happens to victims, yet we nonetheless have to step back and think about how we best achieve safety for those individuals.

Holding more people in custody and releasing them with conditions they have no reasonable prospect of complying with are not going to enhance our public safety. We need to be mindful that we have a limited means to what we can do at the front end of the system, because we have to hold it at its centre that we presume people innocent, that people have a right to reasonable bail, and that the bail is supposed to be unconditional.

● (1740)

Mr. Yasir Naqvi: That's great. Thank you.

Can you also then briefly share with us your recommendations to this committee as we study the matter of bail? If we were to make changes, what would be some of your top two or three recommendations?

Dr. Nicole Myers: That would be providing better, clear guidance and direction to decision-makers about what we want them to be thinking about and focusing on when they're exercising their discretion.

We might also want to consider what might look like hurdles to custody, something similar to what we see in the YCJA, acknowledging, of course, that young people are different from adults, but thinking about who we want to be holding in custody and who we want to be letting out.

For example, perhaps we want to try to focus our attention on those who have been charged with particularly serious offences and have a criminal record that demonstrates a pattern of behaviour of that kind.

Maybe we want to think about people and what the likely sentence is that they would receive if they were convicted. If it's less than six months in custody, should we be presumptively releasing them into the community?

For those who are charged with failing to comply with a condition of their release, look at if they committed a new substantive offence at the same time, or if that condition of release caused harm to an identifiable victim.

The other thing we might want to think about is how we provide the best level of support for people in the community if we know that is not only less expensive but helps make it less likely that people are going to commit offences. How do we support individuals? How do we support communities so that people can stay in the community and maintain their ties to the community and their investment in the community, making it less rather than more likely that they will commit more offences?

Mr. Yasir Naqvi: Thank you very much.

Ms. Coyle, in a minute and a half I have the same two questions. Through your experience working with Elizabeth Fry Societies, can you share with us what you see as currently the challenges with our bail system in Canada, from both a legal perspective and practically, and what your recommendations are for this committee?

Thank you.

Ms. Emilie Coyle: I think that beyond what Dr. Myers has said, because I think she has put it really well, I am concerned about access to legal aid. I am concerned about access to adequate representation, obviously, for the people we work with.

Practically speaking, what I always come back to is investment in upstream resourcing of communities: supporting people who are experiencing poverty; ensuring that precarious housing is something people are not being punished for when it comes to bail; enhancing social welfare supports and increasing investments in education and health care—essentially just keeping people in the community and ensuring they have the supports necessary so they don't experience the complete uprooting that happens when they are put into jail, even for a short period of time.

Mr. Yasir Naqvi: Thank you. I think my time is up.

The Chair: Thank you, Mr. Naqvi.

Next, we'll go for two quick two-and-a-half-minute rounds.

Mr. Fortin, you have two and a half minutes.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Ms. Myers, at the beginning of your remarks, you mentioned the number of people in pre-trial detention. Did I hear correctly that it's more than 70%?

[*English*]

Dr. Nicole Myers: That's correct, yes.

[*Translation*]

Mr. Rhéal Fortin: What's the exact figure?

[*English*]

Dr. Nicole Myers: The number of individuals is 14,414.

[*Translation*]

Mr. Rhéal Fortin: Sorry, I meant the exact percentage.

[*English*]

Dr. Nicole Myers: It is 70.5% across Canada.

[*Translation*]

Mr. Rhéal Fortin: All right. That's for all of Canada, not just Ontario. Is that correct?

[*English*]

Dr. Nicole Myers: Yes, that is across Canada. Ontario sits at about 77%.

[*Translation*]

Mr. Rhéal Fortin: All right. Thank you.

Ms. Myers, in response to a previous question, you talked about what decision-makers should be focusing on. You suggested that the seriousness of the offence should be the focus.

Our job here is more or less to find the middle ground between adequately protecting victims and keeping innocent people out of jail. I keep asking myself how we should balance those two things, and there are no easy answers.

You said that perhaps we should focus on how serious the offence is, but we know full well that just because someone is accused of a serious crime, it doesn't necessarily mean that they are guilty. Sometimes innocent people are charged with serious crimes.

Can you help us out a little more? What should we focus on? What should we examine and change in the current laws to better protect victims and prevent wrongful convictions?

● (1745)

[*English*]

Dr. Nicole Myers: It would be providing clear direction and guidance for exactly how we want decision-makers to make that decision. Where do we draw these lines? I don't think it's easy—about where these lines are precisely drawn. I have a lot of hesitation about arguing for wanting to hold more people in pretrial or releasing people with more conditions. That in itself is problematic, but if we have to think about, again, where we draw the lines as to how we identify and focus on those who are, indeed, most serious, I don't think there's an easier, clearer way to identify who those people are.

[*Translation*]

Mr. Rhéal Fortin: I gather, then, that you aren't able to provide any insight into where to draw that line. This is not an easy problem to solve.

I have a few seconds left, Ms. Coyle, so I'm going to ask you the same question. Where should that line be drawn? How do we protect victims while preventing wrongful convictions?

[*English*]

The Chair: Unfortunately, Mr. Fortin, your time is up.

