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# Standing Committee on Justice and Human Rights

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Chair: Mr. Randeep Sarai





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• (1105)

[*English*]

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

Welcome to meeting number 29 of the House of Commons Standing Committee on Justice and Human Rights. Pursuant to Standing Order 108(2) and the motion adopted on February 8, the committee is meeting on its study of government obligations to the victims of crime.

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'd like to make a few comments for the benefit of 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 yourself when you're not speaking. For interpretation, for those on Zoom, you have the choice at the bottom of your screen of English, French or the floor. For those in the room, you can use the earpiece and select the desired channel.

I will remind you that all comments should be addressed to the chair.

I also use time cards. When you have 30 seconds remaining, I'll flash this card, so try to pay attention to that because I don't want to interrupt. If you're out of time, I'll hold up the "out of time" flash card. Please tidy up immediately.

For members in the room, if you wish to speak, please raise your hand. For members on Zoom, please use the "raise hand" function. The clerk and I will manage the speaking order as best as we can, and we appreciate your patience and understanding in this regard.

Witnesses will have five minutes each before the beginning of a round of questions.

I'd like to welcome our witnesses for the first hour: Arlène Gaudreault, Monique St. Germain and Kat Owens.

We'll begin with Arlène Gaudreault for five minutes.

[*Translation*]

**Ms. Arlène Gaudreault (President, Association québécoise Plaidoyer-Victimes):** Good morning.

I would first like to thank you for allowing us to participate in this consultation. I am representing the Association québécoise Plaidoyer-Victimes, a victims' rights advocacy organization, of which I am the president.

To begin, I want to say that we welcome the work undertaken by the federal government to publicize the Canadian Victims Bill of Rights, the CVBR, to put the provisions of the bill into practice, and to support the mission of numerous organizations.

With the financial support of the Department of Justice of Canada and the collaboration of the ministère de la Justice of Quebec, we have carried out numerous large-scale projects relating to the Canadian Victims Bill of Rights. I have appended a brief summary of these initiatives to the short memorandum I submitted.

In the time I have been given, I would like to highlight several obstacles that impede victims' path when they want to exercise their rights and remedies. I will speak first about the lack of knowledge of the victims' rights set out in the CVBR and the problems associated with the right to information, which have been extensively documented through the consultations held in Canada and in the reports of the Office of the Federal Ombudsman for Victims of Crime. One of the things the ombudsman has recommended is that victims be permitted to exercise their right to information and that they be provided with information proactively rather than in response to a request.

This is an interesting proposal, but it should be studied in greater depth before being implemented. For example, the provisions of provincial and federal statutes that govern confidentiality and privacy should be examined. The arrangements that should be put in place also need to be considered and a very broad spectrum of victims consulted to obtain their opinions and proposals.

The CVBR presents certain difficulties. One of the most significant relates to the fact that it sets out a brief, non-exhaustive list of the rights that victims may exercise in various contexts and before various bodies. The rights are not well defined. The obligations of those bodies and of the actors in the justice system are not specified.

As a result, it does not enable victims to know what they can expect. They have to deal in multiple ways with various components of the justice system to get answers to the questions that they are concerned about.

To alleviate these difficulties, many organizations have developed directives and service statements to enable victims to better understand their responsibilities and the measures that have been put in place to address their needs and their rights. Commissioner's Directive 784 at Correctional Service Canada, entitled "Victim Engagement", and directives issued by Quebec's Director of Criminal and Penal Prosecutions, are good practices that could inspire other organizations that to date have not clearly defined their commitments.

The CVBR presents a fairly large obstacle because of the fact that the rights are discretionary in many cases and the actors in the justice system have a lot of latitude for determining what is reasonable and what is in the interests of the sound administration of justice. The CVBR also depends on the resources available to organizations. It depends on their respective missions and how they define their position vis-à-vis victims. It is also subject to other laws, such as the Criminal Code and the laws that govern the correctional system. These are realities that are not always clearly understood and accepted by victims.

When the CVBR was adopted in 2015, Parliament wanted to put complaints mechanisms in place to enable victims to exercise their rights when they feel aggrieved. That was a step forward. Unfortunately, the results we see at present are somewhat disappointing. In the federal entities where complaints mechanisms were put in place from the start, very few complaints are reported, something like 20 per year, for all federal organizations, which is really very low. It suggests that victims are not aware of the existence of those mechanisms.

With respect to the provinces and territories, there is no picture at present that would enable us to evaluate how they have responded to the CVBR's requirements, nor have there been any analyses.

• (1110)

That is an important question. A critical assessment is needed, to examine what has been put in place in all organizations in Canada. We need to determine the nature of the problems and apply corrective measures. The collaboration of the provinces and territories is essential for doing that assessment.

The ombudsman has made recommendations concerning a proposal that is often advanced: that victims be offered the opportunity to exercise judicial and administrative remedies. At present, they have no right to appeal a decision or judgment.

We believe that this complex question should be studied by a working group, which should look into the feasibility of this kind of remedy in our criminal justice system and make recommendations. That would provide a broader view of the question, expand the discussion, and identify the measures that should be taken.

I would like to add a few words about restitution, another major element. The provisions of the CVBR were meant to expand the use of restitution. If you read the—

[English]

**The Chair:** I'm going to have to ask you to wrap up there, Madame Gaudreault.

[Translation]

**Ms. Arlène Gaudreault:** Right.

I have two more things to say.

That element needs to be examined, because not only has the use of restitution not been improved, but we have seen a decline in the number of applications since the CVBR was adopted.

In conclusion, I will say that we are disappointed, and we do not understand the lack of urgency on the part of the federal government to move ahead with the parliamentary review that was provided for in the act when it was adopted. It is important to do this in order to identify the problems, strengthen the rights, be aware of best practices—

• (1115)

[English]

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

[Translation]

**Ms. Arlène Gaudreault:** —and transpose them into our workplaces.

Thank you very much.

I would also like to thank you for the work you are doing.

[English]

**The Chair:** Thank you.

Next we have Monique St. Germain, general counsel, Canadian Centre for Child Protection, for five minutes.

**Ms. Monique St. Germain (General Counsel, Canadian Centre for Child Protection Inc.):** Thank you, Mr. Chairperson and distinguished members of this committee. Thank you for the opportunity to participate in this study.

