HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

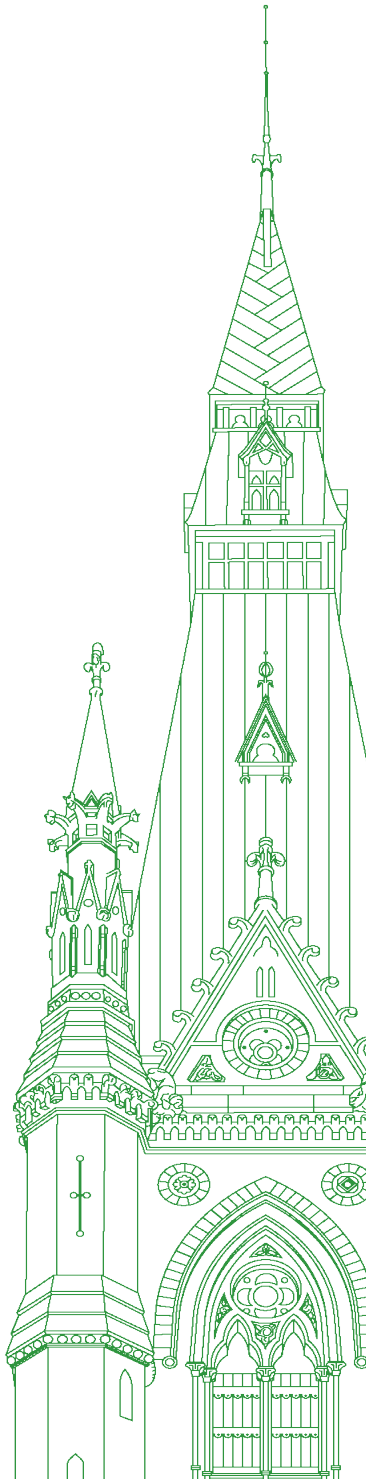
44th PARLIAMENT, 1st SESSION

Standing Committee on the Status of Women

EVIDENCE

NUMBER 019

Tuesday, May 10, 2022



Chair: Mrs. Karen Vecchio

Standing Committee on the Status of Women

Tuesday, May 10, 2022

● (1605)

[*English*]

The Chair (Mrs. Karen Vecchio (Elgin—Middlesex—London, CPC)): I'd like to call this meeting to order.

Pursuant to the order of reference of Friday, April 29, 2022, the committee will resume its study of Bill C-233, an act to amend the Criminal Code and the Judges Act (violence against an intimate partner).

Today's meeting is taking place in a hybrid format pursuant to the House order of November 25, 2021. Members are attending in person in the room and remotely using the Zoom application. Per the directive of the Board of Internal Economy on March 10, 2022, all those attending the meeting in person must wear a mask, except for members who are at their places during proceedings.

I would like to make a few comments for the benefit of our witnesses and 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 your mike when you are not speaking.

For interpretation for those on Zoom, you have the choice at the bottom of your screen of floor, English or French. For those in the room, you can use the earpiece and select the desired channel. As a reminder, all comments should be addressed through the chair.

Before we welcome our witnesses, for drafting amendments I would like to remind members to contact Alexandra Schorah, the legislative counsel, as soon as possible should there be any amendments to be drafted. The deadline for submitting amendments in both official languages is Wednesday, May 11, at noon. Amendments should be sent to the clerk.

On another note, I had a call this morning from Megan Walker. She is unable to attend today due to family circumstances. I have taken this to the clerk, and I would like to propose that her speaking notes be taken as read and appended to the evidence of today's meeting.

Do I have the consent of the committee?

Some hon. members: Agreed.

[*See appendix*—Remarks by Megan Walker]

The Chair: I would now like to welcome our guests.

To our witnesses, I'm very sorry that we are running late and starting late today. We did have three votes, but we're all here now and ready for this.

As witnesses today we have with us, as an individual, Francis Fortin, associate professor, school of criminology, Université de Montréal; Jean-Pierre Guay, professor, school of criminology, Université de Montréal; as an individual, Corinne Paterson, obstetrician and gynecologist; from Luke's Place Support and Resource Centre for Women and Children, Pamela Cross, legal director; from the Recovery Science Corporation, Peter Marshall, chief executive officer; and Cee Strauss, staff lawyer, Women's Legal Education and Action Fund.

I'd like to thank each and every one of you for joining us. I'm going to be granting you five minutes each for your opening statement. You're going to see me start hooting and hollering over here, but since we have a large panel, I will be cutting you off at that five-minute point.

I am going to pass the floor to our first witness, Francis Fortin, with the Université de Montréal.

Francis, you have the floor for five minutes.

[*Translation*]

Dr. Francis Fortin (Associate Professor, School of Criminology, Université de Montréal, As an Individual): Thank you.

Good afternoon, everyone. I thank the committee for the invitation and for their interest in our work.

Some countries have adopted electronic monitoring device systems as a means of preventing domestic violence, including spousal homicide. The monitoring bracelet allows the geolocation of a spouse or ex-spouse, which, in the event that a set perimeter around the victim is crossed, sends an alert to the central station and allows a rapid intervention of police officers on both the victim's and the offender's side.

Jean-Pierre Guay and I were mandated to prepare a feasibility study that aimed to analyze the measure by identifying the main challenges related to the implementation of this device in the Quebec context.

For our methodology, we used 133 documents and synthesized legislation in 38 territories. We conducted interviews with police stakeholders in the justice environment, victims' groups and offender assistance groups, and we also conducted an assessment of the criminal history of offenders, which my colleague, Jean-Pierre Guay, will present to you in a few moments.

Here are our findings. Several initiatives have been implemented in a few countries, and their experience shows that the monitoring bracelet can be incorporated into the various measures to prevent domestic violence. First of all, it increases the well-being and sense of security of the victims, which means that we can intervene quickly. In addition, the bracelet increases compliance with treatment orders.

It should be noted that there can also be negative effects. So, good implementation should aim to reduce these, taking into account the following in particular. First, there are the legal issues, which include consideration of the stage in the judicial process where the bracelet may be appropriate, as well as the balance between protecting victims and respecting the rights of offenders. It is also important to understand that there are equivalent provisions to section 810 of the Criminal Code everywhere, in many countries. Everywhere, these orders are very difficult to enforce, and the bracelet enforces a measure that is already ordered by a judge in most jurisdictions.

The implementation of such technology also raises issues related to the choice of device, its underlying technology and an effective alarm and warning system. It also needs to be coordinated with a police response. We have highlighted the particular characteristic of Quebec, which is the unavailability of certain technologies in remote areas. We also find challenges related to the privacy of the parties involved.

In short, our report contains several recommendations to minimize the impact of this measure, in order to strike a balance between protecting victims and depriving offenders of their rights and freedoms.

Risk assessment and the selection of individuals subject to a measure such as this also merit careful consideration. My colleague, Jean-Pierre Guay, will address this specific issue.

● (1610)

Dr. Jean-Pierre Guay (Professor, School of Criminology, Université de Montréal, As an Individual): Thank you, Professor Fortin.

First of all, I would like to thank the Standing Committee on the Status of Women for inviting us. It is a pleasure and a privilege to be here to present our work on the electronic monitoring bracelet.

In order to better understand the people and situations that could benefit from a monitoring bracelet and to propose scenarios for its use, we conducted a relatively exhaustive study of the criminal histories of people who had committed spousal violence offences in Quebec over a long period of time.

We used police data concerning the arrests of all perpetrators of domestic violence offences in Quebec over a 10-year period. We analyzed all of these paths to bring out a number of main lines. We documented all the offences committed by these individuals over their lifetime.

We were able to paint a relatively detailed picture of the criminal history of these individuals, both in terms of general crime and domestic or sexual violence. In total, we counted 116,805 perpetrators of domestic violence offences between 2010 and 2020. About 30% of these offenders, or 33,999, were repeat offenders of domestic violence. In more than half of the cases, the gap between the first and second offence was less than 18 months. We studied the essential criminal history of these offenders, as well as recidivism in relation to domestic violence. The results revealed that recidivists had a relatively extensive and criminally diverse criminal history.