Mr. Garrison, you have two and a half minutes.

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

I think perhaps we got a bit of distortion today in talking about the time for a bail hearing, when the numbers show that obviously people are in custody sometimes a very long time before the trial process.

I wonder, Dr. Myers, if you have any figures or estimates on the time people are spending between that bail hearing—where they're obviously being denied bail—and the trial process.

Dr. Nicole Myers: Unfortunately, I don't have the numbers right in front of me, but often we're looking at the time between arrest and the resolution of charges as sitting at somewhere over 100 days. Again, this is on average, so when we think about those who are in pretrial detention, you have a small number of people who are going to be there for a very long time, whose cases may take a year or two years to come to trial.

We also have a lot of people who are going to spend very short periods of time there because we have what I've called a culture of adjournment in bail court, where each and every day the most likely outcome across this country is that your bail hearing is going to be adjourned to another day. We make very few actual bail decisions each and every day. A lot of the people we're seeing in remand are sort of in this churning place. They may eventually be released, but they are going to spend time in custody first. As we've talked about—and Emilie has spoken about it, as well—there are incredible harms that flow from even short periods of time in custody, making it more likely that people will offend, rather than less likely.

Mr. Randall Garrison: For the last minute, I suppose, I'll go back to Ms. Coyle.

In terms of services available to people who are in remand—just to make it clear again before the committee and on the record—those with addiction and substance abuse problems and with mental health problems really don't have access to services during that time period while they're waiting for trial. Would that be true?

Ms. Emilie Coyle: Yes, that is correct.

Mr. Randall Garrison: That becomes problematic for public safety in the long run.

Ms. Emilie Coyle: Oh, yes, certainly. As people are coming off whatever substance they may be addicted to, it's harmful to their own safety. As I said, many people have been dying in our territorial and provincial jails, and there hasn't been a public outcry about that.

I am concerned about the fact that the families and loved ones of people who have been dying in our jails, many of them on pretrial detention.... That hasn't warranted a study at committee. People aren't raising the alarm about that, and they should be. There have been vigils held. There have been podcasts made. There have been op-eds written. Certainly, the government should be paying attention to that, because it is indicative of a much larger problem.

The Chair: Thank you, Mr. Garrison, and thank you to all three witnesses.

That concludes our first panel. We'll now suspend while we set up the second panel.

Thank you once again for appearing—many of you for the second or third time.

● (1745)

_____(Pause)_____

● (1755)

The Chair: We are back to continue our study on Canada's bail system. It's the second hour.

I hope the witness online saw my little notecards.

Your sound has already been tested. Hopefully, for translation purposes, you selected the correct feature, whether it's floor, English or French audio.

I advise the same for the witnesses here. If they want to adjust their headsets, they can pick the channel they want to listen to.

Each of you will have five minutes. Welcome.

We have Dr. Danardo Jones, assistant professor, faculty of law, University of Windsor. We also have Markita Kaulius, president, Families for Justice, via video conference, and Lia Vlietstra, bail court support worker, Victim Services of Brant, who is here in person.

We'll begin with Dr. Danardo Jones for five minutes.

Mr. Danardo S. Jones (Assistant Professor, Faculty of Law, University of Windsor, As an Individual): I should correct the record. I'm a Ph.D. candidate. I'm not quite a doctor yet, but very soon. It does sound nice, though.

Thank you for the opportunity to be here today and to participate in the study on Canada's bail regime. I have three points I want to make today before taking your questions.

One, bail is a constitutional right. It finds its expression under section 11(e) of the Canadian Charter of Rights and Freedoms, but bail has also been part of the common law system for centuries. This is not a novel idea. It's not something that came into existence in 1982. It's been part of the common law tradition for a very long time. It recognizes that the state has a burden of establishing an accused person's guilt before denying or abridging their right to liberty. The right to bail subsumes other constitutional imperatives—for instance, the presumption of innocence; the right to life, liberty and security of the person; and the right to a fair trial. Taken together, though, all of these constitutional rights form perhaps the strongest procedural safeguards for people accused of criminal offences.

I mention this to set the tone that we have to be careful that protecting public safety, which is important and paramount, doesn't come at the cost of public confidence in the administration of justice, that it doesn't come at the cost of an erosion of constitutional rights.

My second point is that the granting of bail is not a matter of judicial benevolence or leniency. It never has been. I make this point because in our criminal jurisprudence on bail, the presumption in the Criminal Code and also in the case law is release. There's a reason for that. It's because accused people are presumed to be innocent. The Supreme Court of Canada has said over and over again that the granting of bail should not consider matters extraneous to the requirements articulated in the Criminal Code and in the jurisprudence on judicial interim release.

Bail is about risk management. It's not a science; it's an art. There are factors that are considered, that are set out in the Criminal Code, that a bail judge or a justice of the peace must consider in their decision-making, but we're also reminded that the principle of restraint is paramount—the idea that we should not rely, or overrely, on carceral responses at the bail stage.