My name is Monique St. Germain, and I am general counsel for the Canadian Centre for Child Protection, which is a global leader in combatting the proliferation of child sexual abuse material on the Internet. We are a national charity, and we have been providing programs and services to victims of crime for over 37 years.

For the last 20 years, we have operated Cybertip.ca, Canada's national tip line to report the online sexual abuse and exploitation of children. The tip line is a central part of the Government of Canada's national strategy for the protection of children from sexual exploitation on the Internet. Our role through Cybertip is to triage reports to the appropriate police and child welfare agencies where necessary, raise awareness through education and provide support services to assist Canadian families and children directly. The tip line has never been busier, and my goal here today is to be a voice for the victims and families we help.

In 2015, our agency believed that the Victims Bill of Rights was a vital step towards a fairer system for victims. We still do, but since 2015, the extent of online child sexual exploitation has exploded. According to Statistics Canada, the overall rate of police-reported incidents of online sexual exploitation and abuse have increased from 50 incidents per 100,000 population in 2014 to 131 in 2020. These numbers signal that we have a tremendous problem on our hands, especially considering that the numbers would be the tip of the iceberg.

Child sexual abuse crimes are grossly under-reported. Many cases involve perpetrators who are a member of the child's immediate family or household or a person known to the victim's family, making the need for supports for both the child and the non-offending family members critical, yet many victim services programs do not cover services for the victim's family.

Perpetrators of online crime such as luring or sextortion may be committed by anyone, anywhere and on any platform. There are jurisdictional and other complications that make investigations difficult, leaving many victims without justice. Today, reports of sextortion are through the roof. Multiple policing agencies as well as CyberTip.ca have been issuing public alerts to try to warn parents and their children of the highly organized and ruthless nature of these crimes.

If you don't work in this space, you don't know how bad it can get. Our agency has become connected with families of children who have died by suicide after being the victim of sextortion. We've worked with survivors of child sexual abuse material who have essentially become secret public figures to those in the offending community. Their images are widely distributed, creating an online and ongoing cycle of abuse and an endless stream of offenders. Survivors responding to our international survivors survey told us that these crimes have a significant lifelong impact on them.

The power of their stories led us to create Project Arachnid, an innovative global tool that can detect where this material is being made publicly available online and issue takedown notices. So far, over six million images and videos of child sexual exploitation have been removed from the Internet following a Project Arachnid notice. These images and videos were detected across more than 1,000 electronic service providers spanning nearly 100 countries. The problem is immense.

I will close with a few recommendations. First, as a signatory to the UN Convention on the Rights of the Child, Canada agreed to "take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse". Online crime victims need ongoing safety planning, therapy and financial support. Their non-offending caregivers need the same things. These services and supports must be consistent across provinces.

Then there's restitution. Adding it as a specific right seemed like it would help; however, as an organization that closely monitors case law on all online child sexual exploitation offences, we can tell you unequivocally that restitution is not being ordered or even considered in most cases.

[*Technical difficulty—Editor*] is found in the collection of a subsequent offender. This means that victims of child sexual abuse material are rarely recognized as victims, so their rights under the Victims Bill of Rights are not being fulfilled.

In closing, we know that there are families out there doing their own investigations to unmask and protect themselves from an anonymous online perpetrator. Victims are self-policing to find their own content online to request its removal, and non-offending caregivers are struggling to hold it all together while being told by systems that are supposed to help them that they are not victims. It is not right, and it is not sustainable.

• (1120)

We urge the government to play a leadership role in better supporting victims of crime, not just through the criminal justice process but beyond.

**The Chair:** Thank you.

Now we'll go on to Ms. Kat Owens of the Women's Legal Education and Action Fund for five minutes.

**Ms. Kat Owens (Project Director, Women's Legal Education and Action Fund):** Thank you.

Good morning, committee members. My name is Kat Owens, and I am a project director at the Women's Legal Education and Action Fund, or LEAF. I am grateful for the opportunity to appear before you today from Tkaronto, or Toronto, which is within the lands protected by the Dish With One Spoon wampum belt covenant.

LEAF is in solidarity with indigenous communities, and we echo their calls for, among other things, the immediate implementation of the Truth and Reconciliation Commission's calls to action, as well as the calls for justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls. This government has urgent obligations to bring justice to missing and murdered indigenous women, girls and two-spirit persons and their communities, and to ensure that not one more indigenous woman, girl or two-spirit person becomes a victim to this crisis.

LEAF is a national charitable organization that works toward ensuring that the law guarantees substantive equality for all women, girls, trans and non-binary people. It does this through litigation, law reform and public legal education.

LEAF is glad that this committee is not only studying the Victims Bill of Rights but is hearing about how victims or survivors of crime can be better supported generally. Given the nature of LEAF's work and expertise in advancing gender equality, I will focus on how to support survivors of gender-based violence, including sexual violence, of which women, girls, trans and non-binary people are disproportionately the targets.

As you know, gender-based violence takes a devastating toll on the lives of victims, survivors and their loved ones. It disproportionately impacts women who are Black, indigenous, queer, trans or disabled. We urge you, as parliamentarians, to hear from and listen to members of these communities and the organizations led by them as you do your work.

We need survivor-centred approaches to addressing and ending gender-based violence, and survivors must have agency and choice in every step of the process. Too often the criminal justice system is the site of further harm for those who look to engage with it. For many survivors, especially those who are Black, indigenous, trans or criminalized, it can simply be unsafe to come forward and engage with formal legal systems.

I have three non-exhaustive recommendations to provide to this committee on how to better support survivors of gender-based violence.

First, we need a fully funded, intersectional national action plan to end gender-based violence. Piecemeal changes to how systems deal with gender-based violence are insufficient to adequately address the problem. We need holistic solutions. We also need parliamentarians of all political stripes to ensure that this work moves forward in a timely way, that it is guided by expert organizations and those with lived experience, and that the plan is put into action.

Second, it is imperative to study, develop and implement survivor-centric alternatives that move beyond existing legal systems. Alternatives like restorative justice and transformative justice models broaden the possibilities for justice, accountability and healing. LEAF is ready to support this work through its alternative justice mechanisms project, which will look at legal barriers to these types of mechanisms for sexual violence and propose law reform measures to address these barriers.