The best measure for the monitoring device is probably one that correctly identifies those most likely to benefit from it. Not everyone can necessarily benefit from such a measure, due to lack of human resources or technological problems, as Mr. Fortin mentioned.

The report we have proposed presents a series of data analyses and a short scale to guide decision-makers on the allocation of monitoring bracelets. It also attempts to estimate the risk of reoffending using relatively simple criteria regarding the criminal history of individuals. These criteria could potentially serve as a starting point for decision-makers. They could base their decisions on specific characteristics of the cases they are working on.

In Quebec, we are currently conducting a study on the effects of the monitoring bracelet. Specifically, we will be looking at offences committed, recidivism of offenders, victims' sense of safety, and the experience of people who wear the monitoring device. We have quite a lot of experience that allows us to put in place devices and understand the effects of the monitoring bracelet.

This study should allow us to adjust the measure so that it is as effective and optimal as possible.

● (1615)

[*English*]

The Chair: Thank you so much.

We're now going to pass it over to Corinne Paterson.

Corinne, I have your remarks with me. I think we may be a little over time, but I will make sure that any of your remarks are put on the record for you, just in case I have to cut you off.

You have five minutes.

Dr. Corinne Paterson (Obstetrician Gynecologist, As an Individual): Thank you so much for inviting me to speak today.

My name is Corinne Paterson and I'm an obstetrician gynecologist in Manitoba. I've been practising here since 2011. I want to share with you my experience working with women experiencing intimate partner violence.

In residency we are trained regarding the basics of how to help our patients who are dealing with domestic violence. First, we're taught to ask about it, knowing that 25% of Canadian women will experience it. If a woman discloses domestic violence in her relationship, we talk about safety. We talk about having an exit plan. We talk about shelters. We support them if they wish to report to the police. We talk about leaving their abusive partner.

Most of us became doctors because we wanted to help people, and this seemed so straightforward when it was taught in university. Unfortunately, helping women in these situations is far more complicated. Women can go through all the right steps and still die or lose the lives of their children. The loss of life of women and children from intimate partner violence across Canada is appalling. It has become a public health emergency that has been made worse by the pandemic. A woman dies every 1.5 days in this country, and 30 to 40 children die every year from domestic violence. We can do better.

We also know from a medical perspective that children who survive domestic violence do not emerge unscathed. Exposure increases the risk of adverse health outcomes, including depression, anxiety and suicide. Physical illnesses, including obesity, heart disease and cancer, are increased as well.

If a woman tells me that she's being abused by her partner and she has children, we discuss leaving. However, in Winnipeg, as is common across the country, it is unlikely that we will be able to have a shelter bed available for her on the day that she happens to need one. I remember once calling a shelter on behalf of my pregnant patient who showed up to my clinic with two black eyes, and I was told the wait for a shelter bed would be approximately two weeks' time. That's not helpful.

Women like this are often scared, and so am I. I know her risk of dying increases significantly when she decides to leave a violent relationship. I will often encourage people to get a restraining order. I also know that in Winnipeg we do not always have the police resources to come right away. I know when she goes to a lawyer to talk about getting a divorce, they will possibly explain to her that a judge may feel—as did the judge in Dr. Kagan's case—that domestic violence is not relevant to parenting and they're going to ignore it.

I've heard from patients and from lawyers that their clients are aware of this phenomenon. It's become an unacceptable but understood fact amongst professionals: A woman can go through every step correctly, but the Canadian judicial system is unable to consistently protect abused women in this country.

Education on domestic violence is absolutely required to protect Canadian children. Specifically pertaining to this bill, we talk about educating judges. They act as the final gatekeepers to justice for women leaving the path of abuse. If they are unaware of the full implications of their decisions on the lives of women and children, how can we expect them to do their job properly?

If any individual were to argue with me that this education is unnecessary, I would ask them to picture what 280 mothers and children would look like. That's 10 classrooms full of women and children. Even if, with this bill, we manage to save 10% of them, that would be significant. We're asking judges to invest their time in learning how to save these lives.

We know that, according to the Canadian Domestic Homicide Prevention Initiative, recent separation and domestic violence are the two biggest risk factors for domestic violence-related child homicide. Custody disputes increase this risk as well. If we can properly risk-score these perpetrators, perhaps we can save the lives of children. Every judge needs to know these facts.

I became involved in speaking about this bill because I was particularly touched by the media coverage of the case of Keira losing her life after her mother, a fellow physician, did all the right things. She left. She trusted the system; there are 53 court orders to prove it. Her daughter still died. Another physician, a mother of three, Elana Fric, lost her life at the hands of her husband after suffering from significant domestic violence and telling him she wanted a divorce.

A woman's risk of domestic homicide goes up 900 times when there is a history of coercive control, violence and a recent separation.

We are fortunate that research has been done which clearly demonstrates that ankle bracelet monitoring saves lives. Ankle bracelet monitoring for offenders, including notification of the victim and police if the perpetrator is violating a restraining order, has been shown to reduce intimate partner violence-associated deaths by up to 100% in some jurisdictions.

● (1620)

I wonder how many Canadians could be saved by this technology, and I sincerely hope we get the chance to find out.

The Chair: Thank you very much, Dr. Paterson. I really appreciate those words.

We're now going to pass it over to Pamela Cross with Luke's Place Support and Resource Centre for Women and Children.

You have five minutes, Pam.

Ms. Pamela Cross (Legal Director, Luke's Place Support and Resource Centre for Women and Children): Thank you very much. Good afternoon. I'm very happy to be with you to talk about Bill C-233. I do so on behalf of Luke's Place Support and Resource Centre in Durham Region where I'm the legal director. I'm happy to talk to you more about the work that we do with survivors of family violence if we have time during the question period.

First, with respect to judicial education, Luke's Place strongly supports judicial education on the issue of intimate partner violence, or IPV. The family law system in Canada is not always an understanding and safe place for women who have been subjected to IPV. Women face barriers in simply getting to the courtroom and, once there, they're often met with a legal system that does not understand their experiences or hear their concerns.

Just over a year ago, significant changes were made to the Divorce Act, making it mandatory for judges to consider family violence when deciding on parenting arrangements. These changes also introduced an expansive definition of “family violence” that goes well beyond the physical to include patterns of coercive control. As we just heard from Dr. Paterson, it's that coercive control that can be such a dangerous kind of IPV.

Those changes to the legislation, important as they are, are only one part of the solution when it comes to protecting women and children, to saving their lives. Education for those tasked with applying the law is equally important if judges are to have the tools and resources they need to make effective, safe parenting decisions.

Over the past year, we've seen excellent decisions that clearly reflect a deep understanding of the legislation and of IPV on the part of many judges. However, we also continue to see decisions that lack that understanding. When a judge does not fully understand what family violence looks like and its harmful long-lasting effects, decisions can be made that put women and children at risk. Stereotypes about violence and victims remain alive and women who have been subjected to subtle, non-physical forms of violence continue to be disbelieved, continue to be retraumatized, or even worse, they're vilified throughout the family law process.

We strongly support judicial independence and impartiality and the need to ensure that judges make decisions based only on the law and the facts before them, but to do so effectively and competently, judges require ongoing education about the laws that they're applying. This should not be controversial. We understand that a memorandum of understanding was recently signed by Chief Justice Richard Wagner and the Minister of Justice, David Lametti, recognizing the judiciary's autonomy over education. We believe that this bill can coexist with the memorandum through the permissive language found in the Judges Act.

While we generally support Bill C-233's proposed amendments, we suggest that it could be made stronger by including a provision that sets out suggested requirements for the creation and content of the training, similar to those in subsection 60(3) in respect of seminars related to sexual assault law. In the interests of time, I'll save my comments about the details of what we propose for that kind of education for the question period.

We also submit that Bill C-233 should include an amendment to paragraph 3(b) to require that new judges undertake to participate in continuing education on matters related to IPV and coercive control. This obligation already exists with respect to sexual assault law and social context, and it should simply be expanded to cover the topic of intimate partner violence.