There's a reason for that. We cannot compensate people for the loss of liberty after they are acquitted or a prosecution falls apart, which often happens. These people cannot be compensated. I have heard a few witnesses talk about some of the collateral consequences of being denied bail, or of being granted bail but on onerous conditions, whether it's the loss of a job or whether it's a disruption in family life and so on.

Moving to my third point, I want to talk about the reasons people do poorly on bail. It's not because they are inherently risky. There's a lack of social infrastructure to allow people to thrive while they are out in a community, waiting for their day in court. Oftentimes, that is the reason people breach. It's a lack of housing, and inadequate access to treatment and to the things necessary to lead a prosocial life.

● (1800)

Thank you.

The Chair: Thank you, Mr. Jones.

Next we'll go to Markita Kaulius from Families for Justice.

Ms. Markita Kaulius (President, Families For Justice): Thank you very much for inviting me to be here today.

On December 27, 2022, the killing of an Ontario Provincial Police officer brought renewed scrutiny to Canada's bail system. Before the shooting death of Constable Greg Pierzchala in Ontario, the 25-year-old suspect, Randall McKenzie, was wanted by police for missing an August court date. He was accused of assault, and he faced a number of weapons charges. A judge issued a warrant for Mr. McKenzie's arrest when he failed to show up for a court date.

Mr. McKenzie had a previous lifetime firearms ban after being convicted for a 2017 armed robbery. He spent much of his nearly three-year sentence in maximum security for allegedly stabbing another inmate. While out on bail for charges of assaulting another police officer and illegally possessing a handgun, Randall McKenzie is now facing a charge of first-degree murder in the death of Constable Pierzchala.

There have been six police officers killed across Canada in the line of duty in the last few months. The Canadian public and several police agencies have great concern and are demanding new bail reforms.

On January 13, 2023, premiers across Canada issued a call to action, strongly asking the federal government to take immediate action to strengthen Canada's bail reforms. The call for bail reforms is supported by several police agencies. In addition, you have millions of Canadians who are asking for bail reforms and demanding tougher sentencing laws in Canada. We believe the rights of the accused are being prioritized over the rights of victims and public safety.

The criminal justice system fundamentally needs to keep anyone who poses a dangerous threat to public safety off the streets. This starts with meaningful changes to the Criminal Code, an area solely within the federal government's jurisdiction.

Most Canadians feel that enough is enough. We cannot allow the deaths of police officers or innocent people to go unchallenged. As elected government officials, it is a priority to review the judicial and public safety frameworks, commit to fully understanding the best remedies, identify what isn't working and call for change to ensure that this does not continue. Everything should be on the table, from bail to sentencing to a growing, chronic shortage of police officers.

In B.C. recently, statistics show that 200 people accounted for more than 11,000 police files in just one year. Our police agencies also flagged a significant increase in the number of offenders routinely breaching conditions without consequence while out on bail and failing to appear in court without any consequences.

The urgent call for stronger bail conditions, stricter consequences and sentencing, as well as stronger consideration for maintaining public confidence in the administration of justice in bail and charge assessment policies, is long overdue.

In B.C., since 2017, there's been a 118% increase in the amount of time the province takes to review files it receives from the police, and a 75% increase in the rate of the BC Prosecution Service choosing to not charge suspects on police file cases.

We have a criminal justice system that is not working, and it hasn't been working for years. Most Canadians, when asked to consider our criminal justice system, refer to the system as a joke, based on the lack of appropriate sentences handed down for serious crimes, and these sentences are based on previous court precedents. These include impaired driving cases, stalking, domestic violence and homicide cases.

Bill C-75, a federal bill passed in 2019, was designed in part to modernize and streamline bail procedures. However, it is inadvertently causing more repeat offenders to end up on the streets. We now see easy catch-and-release bail policies that make it easier to get bail, and we seem to have a revolving door at the courthouse.

In Canada, the accused who have been arrested—who have a long rap sheet for previous offences or violent crimes, or who are prolific offenders who continue to commit crimes knowing not much will happen to them in court—are being released again and again, and are being given a minimal sentence, if any at all.

Canadians believe that if convicted, a person should stay behind bars [*Technical difficulty—Editor*] to the public. Ensuring the safety and security of victims and witnesses should be an essential part of the decision-making process in release procedures.

● (1805)

We would like to see a legislative bill for reform that gives more weight to those whom we deem as chronic offenders, those who have demonstrated a repeat pattern of violent behaviour, behaviours with firearms and the actions caused by involvement due to being impaired by alcohol or drugs. Previous criminal history should play a large part in determining if bail is granted.

On behalf of all victims of crime, I call upon this justice and human rights committee and the federal government of Canada to make the needed changes to strengthen Canada's bail reforms to ensure public safety for all Canadians.

Thank you.

The Chair: Thank you.

Now we'll go to Ms. Vlietstra for five minutes.

Ms. Lia Vlietstra (Bail Court Support Worker, Victim Services of Brant): Good afternoon.

Thank you for your time and for allowing me this opportunity to present to you on the issue of bail reform. It is an issue that's having a significant impact in Ontario. I'm hopeful that positive changes will be made to better protect victims in communities as a result of this inquiry.