Third, we need to make changes to our existing legal responses to make them more accessible to those survivors who choose to engage with legal systems. Free and independent legal advice and representation must be made available to survivors of gender-based violence. This is crucial for them to understand their options and their legal rights and how to navigate the justice system.

In the criminal context, we need to reform how publication bans are implemented and removed in sexual violence prosecutions, as well as how the criminal justice system deals with breaches of bans by survivors. Whether a publication ban is issued to protect a survivor's identity should be an informed choice made by that survivor. Should she no longer want the ban, there should be a simple process to remove it.

Finally, a survivor should never be prosecuted for breaching a ban put in place solely to protect her identity. I understand that Morrell Andrews will be appearing before you on Thursday, and I would encourage you to listen to her lived experience, leadership and expertise on this issue.

Thank you for your time. I would be happy to answer any questions that you have.

• (1125)

**The Chair:** Thank you, Ms. Owens, for being on time.

I want to welcome some members who are here substituting today. Welcome, Ms. Taylor Roy and Mr. Dreeschen, to the committee.

I'll begin by having the first round of six minutes begin with Mr. Brock.

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

Thank you, ladies, for your presentations and your willingness to participate in this extremely important study.

I'd like to speak to Monique St. Germain initially. My initial thought, Ms. St. Germain, is that your commentary alone with respect to the proliferation of child exploitation matters in Canada could easily form its own study. It's multi-faceted. It's multi-layered. I'm coming at my questions for you as a former justice participant who prosecuted these cases for the better part of two decades. I share your frustrations and concerns with respect to the inadequacies that the current system has to ensure that we deal with the under-reporting issues and that we deal with the supports that are currently lacking for all child victims across this country.

I listened very carefully to your recommendations. One comment was that child rights, in your view, are not being fulfilled by the current drafting of the Victims Bill of Rights. Could you expand upon that for me, please? I'll give you as much time as you need.

**Ms. Monique St. Germain:** For several years our organization has been working with material based on victims of child sexual abuse. What we're hearing from them, bar none, is that their safety considerations are immense and that the long-term impact on their lives, once child sexual abuse material has been created, is not well understood by any of the systems that are in place to support them.

For example, when they go to counselling, the counsellor often doesn't know how to deal with the imagery piece of the victimization. Of course, the imagery victimization is ongoing. There's the initial abuse, where the child is abused and the abuse is recorded. Then that recording continues to circulate online and continues to instill fear in the victim. Their counselling needs are very different from counselling needs that may exist for other victims for whom the crime is, in fact, over. For these victims, their past is their present. That is a big part of what we feel is lacking.

Certainly across the board we see that provincial systems are not equipped. The services that are being made available do not have the funding in place to provide the level of therapy and counselling that these survivors actually need.

**Mr. Larry Brock:** Thank you.

I have a general question now for Madame Gaudreault and for Ms. Owens. One reflection I had when I left law and entered politics was about the frustration that survivors of sexual violence have with the criminal justice system. They view it as a completely unbalanced justice system, under which all the rights, privileges and attention go to the offender, and lip service—those are my words—goes to the victims. It creates a level of distrust for those coming into the system, which probably explains why, historically, victims of sexual violence have not wanted to report it. They know that it's really dependent on the quality of the police service that investigates, the quality of the local supports available to the victims and the quality of the prosecution, and then there's the uncertainty of the judge.

With that in mind, I want to hear from both of you as to some of the shortcomings of the current iteration of the Canadian Bill of Rights and some of the ways in which we can improve, increase the trust and increase the reporting, particularly in the area of sexual violence. That's for either of you.

• (1130)

[*Translation*]

**Ms. Arlène Gaudreault:** The wording of the CVBR is very vague. In fact, implementation of a large portion of the rights rests on the provinces' shoulders, since they are responsible for the administration of justice. So it is difficult to have a complete bill of rights, unless all the rights are enumerated.

One of the ways of mitigating this problem is to ensure that the most victims possible have access to information in various forms and to service providers who can answer their questions and concerns. There is a lot of information, but it is very general. Victims need to talk about their cases, about their own situation, and to get answers to specific questions. The justice system is complex, and victims are dealing with different bodies. This is true for victims of sexual violence and spousal violence, but it is also true for all victims. So we have to continue to improve the system.

There have been significant advances in the treatment of victims in the justice system. Ms. Owens talked about legal advice. There are more and more legal assistance services that offer legal information and advice, because there is a lack of representation in some cases. A lot of initiatives have been put in place, particularly when it comes to preparing witnesses. The system is much criticized, but we do not hear a lot about the advances and the measures that are made available to victims. We also need to send a positive message to victims from time to time.

That said, despite what is in place, it is still an extremely laborious experience for victims.

[*English*]

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

Thank you, Mr. Brock.

Next we have Ms. Diab for six minutes.

[*Translation*]

**Ms. Lena Metlege Diab (Halifax West, Lib.):** Thank you, Mr. Chair.

I would first like to thank all the witnesses for their testimony.

[*English*]

Let me start by giving a brief opportunity to each of the three of you, although our time is limited, to give me your comments with respect to the appointment of the new ombudsperson for victims. How do you see that in each of your categories?

I know that LEAF spoke about the great work their doing on gender-based violence for women and the intersectionality.

Ms. Monique St. Germain, I know that you spoke about online sexual exploitation and child sex abuse on the Internet, which is actually something that I was quite familiar with as a Nova Scotian back when we implemented the Cyber-safety Act in our province.

I'd like to know how you think the ombudsperson could aid with that, if at all.

Ms. Owens, I'll ask you first.

**Ms. Kat Owens:** Thank you very much for the question.

I think it is always important to have more information as opposed to less, and to have a sense of how our systems are working and not working for survivors. I think that having an ombudsperson who is able to do that sort of work in assessing the systems is very important.

I would just go back to the point that whatever approaches are taken to respond to violence, they need to be survivor-centred. We need to ensure that survivors are informed about their options: that they have agency, that they have choice and that we expand those options.

I do think that the ombudsperson's work could be very supportive of that.

Thank you for the question.

• (1135)

**Ms. Lena Metlege Diab:** Thank you.

Ms. St. Germain is next.

**Ms. Monique St. Germain:** Yes, I would echo what Ms. Owens has said.

To build on that, the work of the ombudsperson, from the perspective of online abuse and technological abuse, could perhaps play a role in educating the various actors within the system of specific types of trauma and other safety planning considerations that need to be put into place, particularly when we're talking about children.