Very briefly, we're not opposed to electronic monitoring as a mechanism for promoting the safety of victims and survivors of intimate partner violence. There's no doubt that this form of electronic tracking can provide women with an added level of security and no doubt that it has the potential to increase both actual safety and feelings of safety.

However, we need to do more before we codify electronic monitoring. In order to avoid unintended negative consequences, let's take the time to find out more about when and how it will be used, and whether it's appropriate in all circumstances.

We have a list of questions that we believe need to be answered before proceeding with electronic monitoring, and I'm happy to share them and discuss them during the question period, if time permits.

● (1625)

Let me conclude by saying that Luke’s Place supports Bill C-233, but encourages the committee to consider our proposed suggestions and amendments as a way to strengthen the bill and promote safer outcomes for women and children.

Thank you.

The Chair: Thank you so much.

We're now going to turn it over to Peter Marshall with Recovery Science Corporation.

Peter, you have five minutes.

Mr. Peter Marshall (Chief Executive Officer, Recovery Science Corporation): Thank you for inviting me to appear today.

My comments will be focused on the electronic monitoring provision of the bill and, to a lesser extent, on the education component.

By way of background related to the issue of intimate partner violence, I am a lawyer with experience in child protection and family law, having acted for children’s aid societies, parents, children and Ontario’s Ministry of Children, Community and Social Services.

In terms of experience related to electronic monitoring, my company, Recovery Science Corporation, started an innovative electronic monitoring program in 2010. We provide radio-frequency, GPS and alcohol monitoring. Because the availability of government-funded electronic monitoring programs is limited and inconsistent across the country, our privately paid program filled a need, as evidenced by the fact that our GPS monitoring program for bail developed into the largest such program in Canada, larger than any of the existing government-run programs. That experience gave us a front-row seat as Canadian criminal courts formulated their reasoning and developed a body of case law about the use of electronic monitoring as a bail condition. Based on that background, I have four main comments for your consideration.

My first comment is that, while the bill would require judges to consider the use of electronic monitoring as a condition of bail, it may be worth considering extending the same obligation to all forms of conditional release that a judge may be asked to consider or approve, such as peace bonds, conditional sentences, suspended sentences, intermittent sentences, conditional discharges, probation following a period of imprisonment, and parole.

My second comment is that it may be worth considering whether and how similar obligations can be extended to decision-makers other than judges. For example, when determining their recommendations, whether on bail, the withdrawal of charges in favour of a peace bond or sentencing, and although ultimately subject to a judge's approval, Crown attorneys make decisions that have a significant impact on whether an individual is released into the community and, if so, under what conditions.

My third comment relates to the availability of electronic monitoring. As I noted earlier, the reason my company's privately paid program became so successful was that the availability of electronic monitoring is so limited and inconsistent across the country. For example, any particular province or territory may or may not have a government-funded program at all, and when they do have a program, they may have technological limitations, such as only offering one type of monitoring. They may have eligibility limitations, such as only making it available for some forms of community supervision but not others and limitations in the number of cases they can accommodate.

If the intention is to ensure that decision-makers impose an electronic monitoring condition in all appropriate cases, then electronic monitoring needs to be available in all jurisdictions for every form of community supervision and needs to use the form of technology that best addresses the risk factors identified in each case.

My fourth and final comment relates to the judicial education provision of the bill. In addition to promoting general awareness among judges of matters related to intimate partner violence, it may be worth promoting the development of decision-makers' risk assessment skills and promoting practical knowledge of what can and cannot be expected of electronic monitoring. This will help decision-makers recognize the risk scenarios of where the use of electronic monitoring is and is not appropriate and, when using it, help them to craft an overall set of conditions that best addresses the circumstances of the case before them.

Thank you.

● (1630)

The Chair: Thank you so much.

I would now like to turn it over to the Women's Legal Education and Action Fund.

Cee Strauss, you have the floor for five minutes.

Cee Strauss (Staff Lawyer, Women's Legal Education and Action Fund): Thank you very much.

Good afternoon.

My name is Cee Strauss. I'm a staff lawyer at the Women's Legal Education and Action Fund, LEAF. I'm grateful for the opportunity to appear today from the unceded lands of the Haudenosaunee and Anishinaabeg peoples in the place that is now called Montreal. LEAF works to advance the equality rights of women, girls, trans and non-binary people through litigation, law reform and public education.

I'd like to start by thanking and recognizing Dr. Jennifer Kagan-Viater for her leadership in pushing for this important and necessary call for judicial education on matters related to IPV and coercive control. LEAF supports judges receiving this training; however, we believe the bill requires specification about how it should be implemented. These are details that I will discuss shortly. On the other hand, LEAF has serious concerns regarding clause 1 of the bill amending the Criminal Code.

I will begin with our support for judicial education.

Intimate partner violence is the most widespread type of violence against women, accounting for 45% of all violence reported by women aged 15 to 89. The risks of IPV are greater for women who are indigenous, Black and racialized, as well as for women with disabilities and migrant women. These risks are also greatly increased for people who are 2-spirit, non-binary, trans and gender nonconforming.

Victims and survivors of IPV have struggled to make courts understand both the impact of intimate partner violence on themselves and their families and the risk that such violence will occur. It's because of legal system actors' lack of attention to family violence and its impacts that LEAF strongly advocated for and celebrated amendments to the Divorce Act. These amendments, among other things, added a definition of "family violence" to the act and mandated that family violence be a consideration when determining the best interests of the child. Significantly, IPV, including coercive and controlling behaviour that is not physical, constitutes family violence.

However, identifying the presence of IPV or coercive control in a partnership requires training. IPV is an umbrella term that encompasses complex, varied forms of abuse. It's often misrecognized due to gendered myths and stereotypes, as Dr. Paterson and Pamela Cross so eloquently shared. This needs to change, and it will not change without training. However, in order for such training to be effective, we believe the bill requires specification in certain areas.

First, we recommend that training on matters related to IPV and coercive control include social context. The way the amendment is currently worded, social context is only relevant for training on sexual assault, yet systemic inequality in Canadian society, including colonialism, systemic racism, ableism, homophobia and transphobia, has led to and can exacerbate intimate partner violence and stereotypes about survivors of such violence. In 2021, indigenous women and girls made up 19% of femicides in Canada. Women with a disability are twice as likely as women without one to have been the victim of a violent crime. It is critical that judges are aware of these realities when assessing the presence and impacts of intimate partner violence.

In addition, educational materials on IPV and coercive control should be created in consultation with survivors of intimate partner violence and organizations that support them. For this reason, we would recommend that a similar provision be added to subsection 60(3) of the Judges Act in respect of training on IPV and coercive control. Training should include information on the different forms of IPV, the well-documented social reality that family violence is a gendered phenomenon and the impact of trauma on a survivor's memory, demeanor and well-being.

Finally, we would recommend, as Luke's Place does, predicating eligibility to become a superior court judge on a person's undertaking to participate in continuing education on matters related to IPV and coercive control. This was a crucial element of Bill C-3, formerly Bill C-5, as without it, one could not be sure that any judges would attend training on sexual assault law at all. This bill should provide the same reassurance.

Briefly turning to the bill's proposed amendments on electronic monitoring, there are some concerns that should not be ignored. It's important to note that electronic monitoring is already available to judges as an option when considering bail conditions. Electronic monitoring may make some survivors of intimate partner violence feel safer and may serve to protect survivors and their children from harm in certain cases. However, as it has already been said, this will not be the case for every person. For this reason, electronic monitoring should be a condition that is available to judges, which it already is, but it should not be something that judges are required to consider, as is proposed in this bill. This is because there is a significant likelihood that if judges are required by the Criminal Code to consider a particular condition, it will end up being added to bail conditions as a matter of course.

With electronic monitoring devices costing hundreds of dollars a month, the routine addition of electronic monitoring as a bail condition will have devastating consequences for low-income families. This may detrimentally impact the interests of, at least, some survivors.

● (1635)

Thank you for your time. I'll be happy to answer any questions you have.