My name is Lia Vlietstra, and I have provided support to victims for the past 10 years in my role as bail court support worker at Victim Services of Brant. My position is funded through the Brant United Way. Our office is located at the Brantford police station and assists clients for the City of Brantford, Brant county and the Six Nations of the Grand River.

As part of my role in bail court, I contact victims whose offenders are appearing in bail court and obtain input from the client regarding their safety concerns and other information they would like provided to the court. I then send their input to the Crown to consider when taking a bail position in proposing conditions to the court prior to the accused's release on bail.

While speaking to the victim, I conduct a risk and needs assessment for urgent resources that the client may need immediately in case the offender is released on bail, for example, a lock change and safety planning. Following the bail hearing, I will notify the victim of the bail conditions and offer further supports.

This role has become challenging in recent years due to the volume of arrests in bail court and how quickly offenders are released. This is particularly apparent when it comes to intimate partner violence. We can face difficulty even being able to have a locksmith attend to change the locks before the accused is released on bail with nothing more than their own word that they will abide by conditions.

Notifying the victim as soon as possible of a release can become critically important. I have had to call 911 while on the phone with a victim of intimate partner violence, because the accused came through her door 10 minutes after being released on bail on conditions of no contact.

This is the unfortunate reality of our bail system. It has become a one-size-fits-all based on the ladder of release since the Supreme Court decision in R v. Antic in 2017. Currently, you can be charged with domestic violence, sexual assault or robbery and be released on the same form of release as someone charged with mischief and theft under....

Changes that I believe need to be made for public safety and public confidence in the bail system are the following.

Violent repeat offenders should be denied bail. Drug traffickers, especially of fentanyl and meth, should be denied bail. If you were charged with using a firearm, you should be denied bail. The use of more cash bail and bail estreat for those convicted of breaching their bail conditions should be estreated for the entire bail amount. Sureties need to be thoroughly vetted regarding their ability to supervise and their financial assets. In the case of intimate partner violence, the surety for the accused should not be a new intimate partner.

Bail conditions need to be put in place to address the risk factors relating to the specifics of each case. For example, if an offender is coming before the court only when they are intoxicated, conditions of supervision and support need to be put in place to address alcohol as a risk factor, especially if the charges involve violence.

Stronger conditions relating to victim safety must be put in place. In Brantford it is common for the court to impose only a 50-metre radius from the victim's residence or employment. This is approximately two residential houses apart, and it can allow for the accused to live on the same block as the victim.

In cases of criminal harassment and stalking, where the accused has no reason to be in the city in which the victim resides, a geographical radius for the entire city should be imposed. There have been cases where this was requested, and the condition was not imposed because it was too onerous on the accused.

Tertiary grounds should also be taken into consideration in cases in which the accused has an extensive criminal record. That goes to the heart of one of the prongs in the assessment on the tertiary grounds, which is public confidence in the administration of justice. Bail supervision programs should not be used as a form of supervision in cases of violence and particularly intimate partner violence. They do wonderful work, but they cannot provide the supervision necessary to alleviate concerns on the secondary grounds.

Regarding supports for offenders, much of the input that I receive from offenders, family members and intimate partners is that they want the offenders to receive the help they need. Whether it's for addictions or mental health, they want them to have a place to live where they can receive their medication and receive their mental health assessments, counselling and treatment. Unfortunately, this does not happen in bail court.

Once a justice of the peace conducts an assessment under section 493 and determines that the accused belongs to a vulnerable population, they must look to alternatives to incarceration. This can usually result in the release on their own recognizance or to the bail supervision program.

● (1810)

More needs to be done for low-level offenders struggling with addictions and mental health issues at the bail stage. By the time they're placed on a probation order, they can have up to 10 sets of charges.

Thank you for your attention. I'm open to any questions.

The Chair: Thank you so much.

We'll begin our first round of six minutes with Mr. Van Popta.

Mr. Tako Van Popta (Langley—Aldergrove, CPC): Thank you, Chair, and thank you to all the witnesses.

I'll start with you, Ms. Kaulius. It's nice to see a familiar face from British Columbia. Thank you for being here and giving evidence and for the important work you're doing with your organization. I know you work a lot with victims of impaired driving, and I know you've done some very effective work there, so my question is going to be about that and particularly about repeat offenders. Maybe share with the committee your experience around that and how that might tie into bail reform.

Ms. Markita Kaulius: Well, we've seen too many times as well that it's not a first offence. Police have told us that for every person they stop who is impaired, 100 more get away, and we continue to see the stats rise. We have had repeat offenders who have had three and four and five impaired driving charges against them, but who have been released on bail until they have finally killed someone. Even then, we've seen sentences of a $1,500 fine or a $2,000 fine.

We just had two cases here in B.C. last week, and the people who were convicted of killing someone received house arrest. That's no deterrent to drinking and driving. I'm sorry, but it's not. Those families were left devastated, knowing that the individuals who killed their family members were back home, continuing on with life. They may not be going outside, but they are not spending any time whatsoever in jail.