One thing that we see as an organization, as an example, is that for victims of child sexual abuse material, the offenders know who they are, or they spend time trying to figure out who they are. There are safety considerations that need to be taken into account a little differently, because that imagery is living online. The ombudsperson could be very effective, I think, in terms of educating and pulling together information from various jurisdictions to help better inform all actors within the system of these types of challenges.

[Translation]

**Ms. Lena Metlege Diab:** Ms. Gaudreault, do you have any comments to add?

**Ms. Arlène Gaudreault:** The ombudsman is also doing important work on analyzing the systemic problems and broad issues that small organizations often do not have the time to study. They sometimes do not have the resources to do it. The reports that the ombudsman has released have been invaluable in advancing our discussions. In Canada, the ombudsman is also an essential spokesperson for victims of crime whose reports can be used for analyzing problems and making recommendations that advance victims' rights.

We are therefore very pleased with his appointment.

**Ms. Lena Metlege Diab:** Right.

Thank you.

[English]

I have a follow-up question for you, Ms. Owens.

You spoke of the holistic solution and invited all parliamentarians, regardless of party affiliation, to work together. Gender-based violence is common out there. We all know that, particularly with women who are Black, indigenous, queer or disabled.

How about multicultural women and people of different ethnic backgrounds and so on? What would you say about that? Have you any studies on that or have you looked at that? This would be women who are immigrants and new to the country or who perhaps have been here for a long time but simply come from different backgrounds.

**Ms. Kat Owens:** One of the things we see is that gender-based violence touches members of all communities regardless of how new one is to Canada or how long one has been here. It's important to keep in mind how different systems of oppression work within this country and how they influence the likelihood that a person may experience gender-based violence as well as their response to it and the services that are available to them.

One thing I'll say that definitely speaks to the experience of folks who are new to the country, and also when we're talking about Black and indigenous folks in particular, is the way that the current default police and carceral response to gender-based violence often does not work. These may not be institutions that they feel they can engage with so there is a need to broaden the options and responses available to these community members especially.

**Ms. Lena Metlege Diab:** Thank you, Mr. Chair.

Thank you to all of you.

**The Chair:** Thank you, Ms. Diab.

We'll move next to Mr. Fortin for six minutes.

[Translation]

**Mr. Rhéal Fortin (Rivière-du-Nord, BQ):** Thank you, Mr. Chair.

I would like to thank all the witnesses for being with us today. It is a privilege to be able to look to their testimony to inform our work.

I am going to address Ms. Gaudreault first.

Ms. Gaudreault, in light of your testimony and the testimony of almost all the witnesses we have heard on this subject, there seems to be a major problem in terms of information. I am not making this up. You and other witnesses have said it in the past.

I would like to get your comments on that point specifically. What can we do to make sure that victims of crime are better informed about their rights?

You spoke quickly about restitution earlier, because your speaking time was almost up. If you want to come back to that, I would like to know your opinion on that subject as well.

How do we inform victims and get them restitution for the harms they suffer as a result of the crimes they were victims of?

● (1140)

**Ms. Arlène Gaudreault:** As I was saying earlier, we have to continue to produce information, whether in writing or otherwise.

Adequate training for service providers is also an important aspect to keep in mind. The information provided must be rigorous and kept up to date. We have to monitor changes to laws and practices. Victims also have to be referred to the right resources.

The information is complex and may involve various fields, whether it be legal advice, access to resources, or proceedings. Some organizations are more specialized than others, and it is crucial that the general public, and more specifically victims, know about them.

During the pandemic, there was high turnover among staff. The new staff sometimes consists of young people. So we have to be attentive to that and improve the training in universities. In law faculties, lawyers have to be better trained and informed about victims' rights.

I am now going to talk about the question of restitution.

Things work much better in the provinces where there are complaints mechanisms and where people are assigned to that work. For example, I am thinking about the staff in victim assistance services, who handle informing victims and working with young offenders. The situation is much easier when victims are supported by workers from a victim assistance service than when they are left to themselves.



It is deplorable to see that restitution orders have declined by 17% since the CVBR was adopted. That result is the opposite of what we wanted to get. It means that victims are not informed and the procedures are too complicated for them. Instituting a civil proceeding is very complicated for victims and adds to their burden.

In my opinion, we need to look at what is being done well in the other provinces, in order to transpose good practices elsewhere.

The federal government can play a role, because it funds a lot of projects. For example, \$38 million has been granted to certain services for various projects.

Organizations in Canada all need to know about good programs and the results achieved. We have to be told about them so we can transpose them into our own practices.

**Mr. Rhéal Fortin:** Thank you.

You talked about training lawyers in law faculties, which is a good idea. We can see that there is a problem when it comes to information. Victims are not necessarily being informed, for all sorts of reasons.

Would it not be a good idea to have some provisions in the Criminal Code for victims to be treated more like parties to the trial, for them to participate in it in some way, and for them to validate the processes, particularly when it comes to plea bargaining?

Victims often think that plea bargaining harms their rights. They see it almost as a denial of justice. Personally, I don't agree with that. In my opinion, it is actually important for lawyers to engage in negotiations on the various sentences that can be imposed. It can help victims. Unfortunately, however, victims are not always adequately informed.

Given all that, might it not also be wise to provide for judges themselves to be better informed about victims' rights?

Might it not be wise to provide for victims to participate at each step in a criminal trial?

**Ms. Arlène Gaudreault:** Victims are witnesses in the justice system. They are on the periphery of the system. Victims have to be more familiar with the Victims Bill of Rights so they are able to exercise those rights before various bodies, for example, before administrative tribunals like the Commission d'examen des troubles mentaux, the CETM.

Victims should also be consulted and their expectations and concerns discussed with them, at the various steps in the justice system. I have to say that things are starting to change a bit in that regard. This is the responsibility of police services, of the prosecutors who interview victims, of the people who work at administrative tribunals, and of all the actors in the justice system.

Victims have to be given a greater voice. We say that victims may give their opinion about a decision, but that rarely happens.

A discussion of this subject needs to be initiated, but we can't change the system.

• (1145)

**Mr. Rhéal Fortin:** Thank you, Ms. Gaudreault.

[English]

**The Chair:** Thank you, Monsieur Fortin.

We now have Mr. Garrison for six minutes.