The Chair: Thank you so much to our witnesses on our panel today.

In our first round of questioning, we'll be starting off with six minutes for each party. I will be passing the floor over to them, but I'm going to remind people that we're at six minutes for our first round, so I will be cutting people off since we're tight on time today.

Michelle Ferreri, I'm going to pass the floor over to you for six minutes.

Ms. Michelle Ferreri (Peterborough—Kawartha, CPC): Thank you, Chair.

Thank you, witnesses, for your great testimony. Thank you for being here today with your thoughtful and insightful suggestions.

I'm going to start with Pamela Cross.

Ms. Cross, you recently completed the delivery of domestic violence awareness training to approximately 2,700 Legal Aid Ontario staff, community clinics and lawyers across the province. What was the result of this training? Do you believe that same training would be beneficial and useful for judges?

Ms. Pamela Cross: Thank you for the question.

I'm going to answer the second part of it first, if I might. I think that what judges need to know is somewhat different from what lawyers need to know. The training work I did with Legal Aid Ontario was aimed not just at lawyers but at all of their staff, and in addition to understanding what intimate partner violence is, it was very much focused on coercive control and how to identify it. That's not really something a judge is in a position to be doing to the same extent.

While I think there are some commonalities between the work that we did with Legal Aid Ontario, the education that we're talking about for judges—and Cee Strauss has gone into this in some detail in their presentation—needs to focus on what's going to help a judge make a decision when they're hearing two stories very differently told by the two parties who are appearing in front of them.

As for whether or not the work we did with Legal Aid Ontario was effective, I would say yes, although I'm probably not an impartial judge of that. One of the things that was great about it was that it happened before the pandemic, so we could train people in person sitting in a room having conversations, and I think that's a really important part of learning. It was a full day of training, so it was rich in terms of the material that we could cover. The evaluations that were completed by the participants were extremely positive.

Maybe this is the most telling thing I can say, Michelle, in response to your question. A lot of people came to that training reluctantly, thinking they already knew what they needed to know or thinking that they were going to be turned into anti-father, biased lawyers. I can't tell you how many people spoke to me personally at the end of those days of training, saying, “Wow, this isn't what I was expecting at all. I learned a lot here. I'm going to be able to take these very practical tools away and put them into practice in my work as a lawyer representing moms, dads, children and various people who require representation in family court.”

You'd have to talk to Legal Aid to get a more comprehensive assessment as to whether or not they feel that there have been long-term benefits from the training, but even three years after we completed that contract, we still hear from lawyers who say how helpful it was to them.

Ms. Michelle Ferreri: Thank you so much. That is very helpful.

I was going to ask a different question, but you've opened the door for a conversation I'd like to have. I'm actually going to direct it to Cee if that's okay. I've been contacted about this bill by multiple people, in particular, fathers who've also been victims of abuse. I am curious what your thoughts are on the way the bill is worded, to ensure that gender equality is taking care of all genders, that it's not specific just to women.

● (1640)

Cee Strauss: Thank you very much for the question.

Right now, the bill is worded to ensure gender equality, I believe. I think it's important to understand the reality that women and children are those most harmed and affected by family violence. While of course they are not the only people affected by family violence—fathers and men are as well—the reality is that intimate partner violence is a gendered phenomenon, and we believe this should be a part of training for that particular reason. While, right now, I do believe that the bill is drafted in a gender-neutral way, we actually think that training should ensure that judges understand the gendered nature of intimate partner violence and family violence.

Ms. Michelle Ferreri: Thank you very much for that.

I have one other question, and it is for Francis Fortin.

Francis, you mentioned the negative impacts of the ankle bracelet. Could you expand on what you mean by that?

[*Translation*]

Dr. Francis Fortin: In taking stock of the measures introduced, we noted the stigmatizing effects of wearing the bracelet and, for the victim, of having to carry a device around with them at all times. Other negative effects were mentioned by previous witnesses.

For our part, we recommend being very careful not to have false positive effects. In other words, you should take the time to carefully choose the person who will benefit from the monitoring device. In some cases, it is not an adequate measure. This exercise is important to avoid negative effects. It's all about what this measure can mean to both parties involved.

[*English*]

The Chair: I do have to cut you off, sir.

[*Translation*]

Dr. Francis Fortin: We also have to think about privacy.

[*English*]

The Chair: Hopefully, you'll be able to get back to that.

I'm going to pass it over to Pam Damoff for the next six minutes.

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

My first question is for LEAF.

You mentioned concerns around social context. If we were to move the wording so it says “sexual assault law” and moved “matters related to intimate partner violence and coercive control” before the words “social context”, would that address your concerns?

Cee Strauss: Yes, precisely, it would.

Ms. Pam Damoff: We would just be moving those words.

Cee Strauss: It would be “matters of sexual assault law and intimate partner violence and coercive control, all of which includes social context, including systemic racism and discrimination.”

Ms. Pam Damoff: Yes. We would just move the location of it.

Cee Strauss: Exactly.

Ms. Pam Damoff: I was happy to hear both you and Ms. Cross speak about the need for it in the clause that deals with undertaking. If we were to do that, we could do the same thing there—ensure the wording is put prior to the words “social context”.

I heard your comments about electronic monitoring, and I saw that you put a tweet out earlier today, as well. Would you feel more comfortable if, in the clause around electronic monitoring, there were some definition around violence against an intimate partner? We could make it more defined, that it is intimate partner violence that is being threatened or attempted.

Cee Strauss: I think that clarification is already present. Right now, it is being considered for more offences than just against an intimate partner. Our concern is that, if wearing a device becomes a routine condition of bail in any circumstance, including IPV, those who can afford the device will be released and those who can't will remain in remand. Given the correlation among being low-income, criminalized and Black or indigenous, the effects of this proposed amendment would likely increase the over-incarceration of Black and indigenous people.

● (1645)

Ms. Pam Damoff: It's not prescriptive. Philip Viater spoke to me and he supports it, because it highlights it as just one option for a judge. Often, it doesn't go to a judge but to a justice of the peace. He actually thought it was a good thing, but I hear you and respect your opinion on this, as well. Certainly, those who have a lower income are more likely to be remanded. There's no doubt about it.

Ms. Cross, regarding electronic monitoring, one of the things I like about this bill is that there is a connection between the education of the judge so they can understand coercive control and domestic violence and knowing whether or not to ask for electronic monitoring.

Do you not think this education piece will enhance who is recommended to have the monitoring?

Ms. Pamela Cross: Certainly, it will.

My concerns are really practical in terms of the implementation of electronic monitoring.

I just came home a couple of days ago from spending a week in Renfrew County. Next month an inquest is beginning in Renfrew County into the triple femicide that took place there in 2015, which I'm sure many of you remember very well. I was talking to people in the community to put together a report to go to that inquest about the impact those murders have had on the community. One thing I heard again and again is that legislation that's written as though everybody lives in an urban area has to stop.

In that situation, some of those victims lived in locations where it wouldn't have mattered what kind of electronic monitoring was under way. The police would not have been able to respond quickly enough to save their lives.

When we talk about this, I want to have those conversations before we make something a law that is not going to give equitable access to justice. Cee has talked about economic and racialized lack of access to equal justice. I'm going to talk about people living in rural locations.

What happens when someone has electronic monitoring and there's a power failure or they live in a part of the province or the country where there isn't sustained access to good cell service?

Ms. Pam Damoff: I'm going to stop you there because I have another question. I think those are all extremely valid points. In fact, Ms. Gazan brought that up last week when we were discussing the bill. I don't know that it means we shouldn't move forward with it. It's an issue to recognize.

Coercive control is not defined in the Criminal Code. Do you think it would be helpful if we added coercive control, as it relates to intimate partner violence and family violence, into the definition? Do you think that would be helpful from the education perspective?

Ms. Pamela Cross: Absolutely.

Ms. Pam Damoff: Okay.

I think I'm almost done my time.

The Chair: You have 40 seconds.

Ms. Pam Damoff: I'm just going to say I love the backgrounds when I come to status of women. I see Thelma and Louise and high-heeled shoes.