● (1815)

Mr. Tako Van Popta: We're talking about bail reform in this study, so I'm going to ask a question specific to that. Do you think it would be fair to make abstinence from alcohol a condition for granting bail to a person charged with impaired driving?

Ms. Markita Kaulius: Absolutely, we need to do something. I mean, we're losing about 1,500 people a year to impaired driving, and I don't know what it comes down to. I have been fighting for change now for 12 years, and there's still so much more that needs to be done, because we continue to lose people.

I don't know whether it's going after the car manufacturers to implement something so the car will not start, like an interlock ignition; I don't know whether it will be tougher sentencing laws, or whether it will be that you get one chance to get your licence, and if you drive impaired and you crash and kill someone, then you lose your licence and it's gone forever. It's something that has to be tough. It has to be drastic. People have to know that if they drink and drive and cause a collision that kills someone, there are severe consequences to those actions, and I think it's—

Mr. Tako Van Popta: Thank you.

Ms. Vlietstra, I'm going to go to you. Thank you for the evidence you've given.

You said you would, if I understood you correctly, recommend an outright denial of bail for repeat violent offenders and those involved in drug offences and firearms offences. Did I understand that correctly?

Ms. Lia Vlietstra: Yes.

Mr. Tako Van Popta: Earlier evidence we heard today from, I think, Dr. Myers, was that there's a very high percentage of people in incarceration who haven't been convicted yet. These are people who are awaiting bail, so denying more people bail is going to increase that population. What do you say about that?

Ms. Lia Vlietstra: The people who are in custody who I see are not being denied bail. They're in custody at the defence's request for an adjournment. Some may be in a "bail set not met position", but most requests are remand at their lawyer's request for different reasons that I wouldn't know.

Mr. Tako Van Popta: You don't see that bail reform to either make things stricter or make things less strict is going to make a difference, because it's really just procedure in court that is slowing bail courts?

Ms. Lia Vlietstra: If more people were denied bail, that would result in more people being remanded after being denied bail, but currently, from what I see, people are not being remanded as a result of being denied bail.

Mr. Tako Van Popta: Thank you.

Mr. Danardo Jones, it's nice to have you here. Earlier in the study we had Chief Darren Montour here of the Six Nations Police Service. That was the police service that was supervising the bail conditions of the person who is now charged with murdering Greg Pierzchala. Chief Montour made the point that there are deep societal problems that are underlying the whole issue of bail and our judicial system.

This is the way he ended that statement, though. He said, "It is sad to see, but we still have a responsibility"—and he's talking about the justice system—"to ensure public safety of our communities because 99% of the time the offender is indigenous and so is the victim."

The Chair: I'm sorry—

Mr. Tako Van Popta: My question to you is this. How do we resolve the tension between not wanting to further harm those offenders and ensuring public safety? Maybe you can have a chance at that later.

The Chair: I'm sorry, Mr. Van Popta.

We will go to Ms. Diab, for six minutes. Then, hopefully, you can answer that question later.

● (1820)

Ms. Lena Metlege Diab (Halifax West, Lib.): Thanks very much, Mr. Chair, and welcome to our witnesses. We very much appreciate your coming to help us parliamentarians do our job in trying to figure out what the challenges are in the bail system and what recommendations you have.

I'm going to start with Mr. Jones on the same theme that has just been asked, which you didn't have a chance to answer, on the Gladue principles. I would ask you to please comment on the importance of these measures and the consideration of an accused's race and background generally in the bail system. Also, in your research experience, how are these Gladue factors and other elements of the accused's background weighed compared to other factors in bail decisions?

Mr. Danardo S. Jones: We know that race is an extremely important consideration in who gets bail, on what conditions, and who's able to meet whatever conditions are set, whether it's by the Crown, a judge or a justice of the peace.

As I mentioned in my interlude, bail is all about risk management, and risk is read on bodies. Certain bodies read as more risky than others. There is a tremendous amount of sociological data to support that. This is not something that's lost on our courts. Our courts—the Supreme Court of Canada, the Court of Appeal—routinely remind lower court judges to take judicial notice of this fact.

Gladue factors play a role, in that they remind bail jurists that for most non-indigenous non-racialized people, particularly compared to Black accused people, the opportunities they would have are not opportunities that are afforded to these folks. Unfortunately, it is these folks who are overcharged, and it's these people who find themselves before our bail courts.

Taking race into consideration does one of two things. It either levels the playing field so our system is more fair, or at the very least it creates a contextual background to allow a Crown or a justice of the peace to make an informed decision about whether or not this person is too risky to be released pretrial.

That is it. It is just about providing the necessary context to allow a justice of the peace or a judge to make a decision around risk.

Ms. Lena Metlege Diab: Thank you for that.

What would you say to provinces and territories? What can they do to complement the federal government's action on bail?

Mr. Danardo S. Jones: Well, judicial education is important—having judges understand that just because we're asking judges or justices of the peace to take race into consideration, it's not necessarily an act of leniency or some kind of discount. That's not the case. It's providing the necessary context, the social context, that is required for decision-makers to make fair decisions—decisions that are in line with our constitutional values. It's not possible to make these decisions without taking that context into consideration.