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

I want to thank the witnesses for being here today. I apologize in advance if my lingering COVID symptoms overtake my questions at some point.

We heard quite a few witnesses talking about differences in approaches, support levels and other programmatic matters among provinces. We also heard, particularly in our last session, about the existence of clear best practices and minimum standards in other jurisdictions.

My question would be for Madame Gaudreault, to start with.

Do you think something like a national task force, with federal and provincial government and victims' representatives, could usefully establish best practices and minimum standards across the country?

[Translation]

**Ms. Arlène Gaudreault:** That would be a good idea.

About a decade ago, the Policy Centre for Victim Issues set up an advisory committee. It provided a place where very worthwhile discussions took place all across Canada. That is something we are missing, in fact: being able to exchange ideas with representatives of other provinces and territories about our work and the obstacles we encounter in putting solutions into practice.

In addition, we should look at the question of standards and maybe try to draw on a model charter like the United Kingdom's, which is based on commitments to victims by organizations and institutions. That might be a promising avenue that would be worth exploring.

[English]

**Mr. Randall Garrison:** As members of the justice committee, we're often focused exclusively on the legislative solutions or problems. Clearly, however, witnesses are telling us that it goes far beyond simply fixing the legislation. There's much more that needs to be done.

I would ask the same question to Ms. Owens about whether it would be useful to have some kind of national task force working on establishing best practices and minimum standards for assistance to victims.

**Ms. Kat Owens:** Thank you for that question.

I think it goes back to the point I raised earlier with respect to the national action plan to end gender-based violence. Thinking about minimum standards and how we respond to victims and survivors in a consistent and appropriate manner across the country is something that might fall quite well within the framework spoken about there. I think it also speaks to the need to look at it systemically, as opposed to piecemeal portions of this system. I certainly think looking at how this all fits within that framework, then moving that framework forward, is definitely something to be explored.

**Mr. Randall Garrison:** Thanks very much.

In previous submissions by LEAF—especially on the question of coercive and controlling behaviour—and again today, you talked about the unintended consequences of changes in the legal system. We've had many people suggest that there needs to be a provision for automatically informing victims of their rights and programs.

Could you comment on possible unintended consequences or concerns LEAF might have with respect to that automatic information systems proposal?

**Ms. Kat Owens:** I think it would be—and other witnesses have shared this—very important to consult with survivors and victims in order to get a sense of where they're coming from. The challenge with anything automatic is that survivors and victims all have different needs, so a one-size-fits-all approach can be challenging when it comes to meeting the needs of survivors. I appreciate the administrative clarity it provides, but it is certainly challenging to meet individual needs when you're taking one approach to all survivors.

• (1150)

**Mr. Randall Garrison:** I will go back to Madame Gaudreault on the same question.

Madame Gaudreault, you mentioned, at the beginning of your presentation, that many people lack basic information about what their rights actually are and what the possibilities are. Could I get your response, or your organization's response, to the idea of some kind of mandatory information provision for victims of crime?

[*Translation*]

**Ms. Arlène Gaudreault:** I agree with Ms. Owens, because it does not meet all victims' needs.

Some victims want to follow all the proceedings, including when the sentence is being served. Others do not want to follow them, because it is too complicated for them and they are not psychologically up to it.

Some victims, after sentencing, want to move on to other things and move forward. Needs vary from victim to victim. So I think that making information automatic for everybody is not the right path to take. It is important to conduct a broader consultation with different categories of victims to see what their needs are.

There is also a question of resources. If we put a system in place that would facilitate this work, it will need resources, it will need funding.

As well, a lot of information involves the provinces, and so discussions would have to be held with them, I think.

[*English*]

**Mr. Randall Garrison:** Thank you very much.

As one last quick question, maybe to all three of you, there's been a lot of concern about the under-resourcing of the office of the ombudsman for victims of crime. Do you have any comment—maybe starting with you again, Madame Gaudreault—on the relative resourcing of the office compared to other similar ombudsman offices?

**The Chair:** Give a very brief answer, please.

[*Translation*]

**Ms. Arlène Gaudreault:** The Office of the Federal Ombudsman for Victims of Crime does not have a lot of employees, as compared to the Office of the Correctional Investigator. Its staff would need to be expanded so that it can fulfil its mandate and reach everyone.

Particular attention also needs to be paid to the question of language. There would need to be enough bilingual personnel, and francophones who contact the Office of the Ombudsman would need to be able to get speedy access to someone who speaks French.

[*English*]

**The Chair:** Thank you.

Next we go to Mr. Richards for five minutes.

**Mr. Blake Richards (Banff—Airdrie, CPC):** Thank you.

In the meetings we've had on this topic, every time I'm struck by, usually, several things that we hear from those of you who come to speak with us, things where I just shake my head and say, "How can the justice system put victims, and their needs and their rights in such disregard?" Certainly, today was no exception to that.

I want to follow up a little bit on a couple of things. One of them, Ms. St. Germain, is that you mentioned restitution and how it's often not being ordered and certainly not being enforced. We'll do that first.

I also just want to mention, Ms. Owens, that I do want to ask you a little bit more. You talked about the publication orders and what's happening to some victims in terms of breaches of bans there.

However, we'll start with you, Ms. St. Germain. Maybe just talk a little more about the restitution orders. Give us some sense, if you have stats that tell us, of how rarely that's happening, how often it's happening and why they're not being enforced. If you have suggestions on what can be done to improve that, we'd love to hear those as well.

**Ms. Monique St. Germain:** I don't have any stats as they connect to the restitution issue. What I do know is that our organization monitors reported case law, so that's all the decisions that are publicly available to lawyers regarding sentencing and other matters that are going before the courts. Restitution is almost never mentioned in the offences we monitor, which are the online child sexual exploitation offences—like what is called child pornography in the Criminal Code, online luring, agreement or arrangement, those types of offences that tend to involve technology.

In the few cases we are aware of where restitution was requested it wasn't granted because the judge's sense was that the individual was going to jail for a long time, so he wouldn't be able to pay. It's similar to the reasons judges use for not imposing a victim surcharge. To that, our organization would say that people in this country don't go to jail forever. They do come out. They do get jobs. They do work. There's no reason there couldn't be a restitution order that is there and that is payable at some point in their lifetimes. It doesn't have to be, obviously, the moment they're incarcerated.