Chair, I'm going to give you back the time because I don't think I have time to get a response.

The Chair: Thank you very much.

I'm now going to pass it over to Andréanne Larouche for the next six minutes.

Andréanne, you have the floor.

[*Translation*]

Ms. Andréanne Larouche (Shefford, BQ): Thank you very much, Madam Chair.

I thank all of the witnesses for appearing today as part of our study on this bill.

I would like to begin by addressing Ms. Cross and Ms. Strauss.

As a preamble, I would say that there is a subsection of Bill C-233 that adds a new condition that judges must consider when making an order for interim release with additional conditions under subsection 515(4.3) of the Criminal Code. If the Attorney General so requests, judges must consider whether it is desirable to require the accused to wear a remote monitoring device.

I would just like to know if you have been able to look into this. I would also like to hear from you that under this new legislation, a judge could not impose on his or her own initiative the wearing of an electronic device on an accused person when making a bail order with additional conditions. There must absolutely be a prior application by the prosecutor.

What do you think? How do you react to the fact that the bracelet would be imposed at the request of the public prosecutor, and not at the sole discretion of the judges?

Have you had a chance to look into this?

● (1650)

[*English*]

Ms. Pamela Cross: Ultimately, the judge has the discretion whether the request.... Sorry, let me put that the other way around. Even where an attorney, and presumably that would be the Crown attorney, fails to make the request, under present legislation judges have a wide array of options available to them in terms of what happens to this accused person during the remand period.

I haven't looked at that question in detail. As I said in response to an earlier question, my interest in the bill is more focused on ensuring that it's actually something that, if introduced, will work in an equitable way for people wherever they are in this country.

Cee, I don't know if you want to add any comments to that.

Cee Strauss: Sure. Thank you very much for the question.

The standard way that bail works is that bail is supposed to be issued without conditions unless otherwise required. It's up to the Attorney General to oppose bail and to oppose judicial interim release. It's up to the Attorney General to provide reasons for that, which is why it's up to the Attorney General to request this condition.

I don't see anything wrong with that. I think that makes sense in terms of the standard course of things. Our worry is that bail conditions often develop into a standard set of conditions requested by the Crown, regardless of the individual circumstances of the accused.

In all cases, judges do have discretion. Judges should have the flexibility to decide whether to impose this or not, as they already do.

[*Translation*]

Ms. Andréanne Larouche: Thank you very much. I understand what you're saying.

I thank both witnesses.

Now I'm going to address Mr. Fortin and Mr. Guay.

Gentlemen, do you feel that the bill, as it stands, contains enough elements to be properly implemented?

Dr. Francis Fortin: It will be difficult to give you a clear answer, but I will give you parts of answers that might shed light on the various debates.

Our sample may not be representative, but we consulted with police officers, justice stakeholders, and groups, and, generally speaking, what came out was that they wanted the judge to be able to impose this sanction.

On the other hand, we are not lawyers, but as far as the application of the bill is concerned, in broad terms, this seems to me to be a good way of presenting it. It should be seen as a toolbox. It would be difficult for me to denounce a piece of legislation like this and impose a way of doing things on judges.

What emerged from our work is that the judge will be able to assess the situation and take into account aggravating or mitigating factors. We should not go against that, because the judge is the best person to determine whether the measure applies.

I don't know if Mr. Guay wants to add anything.

Dr. Jean-Pierre Guay: No, that's absolutely right, from my point of view.

Ms. Andréanne Larouche: Very well.

Research seems to prove that the monitoring device can be effective, despite some possible negative effects. However, what are the expectations for the decrease in assaults in Quebec and Canada that could result from the implementation of this monitoring device bill and training for judges?

Have you looked at the effects that have occurred elsewhere?

● (1655)

Dr. Jean-Pierre Guay: The literature review suggests that there is a decrease in violence against women following the use of a remote monitoring device, on the one hand.

[*English*]

The Chair: Sir, I do have to cut you off. I'm sorry about that. I do know the question is a lot longer, but I do need to cut you off so that we can go over to our next six minutes of questions with Leah Gazan. We'll get back to this, if you don't mind, but I'm going to pass the floor over now to Leah Gazan for six minutes.

Ms. Leah Gazan (Winnipeg Centre, NDP): Thank you so much, Chair.

I have questions for Madam Paterson, Madam Cross and Cee Strauss. I'll ask for brief responses. It's so nice to see everybody, and I just love your brains. I wish I had more time.

It's so nice to see you again, Dr. Paterson. You spoke specifically about Winnipeg and the lack of shelter, something that I'm fighting really hard about in our community. We don't have space. I ask this question because it becomes especially concerning and more volatile for women who choose to disclose something very difficult, especially if they choose to take a legal route to deal with their perpetrators. With this in mind, how important do you think it is for judges to get proper training to improve their judgment in cases of intimate partner violence?

Dr. Corinne Paterson: Frankly, it's essential.

What happens now is that if somebody tells me they are experiencing intimate partner violence, I will put in the time, and I will do everything I can to find a shelter bed or alternative places for her to go. I do have some excellent social work resources, but it's not simple when they ask and they assume that the courts are going to take care of them and that if they leave their abusive partner they will be able to have custody of their children and that's going to be taken into account. I sometimes have to explain and I'll often say they should talk to their lawyer about that.

I have friends who are lawyers, and it's an unspoken problem in this country that the lawyers fully know that it really just depends on the judge. There are excellent judges who are well educated on the topic, and then there are those who are not. I have to believe that Canadian judges don't want women and children to die. I think we can all agree across the country that we can do better, and the way we can do better is by proposing this bill. Is it perfect? No. There will still be loss of life. There's still going to be violence. It's not going to get into every pocket of the country, especially in rural areas, as was mentioned, but that's like saying we shouldn't treat cancer because we know some people won't survive and it's not fair. It can make an impact.

Ms. Leah Gazan: Thank you so much, Dr. Paterson.

Cee Strauss, it's so nice to see you again as well.

There were a couple of recommendations that you made to strengthen the bill. One is developing the education and consultation with survivors and organizations that support them. The second one is ensuring that the education covers systemic inequalities in Canadian society.

I agree with you, especially on the second point, especially looking at the inequality and the issues with the justice system that were identified even in the national inquiry, but also the aboriginal justice inquiry a million years ago.

Could you speak to these recommendations for strengthening the bill?

Cee Strauss: Yes, absolutely.

In my remarks, we already recommended that social context be added in order to be accounting for these systemic inequalities. We also think it's important, when consulting with survivors and organizations, that this reflect the diversity of people in Canadian society, especially those who have lived through conditions of marginalization, such as systemic racism, and who directly understand how marginalization impacts their experiences of intimate partner violence.

Any added section about consultation should include meaningful consultation and input from individuals with lived experiences of oppression, particularly individuals or organizations that serve populations who are indigenous, Black, racialized, live with disabilities or live in poverty.

Ms. Leah Gazan: Thank you so much for your response.

Madam Cross, you said that the bill could be made stronger if there were the ability to provide input in terms of the outline of the training that would occur.

I was really happy to hear you say that. One concern I have with this bill is the fact that judges have too much control over whether they take the training or not, and the content of that training. From what we've heard, usually the judges who don't want the training are the ones who need it the most.

Can you please expand on that?

● (1700)

Ms. Pamela Cross: Certainly. I'm happy to do that. Thank you for the question.

I'm going to build on what Cee Strauss already said rather than repeat her excellent comments.

It's critical that this education be developed outside of the judicial world, both for the reasons you mentioned, but also to ensure that real expertise is brought to the question of what the content should be. That was one thing that was so great about the legal aid training we talked about a few minutes ago.

That training has to look at all of the things that Cee talked about. It has to look at the gendered nature of intimate partner violence, especially coercive control and lethal intimate partner violence or it's not an accurate picture. We cannot have judges continuing to say, "Well, you know, it's a bit of this, a bit of that. Sometimes it's him; sometimes it's her. He said; she said. We don't know how to interpret this."