It means that our Crowns need to be educated about some of the implications of race, as do our bail jurists, whether it's a justice of the peace or a judge. It's that necessary context that is missing.

Ms. Lena Metlege Diab: Thank you for that.

Can you describe what Bill C-75 did, in your experience, and the impact it had on the bail system?

● (1825)

Mr. Danardo S. Jones: It provided bail jurists, Crowns and defence lawyers with language that was missing from our judicial interim release provisions: for example, the principle of restraint, bringing in considerations for vulnerable populations, including indigenous populations. That was something that was missing from our bail provisions. It provided the necessary language. It provided that vocabulary.

We know the Supreme Court of Canada has said that whenever indigenous liberty is at issue, the Gladue principle will always apply. Unfortunately, there was no jurisprudential guidance around whether or not anti-Blackness or the plights of Black Canadians should form the basis or at least be taken into consideration at the bail stage. Section 493.2 gave that language, that vocabulary.

The Chair: Thank you, Ms. Diab.

Ms. Lena Metlege Diab: Thank you very much.

Best of luck to you as a candidate for a Ph.D.

Mr. Danardo S. Jones: Thank you very much.

The Chair: Thank you.

Next is Monsieur Fortin for six minutes.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Thank you to the witnesses for being with us today.

Mr. Jones, the committee is reviewing the provisions relating to bail. Important and credible witnesses have told us that too many people are released too easily. However, we've heard other witnesses argue the opposite: there are too many people in prison and they should be released. A witness in the previous panel told us that nearly 70% of accused were in pre-trial detention. I was a bit shocked, and I don't think that's what we want. At the same time, when I hear what victims have to deal with when their attackers reoffend because they were released too easily, I find that very serious and worrisome.

Where do you think the line should be drawn? On one hand, how do we keep victims out of danger and ensure that repeat offenders out on bail don't commit more crimes? On the other, how do we avoid putting innocent people awaiting trial behind bars? How do we balance the best interests of both sides?

[*English*]

Mr. Danardo S. Jones: Going back to my earlier comment about risk management, sometimes the difficulty around calibrating what is the appropriate approach to balancing those two very important considerations, public safety on the one hand and constitutional values on the other.... As I've said, it's not a science; it's an art. It requires Crowns and also bail jurists to exercise common sense and also to be alive to, as I said, the necessary social contexts.

We understand that we don't want people who pose a tremendous risk—the language used in the code is “substantial risk”.... How do we determine whether or not this person poses a substantial risk of reoffending?

The code gives us some guidance. It tells us about antecedents, whether or not this person committed other offences or has convictions. Also, it tells us about the type of offence—the normative dimension of the offence—so whether we're talking about a serious violent offence and so on. These are considerations that a bail jurist will take into consideration in making a decision.

[*Translation*]

Mr. Rhéal Fortin: Do you agree with Ms. Vlietstra's suggestion to deny bail for all repeat violent offenders or those accused of firearms offences?

[*English*]

Mr. Danardo S. Jones: I categorically disagree with that. That is an affront to our Constitution.

[*Translation*]

Mr. Rhéal Fortin: You talked about the impact of former Bill C-75 on access to bail. I'd like to hear your views on the impact the elimination of mandatory minimum sentences had or didn't have on access to bail. Did it change anything, for instance, how judges assess the seriousness of the offence?

● (1830)

[*English*]

Mr. Danardo S. Jones: Mandatory minimums, if they offend section 12 of the charter, have been struck down by the courts. Really, what courts are saying is that they are well positioned to sentence an accused...or sentence them to a proportional sentence. They have the necessary experience to do that. Mandatory minimums remove that discretion from judges.

[*Translation*]

Mr. Rhéal Fortin: I agree with you on that, but my question had more to do with the signal being sent. Allow me to explain.

I, too, am in favour of letting judges determine what the appropriate sentence is, because I think 99.9% of judges usually do an excellent job. I have no problem with that. However, when lawmakers say that they are going to get rid of minimum sentences, it sends a message to society. I wonder about the message being sent, especially if it's taken to mean that a crime that previously carried a minimum sentence isn't that serious.

Do you think that message could influence bail decisions?

[*English*]

Mr. Danardo S. Jones: I wouldn't say that it has an impact on what decisions are made in a bail court, one, because it's different considerations that are being taken, that are being looked at, at the sentencing phase. We're talking about proportionality. We're talking about just deserts. What is a proportionate sentence?

That's what we're taking into consideration: the gravity of the offence, the moral blameworthiness of the offender. We're taking that into consideration.

You raised a point around the communicative dimension of a sentence. What message is it sending to the public? Is it saying that this particular offence or behaviour is not serious if a mandatory minimum is not attached to it?

What I'm suggesting to you is that our courts are well positioned to send a message, whether it's a message of the terms or denunciation, to attach a penalty that articulates society's abhorrence of a particular conduct. Our courts are well positioned to do that. I don't think our courts have been handing down lenient sentences that send a message to prospective criminals that they can commit crimes with impunity. I don't think that's what's happening with the removal of mandatory minimum sentences.

The Chair: Thank you, Mr. Fortin.