Our other issue is with the wording of the Criminal Code itself, which requires that the restitution be readily ascertainable at the time of sentencing. For victims of online crimes, the damage and the full cost and impact on the person's life is often not even remotely known at the time of sentencing. You don't know whether that person's child sexual abuse material is going to go viral within offender community circles. You don't know what other offenders are going to target this person because their imagery or their personal information was placed online.

Those are some challenges we see with the restitution issue.

• (1155)

**Mr. Blake Richards:** That's great. Thank you very much.

I certainly hope that the committee will make those recommendations and that the government will take those up. I think they are very wise recommendations, and I think they will mean a lot to victims.

Ms. Owens, I don't imagine we have a lot of time, but I'll turn to you for what we do have. If you do get cut off for whatever reason, maybe you can send something in writing to the committee so we can benefit from your recommendations in this area.

In regard to the breaches of publication orders and seeing victims being prosecuted for those, could you give us a bit more of a sense as to what you've seen happening here and what the result is for victims? Also, what could be done to improve that process and give victims the right to make a choice that best suits them in these scenarios?

**Ms. Kat Owens:** Certainly, and I would commend to the committee Morrell Andrews, who will be appearing on Thursday and who really is a leader and an expert in this area.

I would just note that the most important thing for moving forward is for survivors to be able to have meaningful choices in terms of whether or not a publication ban is implemented and when one is removed. The ban is put in place to protect their identity, and that is what matters.

I see that I'm out of time. Thank you.

**Mr. Blake Richards:** Just very quickly, if I could, I'll ask Ms. Owens if she could—I know she didn't have much time there—and would like to present in writing how that might look in terms of providing choices to victims.

Thanks for indulging me on that, Chair.

If you could send it in writing, that would be appreciated.

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

Next, we go to Ms. Dhillon for five minutes.

[*Translation*]

**Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.):** Thank you, Mr. Chair.

I would also like to thank our witnesses for being with us today.

My first question is for Ms. Gaudreault.

Ms. Gaudreault, in your testimony you said that collaboration among the provinces and territories was important.

What type of collaboration do you have in mind?

**Ms. Arlène Gaudreault:** First, there is a need in connection with data collection, as the Ombudsman wisely pointed out in her report. Information should be exchanged more widely among the provinces and territories.

It is not reasonable that seven years after the CVBR was adopted we do not have an idea of the complaints mechanisms in the provinces and territories, and we do not know what works and does not work, or what best practices are. There should be a special committee that brings together representatives from the federal government and from the provinces and territories to look into the obstacles victims encounter along their way and see what improvements could be made, on an ongoing basis.

We have the impression that the work is being done in a vacuum somewhat. There are duplications in funding. Some programs that are already funded by the provincial government are also funded federally. We do not have enough discussion about how things are done in our respective bailiwicks so we are able to make progress in improving our practices, in enhancing rights, and in pooling research. It is our impression that this is being done in isolation, with everyone working on their own.

• (1200)

**Ms. Anju Dhillon:** Would you have an example of the duplication of programs between the provincial and federal governments?

**Ms. Arlène Gaudreault:** A lot of programs are being created to train workers. The federal government has made a lot of investments in the provinces and territories for training. It is important to do that, but there has to be general training and targeted training. What the federal government funds should not be funded by the provinces. There are also duplications in legal assistance services, for example. That is happening a lot.

At present, we are seeing all sorts of experiments and approaches. For example, criminology students or law students are giving legal information. They are supervised by professors, of course, but debatable practices are also being funded by both the federal government and the provinces. It would therefore be a good idea to look at what is already funded and deal with the problems that have evaded us or have not been documented.

We are currently working on a project to improve the recognition of the rights of people who make a statement before the Review Board for mental disorder. We are realizing that these people are very ill-informed. There are virtually no reports, and there are no mechanisms for cooperation among the organizations. There is a lot of work to do in this regard.

So we have to do a critical review. There are some very good programs for witness preparation in Canada, and it is good to see lawyers giving legal advice. We needed that.

There are also major gaps when it comes to victims' representation before certain tribunals, and we need to take the time to deal with these things. Analyzing how the CVBR has been implemented should make it possible to devote some time to this critical analysis.

The provinces and territories are responsible for implementing numerous rights, and they do a lot of other things as well. It is important to make the background we have acquired known, and the CVBR can be used as a lever to advance the rights of all victims. There are populations we have not been able to reach, for reasons that include language and geographic remoteness. We therefore need to analyze these problems so that these rights are accessible to everyone.

In addition, it is not reasonable that in 2022 there are still young lawyers telling us they do not know much about the CVBR. That is unacceptable. There is still a lot of work to do.

**Ms. Anju Dhillon:** Thank you, Ms. Gaudreault.

I would have liked to ask more questions, but my speaking time is up.

[*English*]

**The Chair:** Thank you, Madam Dhillon.

Now we'll go to Monsieur Fortin for two and a half minutes.

[*Translation*]

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

I almost want to apologize to Ms. Owens and Ms. St. Germain. We are not asking them a lot of questions, but not because their testimony is not important. We took a lot of notes during their testimony.

Ms. Gaudreault, I am going to take the liberty of talking with you again, if you don't mind. Like Ms. Dhillon, I am going to come back to quite a few subjects, but I am ask you about something else.

I would first like to address the question of collateral victims — for instance, children of the victim, as well as children of the attacker. I believe they are included. For example, I am thinking about a young boy or girl whose father has been convicted at a criminal trial. Those children may suffer significant harm.

In your opinion, should the CVBR not be adapted to give more weight to this aspect and make sure that children or spouses who are not involved in the crime, whether as victims or attackers, but who suffer the consequences, are better protected?

**Ms. Arlène Gaudreault:** That is a difficult question.

You have raised an important problem. We cannot help but be moved by the situation of these children and spouses. We have a responsibility to put programs in place to help these people, which might fall under Correctional Service Canada, for example. As far as including them as victims in the CVBR, we do not see that in other bills of rights or in other countries. It would call for more in-depth consideration.

At first glance, I would say that we first have to think of programs designed to help them and initiatives to implement locally and in all the provinces.

What you are saying does not really correspond to the definition of a victim. The definition of a victim would have to be reviewed and there would have to be a thorough discussion about this. There may be other solutions that could be used to reach the same goal without including them in the CVBR.