There is clear, clear evidence that women are primarily the victims of coercive control and intimate partner homicide. That has to be part of the training, in addition to the many points that have already been made, in particular by Cee.

The Chair: Thank you so much.

We're going to begin our second round.

For our second round, it will be five minutes for the CPC and the Liberals, and two and a half minutes for the Bloc and the NDP.

I'm going to pass the floor over now to Shelby.

Mrs. Shelby Kramp-Neuman (Hastings—Lennox and Addington, CPC): Thank you.

Ideally I'd be able to ask all of you questions, but I'm going to go through as many of them as I can.

I'm going to start quickly with Pamela Cross.

After Pamela Cross answers the question, the rest of you feel free to chime in as well, if you like.

The bill, as it stands, clearly does a lot to help keep victims of intimate violence physically safe, but I think that's only half of the equation. I cannot imagine the amount of trauma, emotional and mental trauma, that still exists, even though the partner and any children who witness the abuse may be physically removed from the situation.

Could you elaborate on the importance of mental and emotional supports in the immediate aftermath of these situations for the victims?

Ms. Pamela Cross: Thank you for the question.

I can't say enough about that, especially in the small amount of time we have, but you're absolutely right. Removing the physical danger is step one. Tied with that has to be access to supports, including supports like shelters for women and children, so that work can begin to address the trauma, which often can last for years and years, leaving that woman vulnerable to ongoing abuse by the partner even long after she's left the relationship.

That speaks also to what needs to be involved in judicial education. Judges need to understand that just because she moves out, or he moves out, that doesn't mean the abuse has come to an end. It continues. It often escalates. It becomes increasingly lethal, and it becomes more psychological.

The impacts of all of that on the woman—and as you said, on the children as well—have to be matters that judges understand clearly and that they take into account when they're making decisions about parenting arrangements that can find themselves in place for years and years if the children are very young.

Mrs. Shelby Kramp-Neuman: Thank you very much for that.

I'd be remiss if I didn't acknowledge all of you for your testimonies. I find many of them quite compelling.

My next question will be posed towards either Dr. Paterson or Mx. Strauss.

Have either of you experienced a situation where a judge was sitting on a case relating to a matter that wasn't their speciality?

Cee Strauss: Judges often sit on a case relating to a matter that isn't their speciality because judges hear a wide variety of cases. Often somebody who had been a real estate lawyer before they became a judge is all of a sudden hearing a family law case. This is a very common thing. It's why judges require training. It's why important institutions like the Canadian Judicial Council exist to provide that training.

Because of the immense, significant gap between what judges understand and what the reality is of intimate partner violence, this is one of those things, as with sexual assault law, that requires specification to judges that they undertake this training if they are to become a superior court judge.

● (1705)

Mrs. Shelby Kramp-Neuman: Thank you very much. That's disturbing.

Could all of you share your consensus that you believe judges require adequate training on domestic violence before they hear these cases?

Ms. Pamela Cross: A hundred per cent.

Mr. Peter Marshall: Yes.

Dr. Corinne Paterson: Absolutely.

Mrs. Shelby Kramp-Neuman: It's across the board. Fair enough, thank you.

Do I have time?

The Chair: You have a minute left.

Mrs. Shelby Kramp-Neuman: I'll switch gears and ask Peter Marshall a few questions. Just a yes or no to begin with will suffice.

Mr. Marshall, you have 20 years of experience in child protection and family law. Would you say that domestic violence plays a role in custody court hearings?

Mr. Peter Marshall: It's certainly raised as an issue in many cases, yes.

Mrs. Shelby Kramp-Neuman: Would you then say that it's imperative that judges be accurately trained and educated on domestic violence before hearing the case?

Mr. Peter Marshall: Yes.

Mrs. Shelby Kramp-Neuman: Does Recovery Science Corporation conduct research on the effectiveness of ankle monitoring?

Mr. Peter Marshall: We try to be aware of the research. I wouldn't say that we have done original research that would be of the same extent and quality as professors have done. We're really more closely connected with how courts are using electronic monitoring.

Mrs. Shelby Kramp-Neuman: That's fair.

Are there any statistics that you could provide the committee in regard to the effectiveness of ankle monitoring?

Mr. Peter Marshall: I think effectiveness is a really complicated issue to try to measure. When somebody's released with electronic monitoring, there are so many other variables.

The Chair: Thank you so much.

We're now going to pass it over to Jenna Sudds. Jenna is online and will have five minutes.

Go ahead, Jenna.

Mrs. Jenna Sudds (Kanata—Carleton, Lib.): I'm going to pass it to Ya'ara Saks in the room.

The Chair: Ya'ara, you have the floor for five minutes.

Ms. Ya'ara Saks (York Centre, Lib.): Thank you so much, Madam Chair.

Thank you to all of our witnesses who are here today.

Thank you to PS Sudds for being so generous with her time.

I have a few questions, and I want to start with Cee Strauss and Ms. Cross.

We've discussed here that, in terms of defining coercive control, we have an understanding that it is persistent, whether the couple is still together or not. It can escalate and has psychological and potentially lethal harm that then leads to intimate partner violence. There are clear markers as the process goes on through the courts or as they're trying to separate the individuals.

Both of you raised concerns about stakeholder input on the judicial training process itself and creating the training. I'm wondering, with the sexual abuse training that was created, if there's a precedent for that in terms of what kinds of inputs were put into place and if you're aware of them.

Cee Strauss: I am not aware of the inputs into the sexual abuse training. I know, though, what that is in the Judges Act. It was put into the Judges Act that development of the training should be done in consultation. In particular, I believe the Judges Act mentions consultation with indigenous organizations. We are proposing to broaden that, as we did in our submissions on Bill C-5/C-3 at the time. There is a precedent for that in terms of what's in the act right now in the sexual assault context.

Ms. Ya'ara Saks: Thank you.

To clarify, as legislated, it does include stakeholder participation in the development of the training, so there is a precedent.

Cee Strauss: Yes, there is for sexual assault law.

Ms. Ya'ara Saks: There is for sexual assault law. Okay, that's an important point, as many of my colleagues have spoken to that point here, and precedents, as we all know, are everything in moving something like this forward.

I'm going to move on and ask a question with regard to a recommendation about a 30-day coming-into-force clause so provinces and territories can prepare. Could either of you comment on that in terms of putting the recommendation forward, or anyone else on the panel, for that matter?

No? Either Ms. Cross or Cee Strauss?

The Chair: Ms. Cross, perhaps you want to answer that.

Ms. Pamela Cross: The only comment I'll make about that, and it's a fairly general one, is that in 2021, when Bill C-78 was passed, it introduced these massive amendments to the Divorce Act, which a number of us have mentioned this afternoon. It resulted in some inconsistencies between provincial and federal family law. In Ontario, where I am, the Children's Law Reform Act did not reflect the same approach as was being taken by the Divorce Act, which put families in complicated situations in terms of trying to select the appropriate legislation to use.

I think that as we move ahead with any kind of legislation at the federal level that has implications at the provincial level, for example, the division of power such that provinces are responsible for the administration of justice, we have to build in time to allow provinces to get on board so we don't have inconsistencies or gaps between what's passed at the federal level and what's actually playing out on the ground at the provincial or territorial level.

● (1710)

Ms. Ya'ara Saks: Madam Chair, how much time do I have?

The Chair: You have one minute, four seconds.

Ms. Ya'ara Saks: Okay, I will do my best to get my question in.

I'll move to electronic monitoring. We are one of the supporters of this bill. When we put electronic monitoring in alongside this training, it was the idea of creating education and then creating an optional tool. As we've heard from witnesses, there is context to this that needs to be considered. We've heard some comments, but if electronic braceleting is an option, what other training or guardrails to the legislation would you want to see for its potential use in a limited scope?

The Chair: You have 20 seconds.

Ms. Ya'ara Saks: A written submission on this would be fine as well, if anyone has an answer.

Cee Strauss: I'll say that it already is an option for judges now, so the guardrails are already in place in a way, in not requiring judges to consider it, which might make it just a matter of routine recommendation.