Mr. Garrison, you have six minutes.

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

I want to continue with you, Mr. Jones, and back up a step. I think you made your three points, but you didn't get a chance to summarize what that meant. I'm guessing that you're going to agree that the bail system contributes to the overincarceration of marginalized and racialized Canadians.

I want to give you a chance to talk about how that happens.

Mr. Danardo S. Jones: Indeed. We know from the social science data that police officers engage in racial profiling. At this point in time, that's not a very controversial statement to make. What that results in is an over-prosecution of racialized people, of indigenous and black people.

When these people are in bail court, as I said earlier, because of how we read risk and how risk is kind of inscribed on bodies, these people, whether it is the Crown's onus or it's a reverse onus, are seen as less likely to adhere to whatever bail condition they have received than someone not in their position. We have certain narratives around who is more trustworthy. That is the threshold for evidence in a bail hearing—credible and trustworthy evidence. Some people, because of certain racial narratives, as I said, are deemed to be more credible and more trustworthy. We're talking about not just the accused person but also any sureties they may rely on.

There's a profound issue with how risk is understood and how we read risk on particular bodies. This is where that race sensitivity or awareness or consciousness comes into play. Is that something you can legislate? Not necessarily. As I said, I think Bill C-75 gave us some language, but it is incumbent on Crowns and defence lawyers and JPs and judges to start taking notice of some of these racial realities on the ground and incorporating them into their decision-making.

● (1835)

Mr. Randall Garrison: I think earlier you talked about what leads to breaches of conditions, so I guess I would ask you a similar question. It seems from the literature that people who are racialized, otherwise marginalized or indigenous get more conditions, and then they're more likely to be unable to meet those conditions if they're on bail.

I presume you're going to tell us the same thing, that there's a reason for that.

Mr. Danardo S. Jones: Indeed. We've seen that the bail system, unfortunately, has been almost co-opted to be used as some kind of proxy for punishment. That's a perversion of the bail system. It's also an affront to our Constitution. It's an affront to section 11(e), definitely.

It is this attempt, I think, to turn bail hearings into proto-trials, or trials before trials, that is worrying, because there are different issues being decided at a bail hearing. As I said, it's about risk management. It's not about proving guilt or innocence. It's also not about punishing people for wrongdoing. That will happen later on. We cannot co-opt or circumvent the process to try to punish people earlier because we believe, or it's already a foregone conclusion, that this person is guilty. We don't know that. It's why we have an adversarial system. One day the person will have their fair trial and that determination will be made.

Mr. Randall Garrison: I have one minute left. Perhaps I can go back to your original presentation, in which you talked about the inability to compensate for a loss of liberty. Can you say a bit more about the consequences—for those who have not been convicted and maybe will not be convicted—of being held in detention or subject to those conditions?

Mr. Danardo S. Jones: Indeed. What we're talking about is not only a loss of liberty but also a loss of dignity, and we're talking about populations who have already historically been stripped of dignity. They have no more dignity to be taken away, and this is what happens when people are presumed guilty from the very beginning. They are stamped as guilty from the beginning. It's an affront to dignity, and obviously it takes away liberty as well.

It's doing that damage up front, and we cannot compensate for that later on. I'm sure folks have talked about this before, around the likelihood of someone pleading guilty if they're denied bail and so on and so forth.

I see that my time is up.

Thank you.

The Chair: Thank you, Mr. Garrison.

In the interest of time, our next round will be limited to three minutes each, and that will be our final round.

We go to Mr. Brock for three minutes.

Mr. Larry Brock (Brantford—Brant, CPC): Thank you, Chair.

My first question is for Professor Jones.

I understand that you are in the academic field. You're at the University of Windsor's faculty of law. Have you ever practised law, sir?

Mr. Danardo S. Jones: I have, yes.

Mr. Larry Brock: In what area did you practise?

Mr. Danardo S. Jones: I worked in criminal law.

Mr. Larry Brock: Was it criminal defence?

Mr. Danardo S. Jones: It was criminal defence. I worked with legal aid organizations across Canada, in Newfoundland and Labrador, Nova Scotia and Ontario.

Mr. Larry Brock: From what year to what year did you do that?

Mr. Danardo S. Jones: I got called to the bar in 2013, and I practised up until 2020.

Mr. Larry Brock: The reason I ask is that I've taken some notes of some pretty inflammatory language that you're using, which, in my view as a former Crown attorney, does not reflect reality. I'd really like to know where you're getting your data from on issues such as the Crown in the system presuming individuals guilty as they enter the bail stage, that Crowns need to be educated with respect to the realities of marginalized individuals, whether they're Black or indigenous, that the bail system is a proxy for punishment, and that judges need to be aware of the racial realities on the ground.

Where are you getting this data from?

● (1840)

Mr. Danardo S. Jones: The Supreme Court of Canada has said it over and over and over again, and also there's the—

Mr. Larry Brock: That's right, and we have Antic; we have Zora, and we have, from the Court of Appeal of Ontario, Morris, which was an anti-Black strategy.

Are you aware of that?

Mr. Danardo S. Jones: I've written on it.