• (1205)

**Mr. Rhéal Fortin:** Thank you.

I am going to ask you another question, Ms. Gaudreault. That will probably conclude my speaking time.

On the question of funding...

[*English*]

**The Chair:** Unfortunately, Monsieur Fortin, you're out of time.

**Mr. Rhéal Fortin:** Already?

**The Chair:** Yes. It's been two and a half minutes. I'm sorry.

Next, we'll go to Mr. Garrison for two and a half minutes.

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

I want to return to the question of relative resourcing of the various ombudsmen's offices. I'll give a chance, first to Ms. St. Germain and then Ms. Owens, to comment on that question of relative resourcing of the ombudsmen's offices in the justice system.

**Ms. Monique St. Germain:** Thank you.

In terms of resourcing, I think it's known to everyone that there are tremendous challenges in resourcing across the entire justice system. The level of funding, though, that is tied to the federal ombudsmen needs to be increased in order for them to have the role they should be playing in our communities and in our society.

**Ms. Kat Owens:** I would echo that. I would also say the ombudsman is a key part of the response to ensure that victims' and survivors' rights are respected. However, in the gender-based violence context, so too are a lot of frontline service providers.

LEAF has called for sustained core funding for these organizations and would echo that call here today as well.

**Mr. Randall Garrison:** You anticipated my next question to you and you've already answered it. All of us here acknowledge that we're in a peculiar situation where we ask the victims of crime to finance their own organizations and to finance many of their own programs for recovery, rather than have the public assuming that responsibility. I know that's the case for gender-based violence.

Perhaps, Ms. Owens, you have more to say on that topic.

**Ms. Kat Owens:** I would say there has been significant funding provided lately, which is very much appreciated and has allowed for increased capacity building in this sector. However, I think that sustained core funding not tied to individual projects is something that will allow organizations to provide more effective and accessible services to survivors across the country.

Thank you for the question.

**Mr. Randall Garrison:** I'll go lastly and very quickly to Madame Gaudreault on the same point about funding for victims' organizations.

[*Translation*]

**Ms. Arlène Gaudreault:** I would like to make a proposal. The federal government could re-examine its position regarding compensation. Until 1992, it support the compensation schemes throughout Canada. Then it stopped. If that support were restored, it would certainly meet the needs felt by many victims in terms of moral support as well as psychological consultations, and it would help the provinces perform their mandates better.

[*English*]

**The Chair:** Thank you, Ms. Gaudreault.

Thank you, Mr. Garrison.

That concludes our first round. We'll suspend for a couple of minutes to do sound checks for our next witness, and then we'll resume.

• (1205) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1210)

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

We're resuming the second round. We have one witness, Brenda Davis, who is here as an independent witness. She will have five minutes to make her opening statement, and then we'll go for a round of questioning beginning right after.

The floors is yours, Ms. Davis.

**Ms. Brenda Davis (As an Individual):** Good afternoon.

Thanks, everyone, for the invitation to speak today on behalf of myself, my family and all victims of crime who want changes to help us better navigate the criminal justice system.

In 1987, my 16-year-old sister was murdered by Patrice Mailloux while she worked at my father's corner store. At the time he was on parole and living in a halfway house nearby. He was convicted of second-degree murder and sentenced to life with no parole for 20 years. A number of years later he was again—while incarcerated at a maximum-security prison in Edmonton—given another 20-year sentence for a violent escape attempt, in which a prison guard was injured. Since that time, he has continued to commit many crimes while incarcerated and has broken parole conditions numerous times.

Since that time, my family has had to endure numerous hurdles to have our rights as victims respected. We did not choose to be victims, but the offender did willingly choose to murder my sister.

In 2007 we had to fight to receive translation services as the offender chose to have his parole hearing in French. As English-speaking victims, we deserved to be treated fairly and with respect, as we fought to ensure justice was served. In 2009 my family and I—including my aging parents—had just arrived in Montreal to attend the parole hearing when we were told the offender had decided to withdraw his request for the hearing. It was immediately cancelled and we had to return to New Brunswick. No reasons for the cancellation were given at the time. In 2020 in the midst of the pandemic, there was yet another parole hearing scheduled. We were informed that the only way we could take part was by teleconference, even though the offender was able to have video conference with the Parole Board for the hearing. The same rights should have been afforded to us as victims.

These are just a few of the struggles we have faced as victims since my sister was murdered almost 35 years ago.

On September 1, I was notified by the Montreal office of victim services for Corrections Canada that there was a Canada-wide warrant issued for Patrice Mailloux for breach of parole conditions. He had been unlawfully at large before they could execute the warrant. When we asked when his last known check-in was—as he was on day parole—we were told that they didn't have that information. We also asked what conditions were breached. We were again told that they did not have that information, and if they did then it was confidential. It was now a police matter, and victim services or the police would contact me if or when he was apprehended.

I contacted the RCMP, my member of Parliament and my local constituent to voice my concerns for my family's safety and the safety of the general public, as this offender is a habitual, violent offender. Even though there was a Canada-wide warrant for his arrest, I could not find publication of it anywhere. I was informed that the police were aware and that there were places they would look for him. If they were to stop him on the road, then they could find out he had a warrant. The RCMP provided more updates and assurances to me and my family than victim services did.

I personally used the offender's most current photo from the victims' portal and released it via Facebook with information about his conviction, the warrant and his last known whereabouts. I asked people to share it far and wide. I was then contacted by Corrections and told to remove the photo, because it was confidential. I did that, but it had already been shared hundreds of times. I also contacted a reporter with the local paper, a lawyer, CBC and CTV news to tell them the story. They didn't post the offender's photo until they had spoken with a legal expert. Once he was apprehended, the RCMP did let me know that they had received many tips on his whereabouts because of the photo that was shared through social media and the news.

Victims should not feel responsible for protecting themselves and the public.

Victims also feel revictimized when their victim impact statements are allowed to be addressed only to the Parole Board. They are shared with the offender prior to the hearing. Victims should be able to speak directly to the Parole Board members as well as to the offender. The statements should not be shared with the offender prior to the hearing.

• (1215)

The offender often uses these statements to prepare his responses at the hearings, which include the offender giving false answers that the board members may have no idea are untrue. We, as victims, are not able to question the offender when he makes false statements, and these false answers may sway the board into a decision that is not based on facts.