The Chair: Perfect. Thank you so much.

We're going to pass it over for two and a half minutes to Andréanne.

[*Translation*]

Ms. Andréanne Larouche: Thank you very much, Madam Chair.

I thank all of the witnesses, but I'm going to continue with Mr. Guay because our discussion ended quickly in my first round.

You had started to answer my question about the positive effects of the bracelet and its effectiveness. We can look at other experiences that have taken place elsewhere in the world, because other countries, such as Spain, the UK and Australia, have already implemented the monitoring device.

In light of what has happened abroad, can we expect a drop in assaults as a result of the monitoring device? I will give you more time to answer this question.

Dr. Jean-Pierre Guay: Thank you.

The benefits of using the electronic monitoring bracelet seem relatively notable and important in light of international work on the issue. These include a decrease in violence against victims. In addition, there is an increase in the sense of safety when studying the experience of victims and their loved ones.

In addition, the issue of recidivism is relatively complex. We have talked here about the relevance of the assessment of the risk that people pose. This is a central issue. We can see that, generally speaking, a bracelet like this does not technically reduce the risk of re-offending. It allows people to be somewhat more involved in the programs and activities offered to reduce the risk of re-offending. However, the most recalcitrant might try to do it anyway. In fact, the bracelet doesn't solve the person's problem, it just prevents them from reaching the victim.

In this respect, the bracelet has a number of positive effects. However, if one were to simply calculate the success of such a measure in light of recidivism rates, one would be hard pressed to be satisfied with its implementation. That said, generally speaking, the benefits are there. I don't know if that answers your question.

Ms. Andréanne Larouche: Yes, that answers my question, thank you.

I understand that the electronic monitoring bracelet is part of a comprehensive package of victim support services.

Is this what you mean?

Dr. Jean-Pierre Guay: Yes, precisely. The device alone will not solve all the problems, far from it.

Ms. Andréanne Larouche: Rapidly, Mr. Fortin, could you say a few words about the balance between protecting victims...

● (1715)

[*English*]

The Chair: I'm sorry. We will do our best to get to you. We're going to pass it over to Leah Gazan.

Leah Gazan, you have two and a half minutes.

Ms. Leah Gazan: My question is for Cee Strauss.

You spoke about the importance of having a gendered lens in the training for judges. You spoke about stereotypes that often impact victims of violence.

One thing I brought up in the last session was manipulative parenting. In the case of Keira Kagan, the mother came forward with all these concerns about the father. They were dismissed and then Keira ended up losing her life.

I'm wondering if you could speak to that.

I guess my concern is the fact that we know that 81% of victims who lose their life to violence are women and there's a high percentage of children who also lose their lives. Why is it particularly important to understand domestic violence from a gendered lens?

Cee Strauss: Thank you for the question.

It's really everything you just said. The problem is that there are these myths and stereotypes.

I'll just be speaking from a great piece written by Deanne Sowter and Jennifer Koshan. They would just say that the ideas that women make allegations of family violence to gain an upper hand in family law proceedings or that they're alienating their children from their former partner out of some sort of vengeance or spite rather than concern for their children's safety are based on myths and stereotypes. These are really similar to those that are recognized to improperly taint the credibility of sexual assault complainants.

For whatever reason, there is more of an understanding these days that there are these myths and stereotypes in the sexual assault context, even if they're still not properly applied, whereas in the intimate partner violence context, there's a real lack of acknowledgement in the public that these same myths and stereotypes exist and function. It's not that these things never happen, but judges readily accept accusations that allegations of family violence are false without doing impartial fact finding and paying attention to context.

This bill will help with those issues because women are more likely to be accused of falsely claiming family violence even though under-reporting of family violence is known to be widespread. There's a big disconnect here.

The Chair: Thank you so much.

I'm now looking at the time and recognizing how tight we are for getting out on time. We do have a special guest with us from the Green Party. I know Mike would like to ask a question as well.

I'd like to reduce the time for each party and then I'll pass the floor over to Mike for the final question. Can I get the support of the committee? Is anyone not in favour? Please let me know.

Fantastic. I'll be messing around with the time, like I always do. We're going to start off with two and a half minutes, two and a half minutes, two and a half minutes, two and a half minutes, and then Mike will have the last question.

I'm going to pass it over to Dominique for two and a half minutes.

[*Translation*]

Mrs. Dominique Vien (Bellechasse—Les Etchemins—Lévis, CPC): Thank you very much, Madam Chair.

I will direct my questions to Mr. Francis Fortin and Mr. Jean-Pierre Guay, and they will be brief.

We talk a lot about the bracelet and how it works. Could you explain to us concretely how it works so that we can fully grasp it?

Earlier you alluded to the fact that the victim might have a sense of security. There is the issue of privacy.

How does this work in practice? The judge orders the defendant to wear a device and the victim has a device with her. Is that it? Can you just enlighten us on how it works?

Dr. Jean-Pierre Guay: I will try to answer you as briefly as possible.

First, the offender wears an ankle bracelet. So the device is not visible and may be hidden, but it is definitely there.

Next, the victim, on the other hand, has a device equipped with a panic button, in case of emergency. A radius of action is determined within which the two devices must never be in contact. The number of kilometres of this radius, again, is at the discretion of the judge.

When there is a proximity alert, a call is sent to the central station, which determines whether it is a false alarm or whether a response is appropriate. The alert is then transferred to the police, who send two vehicles: one for the offender, the other for the victim. The offender is then arrested. Obviously, we want everything to happen quickly.

Does this answer your question?

● (1720)

Mrs. Dominique Vien: Yes, that answers it perfectly.

How far do you think a defendant's privacy extends? Where does it end?

Dr. Francis Fortin: Based on our observations and analysis, the device does not record data until there is a proximity alert. If there is one, then an offence is committed. The device then records the geolocation data. The same applies to the victim.

This is the limit that is generally well accepted. If there is no need to use the information, it is not kept. Also, if a police officer asks for the information, it is not available.

[*English*]

The Chair: Thank you very much.

We're now going to flip it over to Emmanuella Lambropoulos.

You have two and a half minutes.

Ms. Emmanuella Lambropoulos (Saint-Laurent, Lib.): Thank you, Madam Chair.

I'd like to begin by thanking all of our witnesses for being here today to offer their amazing testimony on a very hard topic.

My first question is for Pamela Cross.

During your testimony, you mentioned that you would like to dive a bit more into the content of what should be taught to these judges. If you haven't had the opportunity to do so yet, are there any extra content pieces that you think should be included in the education they receive and also any additional circumstances that should be considered in terms of context? I'd like you to elaborate on those and to mention anything that you haven't had the chance to already.

Ms. Pamela Cross: The only thing I would add to what has been said this afternoon, not just by me but also by others, is that intimate partner violence looks so different from one situation to the other. We've talked a lot about coercive control, and that's important, because it is very under-recognized and often invisible to an outsider.

We also need to look at that whole spectrum of typologies of behaviours that constitute intimate partner violence. Judges need to understand that there's no “this is what a victim looks like” or “this is how a victim reacts, responds or behaves”—none of that. You can't tell by looking at somebody. You can't say, “she wasn't hit, so it's not as bad”, or that it was just a question of him being in charge of the money and doesn't mean that he was controlling her.

There has to be education that, as I've said, looks at that whole very broad range of typologies and tactics and understands that very often in a relationship there's a combination of tactics being used, and combined differently at different times, but generally escalating over the length of the relationship.

Ms. Emmanuella Lambropoulos: Thank you.

Ms. Strauss, if you would like to add anything, I know that you spoke to this as well.

I also have a final question for you, Ms. Strauss.

You also mentioned electronic monitoring. Is the only drawback the financial burden on low-income families? Is there anything else that you see as a drawback or is that the main thing that we should be taking from the testimony offered today?

Cee Strauss: Thank you for the questions.

I don't have anything to add to what Pam Cross has said and what I've already said regarding content. I had already mentioned—

The Chair: Our time is actually right at that spot anyway. I'm so sorry about that. Hold on to that thought, though, because you never know.