Mr. Larry Brock: Yes, and Crown attorneys from coast to coast to coast receive extensive training, yearly training, if not Crown school, ongoing legal education, so I find it rather offensive that you're just using this broad stroke to categorize the Crown system and the judicial system when it comes to marginalized individuals, Black and indigenous, not receiving a fair shake in our bail system.

Mr. Danardo S. Jones: This is not my language. The courts have said it, and the courts have mentioned it from 1993 in the case called R v. Parks. This is not my language, that the system is profoundly anti-Black. That's Justice Doherty's language.

Mr. Larry Brock: Thank you, sir.

Ms. Vlietstra, compared with the small period of time that Professor Jones has practised law, you've been in the trenches day in and day out in bail court over a number of years. You've heard the panel of witnesses today. You've heard references to witnesses who testified previously.

What sort of reaction do you have to what you've heard today? What are the realities? What are the day-to-day realities that you see in the criminal courts?

Ms. Lia Vlietstra: The day-to-day realities that I see and deal with on behalf of victims are that most offenders are released quickly and repeatedly, and it's for domestic violence and a wide range of violent offences. They're released starting right from when they're arrested by the police and released on undertakings, and they can have a criminal record for it, previous offences, and then they're held for bail court and oftentimes released on consent by the Crown on their own recognizance or undertaking, with conditions of no contact, not within 50 metres of a victim, and no weapons. That's where it starts. Then they're charged with, usually, a breach, or they can be charged with a breach and further offences and held and released, slowly climbing that ladder of release. They're not charged only once; it's repeatedly.

The Chair: Thank you.

Thank you, Mr. Brock.

We'll go to Mr. Zuberi for three minutes.

Mr. Sameer Zuberi (Pierrefonds—Dollard, Lib.): Hello, Mr. Jones, or as they say in Quebec, *maître* Jones.

I'd like to open the floor to you so that you can give your concluding remarks.

I'd also be interested in your personal experience as a person of colour in the legal world. What are some of the...?

Do you want to share any personal anecdotes of how you, personally, have been treated or referred to by others, if you found some different interactions from other colleagues of different backgrounds?

Mr. Danardo S. Jones: Race talk is always uncomfortable. Whenever you raise issues of race, there are going to be people who think you're singling out particular individuals or particular institutions, but my data is quite sound. The Supreme Court of Canada backs my data—it's not my data. It's data that has been compiled over the last 30 years.

If I had known that I needed to bring that data with me, I would have brought it. I can send it in at a later date and it can be part of the record.

Mr. Sameer Zuberi: I would ask you to do that and send in that data.

Mr. Danardo S. Jones: That's no problem.

Race talk is difficult. It's just one of those things. All of us stand to have that or sit back and get that talking-to. It's not just Crowns, but defence lawyers and all of the people who work in ensuring that the administration of justice is fair.

● (1845)

Mr. Sameer Zuberi: Certainly.

I was thinking, when I asked the question.... I used to work in the faculty of medicine at McGill, and one of the academics I worked with—I was a staff person—was a lady of advanced years. She said that she was oftentimes thought of...that people would mistake her for a nurse, or sometimes even the caretaker or janitor of the hospital, whereas she was a physician.

I know that people of different racialized backgrounds in these professions—law, medicine, etc.—have different interactions from those who aren't racialized.

Mr. Danardo S. Jones: That's been my experience. I've walked into courthouses, and despite the fact that I think I look the part, I'm stopped and so on. It's quite endemic, and it's not something that's peculiar to me. It happens to a lot of other racialized lawyers.

Mr. Sameer Zuberi: I would say, despite the training that lawyers and prosecutors and others in the court justice system have, there's still more work that needs to be done, and Gladue is pushing things in the right direction.

Mr. Danardo S. Jones: That's right. As the member said, we are seeing the courts signalling to lawyers in cases like Morris and Le—

Mr. Sameer Zuberi: With somebody like you—a Ph.D. candidate who's going to be a doctor pretty soon, I'm sure—for assumptions to be put around your credentials, your research, your background and your expertise, I find it really interesting. It's flabbergasting, to be honest, but it shows that we have a lot of work to do.

Mr. Danardo S. Jones: You know—

The Chair: Finish your thought, and then we'll conclude.

Mr. Danardo S. Jones: I was just going to say I have a pretty thick skin. I know that talking about race is difficult—

Mr. Sameer Zuberi: It's absolutely necessary.

The Chair: Thank you, Mr. Zuberi.

I want to thank all the witnesses for attending and for giving your very valuable testimony today.

Before I conclude, I think the clerk wanted to mention an event that we've all been invited to. I believe it's on Friday. I will not be able to attend, but Mr. Clerk, do you want to read it out quickly to members?

The Clerk of the Committee (Mr. Jean-François Lafleur): Thank you, Mr. Chair. I was not aware that I would have to do that now.

We will circulate an invitation about an event about Ukraine on Friday night. It will be circulated tomorrow morning. It's from the Parliamentary Centre.

The Chair: All right. That concludes the meeting.

We'll adjourn, and we'll see you all after the break week.