I'm going to now pass it over to Andréanne.

You have two and a half minutes.

[*Translation*]

Ms. Andréanne Larouche: Thank you very much, Madam Chair.

Ms. Cross, as we know—the officials have made it clear—the monitoring bracelet, if we are talking about the administration of justice, will be administered by Quebec and the provinces. This device is already in place in Quebec.

More concretely, you talked about the collaboration that will be necessary between Quebec and the provinces and the federal government. Could you tell us more about that and what will have to be taken into account as part of that collaboration when it comes to something like the monitoring bracelet or the training of judges?

[*English*]

Ms. Pamela Cross: I think with respect to ankle bracelets the most important thing here is that Quebec already has this under way as a new practice. Let's all see how it plays out there.

Let's build on the research that we've already heard about today that's being done at the University of Montreal and see if this is something that's workable in a province that has a significant rural community and population and a very diverse population. Does it affect people from different diversities differently? I would guess it does, but let's hold off on making this something that's going to apply across the country until we can see how it works in Quebec and learn from that experience.

● (1725)

[*Translation*]

Ms. Andréanne Larouche: I'm going to ask one last question, since I have one minute left.

Ms. Cross, you touched on the fact that this bill would apply differently in rural and urban areas. I have previously mentioned to the committee that the accessibility of the airwaves in rural areas is important for the bracelet to work.

Do you have any notes or conclusion to give us on this disparity between rural and urban areas?

[*English*]

Ms. Pamela Cross: Rural areas are huge and police stations are often far from where a victim is. There needs to be time, and an electronic bracelet isn't going to provide that kind of protection.

[*Translation*]

Ms. Andréanne Larouche: Once again, this brings us back to the continuum of services. We need to provide better training for all stakeholders and make sure that everyone is working collaboratively to follow through on the implementation of this bracelet.

[*English*]

Ms. Pamela Cross: Absolutely.

The Chair: Excellent. Thank you so much.

We're now going to pass it over to Leah Gazan for two and a half minutes.

Ms. Leah Gazan: Thank you so much, Chair.

My question is for Madam Cross.

We know, and it's been widely researched, that certainly sexism and racism are common phenomena in the justice system. A report just came out about the toxicity in the RCMP and how it's targeted towards Black, indigenous and people of colour, and another report just came out, I think it was yesterday.

With that kind of bias, do you feel that the failure of judges to get proper training has resulted in costing lives?

Ms. Pamela Cross: I do. I believe that in terms of judges in the criminal court and judges in the family court. We've heard a little bit about Keira Kagan's story today. I think that the death of Keira is an example of what happens when the judge doesn't understand well enough the realities of violence against an intimate partner and who thinks, “Yes, sure, there was domestic violence, but that's got nothing to do with what I'm here to decide about today in terms of who the child is going to spend her time with.”

I think that women die because judges don't know enough about intimate partner violence, sexualized violence, and the discrimination and misogyny that those women are facing in many aspects of their lives.

Ms. Leah Gazan: Thank you so much for that.

I have a follow-up question. Would you say that all judges should be provided with the training in this bill, but in order for it to be effective it would have to come from using a cross-cultural lens to ensure that judges are culturally proficient in their analysis?

Ms. Pamela Cross: Absolutely, and it needs to be developed by experts outside the judiciary.

Ms. Leah Gazan: When you say experts outside of the judiciary, one of the things I find peculiar is that they're not experts in the field but they're deciding what they have to learn. Why is that problematic?

Ms. Pamela Cross: Because often we don't know what we don't know.

If you get to the position of being a judge.... It's even true for lawyers. I'm a lawyer, and I'll say it about our profession. We tend to think we already know everything we need to know.

If I don't know about something, someone else needs to tell me that I don't know that and help me know what it is I need to learn.

The Chair: Thank you very much.

Thank you for that last comment, Pamela Cross. I always say that I'm the mom, so of course I know everything.

Mike Morrice would like to ask a question, so I'm going to pass it over to him.

You have about one minute, 15 seconds.

Mr. Mike Morrice (Kitchener Centre, GP): Thank you, Chair.

[*Translation*]

I thank all the members of the committee for their warm welcome.

[*English*]

I want to follow up on the question that MP Lambropoulos asked Cee Strauss.

Would you be open to sharing more about your concerns with respect to low-income folks and electronic monitoring devices? Specifically, if you're recommending to simply strike out that part of the bill, is there another amendment that you would recommend to improve it?

Cee Strauss: We're recommending serious caution about implementing that part of the bill, and potentially just striking it out. It's our view that the Criminal Code actually already provides judges with the tools they need in this area. The problem is not that they don't have the tools; it's that they don't have the training to recognize the presence and significant dangers of IPV. Therefore, if a judge recognizes it in the criminal context, the judge has the ability to impose a condition of electronic monitoring. It's the understanding that is lacking rather than the tools that are already there.

● (1730)

The Chair: Awesome.

We are coming to 5:30, the time I was told we have to end today.

On behalf of the status of women committee, I would like to thank all of you for being our important witnesses for Bill C-233, and that we could have this discussion.

Are there any issues? Are we ready to adjourn today's meeting?

Thank you very much.

The meeting is adjourned.

Acknowledge Keira's mother Jennifer Kagan and her Stepfather Phil Viater.

I have supported women through the family courts for more than two decades.

I have watched mothers as they have been shamed and blamed by judges while testifying about the violence they endured by their partners and the fear they have for their children's safety.

I have a witnessed a judge telling a woman to never call the police again after she reported her partner for assaulting her but was too afraid to testify.

I have watched many judges ask why, if the abuse was so bad, did she stay.

I have never heard a judge ask an abuser why he abused his partner.

I have watched fathers use the courts to continue to harass and control women until they are bankrupt. Then, I have watched the courts give sole custody of the children to fathers because their mothers have lost their homes and have no means to care for their children.

Mr. Viater recommended in his testimony last week that Bill C-233 be amended to include mandatory training. This recommendation is consistent with Bill C-337, the Act to Amend Judges Act and the Criminal Code (sexual Assault).

I too recommend Bill C-233 be amended to include similar wording about mandatory training as is seen in the Judges Act.

On March 8, 1996, Randy Iles shot Arlene May through the chest and killed her. He then killed himself.

In 1998, the Ontario Coroner's office initiated an inquest into the deaths of Arlene May and Randy Iles.

The jury made 213 recommendations for consideration. The jury's opening important.

> Domestic violence cases are different than other criminal cases. In most situations the accused and the victim would normally never meet again. With domestic violence, the accused often must have contact with the victim due to property, support, and child issues.
>
> Judges need to understand the differences between DV cases and other criminal cases.

The domestic violence recommendations included in the May/Iles report include additional training for Judges and Justices of the Peace on:

- The dynamics of domestic violence against women

- The impact on child witnesses of violence
- The differential impacts of issues of culture, race, language, and disability
- The power and control exercised in intimate relationships
- And, the indicators of lethality

It's been 24 years since training for judges was recommended. I don't know how many women and children have been injured or killed during those 24 years but for context, in the first four months of 2022, 64 women and girls have been murdered in Canada. That's one woman or girl every other day.

We have heard that Judges already receive training. However, given the lack of understanding of domestic violence by some judges when presiding over cases in the family and criminal courts, I would argue that any voluntary training Judges are currently offered are either poorly attended or the material is woefully inadequate.

On the Government of Canada Website outlining Canada's system of justice, there is a response to a question asked about what training judges receive.

> In general, most judges have spent years in courtrooms or in the practice of law and have extensive knowledge of court processes and the role of the judge.

Herein lies the problem. While spending years in a courtroom or in the practice of law may give judges knowledge of the court processes, it doesn't give them knowledge about the complex issue of domestic violence with potentially lethal outcomes for women and children.

It is abundantly clear that the training currently provided is not working. It's time to mandate training and work with experts to rewrite the materials.

Like all domestic violence homicides, little Keira's murder was preventable.

Please pass Keira's law with the recommended amendment. It's a first step in the right direction.