When a violent offender is granted any form of parole, they should be required to wear an ankle monitor so their whereabouts is always known. That will help determine whether or not the offender is adhering to the terms of their parole.

Parole board hearings should also return to being in person. That is important, as victims should be afforded the right to take part and observe the hearing. Being able to see the offender and the board as the hearing is conducted is a vital step in ensuring that justice is being done correctly. If the offender chooses to withdraw their opportunity to a parole hearing within two weeks of the scheduled date, it should be required that the hearing go ahead as scheduled and victims be allowed to attend even if the offender chooses not to.

Victims should not have—

• (1220)

**The Chair:** Ms. Davis, if you could wrap up, you're a little over time. Hopefully we'll be able to flesh out the rest of your statement from questions.

**Ms. Brenda Davis:** Okay. Thank you.

**The Chair:** If you're done, I will go over to Mr. Moore for six minutes.

**Hon. Rob Moore (Fundy Royal, CPC):** Thank you, Chair.

Thank you, Brenda, for being here today. I want to say at the outset, no family in Canada should have to go through what you've gone through. Having known your father, Ron, from his time as a councillor for the town of Riverview, he was always an impassioned advocate, not just for your family in the memory of your sister but also for all victims.

His words did have an impact when it came to parole hearings, particularly around the issue that you mentioned of offenders cancelling a parole hearing without notice to families. I recall him telling the story of when he travelled to Quebec for the hearing and then it was cancelled at the last minute. That should never be allowed to happen.

Your case, more than many, illustrates the revictimization of the process. Your family and your sister were already victims of a criminal act, but then the process continues unfortunately—and this is what we need to stop—to revictimize.

You were in the middle of a thought, so you can wrap up your thought, but can you also comment on the parole system and the frequency of parole hearings? The fact of the matter is that the person who took the life of your sister was on parole when he did it. In spite of that, Corrections Canada didn't know where he was as recently as a few weeks ago. You spoke to me about how that caused fear for you as a family member.

Can you speak to how the parole system has to be improved, maybe some ideas you have that could make it better for victims' families and the importance of victims' families always being looped in when it comes to the actions of offenders?

**Ms. Brenda Davis:** First of all, when someone has been put on parole that many times and continues to have his paroles revoked, breaks the rules, goes back to prison, commits more crimes and then they put him back on day parole, he's been in the system for so long that he knows what to say to get his parole. Then, he goes out and he breaks the conditions of his parole. It's happened so many times. We're constantly going to these hearings and having to fight to keep him in there, because we know he's going to do something again. He was just gone for three weeks.

He may be older, but he's very capable. He's an able-bodied man, and if he ran into something like needing money, it's not hard for him to go and repeat what he's already done. He's never shown remorse.

We aren't told what's gone on until months after the incident. Just last week, they informed us that the parole officer will be the one to decide if he goes back to day parole with extra conditions. If the parole officer chooses to continue the suspension, then it will go to the Parole Board to make the final decision, but we don't get a say in that. There's not going to be another hearing. They're going to make the decision and the family is left out. We aren't told anything.

**Hon. Rob Moore:** Thank you, Brenda.

Actually, it's incredible to even hear that this person who should have never been paroled in the first place, in my opinion, having had all these violations, would even be considered for some type of release.

Do you think for families, when it is first-degree murder or second-degree murder, that parole hearings of two years are too frequent? Do you think if someone is denied parole there should maybe be a longer period? I've heard from other families and your own about how you just finish one parole hearing and then you're already anticipating in your calendar the next parole hearing. Would it help families if, having been denied parole, the next hearing was further out?

• (1225)

**Ms. Brenda Davis:** I think at least five years would be a good time in between. If they're denied, they're denied for a reason.

Like you say, people said two years is not enough—it's not. You get over the hearing and then you start preparing yourself for the next one, because you learn a lot of stuff in those hearings. You learn of the things the offender has done that have taken away their privileges, etc., but we only find out about those things when we go to the parole hearings. We're finding out about that and then we're trying to compile all that information and find out stuff. Then all of a sudden it's time for the next hearing.

**Hon. Rob Moore:** Thank you, Brenda.

Other individuals are going to question you from the committee, but I really appreciate your taking the time to speak to our justice committee. I hope your testimony has an impact on everyone, on the ways we can improve the system for your family and others.

Thanks again for taking the time to meet with us today.

**Ms. Brenda Davis:** Thank you.

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

Next, we'll go to Ms. Dhillon for six minutes.

**Ms. Anju Dhillon:** Thank you, Mr. Chair.

I thank Ms. Davis for coming in and testifying about this very painful tragedy that she and her family have experienced. There are no words to express still hearing the pain in your voice 35 years later.

In the last 35 years you've been navigating the criminal justice system. I wanted to ask if you could please tell the committee if you have seen any improvements when it comes to victims' rights or for their families, because you are speaking for the victim right now, who was your sister. Could you please tell us a little bit about whether you have seen any improvements? What would you

like to see improved even further? Just tell us your experiences, please.

Thank you.

**Ms. Brenda Davis:** Transparency is one. The family should be told exactly what these breaches of conditions are when the offender breaches a condition or when he's in prison and does something that ends up with him in isolation or suspends his parole. We should be told what it is, but we're not told. We're not told till months later. Even then, there are things we aren't told.

I think that as victims we deserve to know that. No, it maybe doesn't have to do with the original crime, but he's in there serving time for the original crime. I believe all of that adds on to it, and it's our right to know. We're constantly told later. It's like our trip to Montreal that was cancelled. It was months later before we found out why it was cancelled. It has just been continuous. There needs to be transparency.

In our case, when he escaped custody and was gone for three weeks, we again did not get any answers. They said his warrant was issued on September 1, which was a Thursday, but he does a five-and-two day parole. He spends five days on his own and two days in a halfway house. We don't actually know when he was last seen. They couldn't tell me where he was or where they thought he might be. It's not fair to the families.

I was questioned: "Why do you think you're in harm's way?" I think anyone can see that we've managed to keep him in prison for an extra long time after his parole was due, and that's because of his offences. I think we should be told exactly what's going on when it happens. I think victim services should take more of a part in helping the victims.

I had the RCMP call me two and three times a week to check on us, to make sure we were okay, but I was also told that I should install a security system, with cameras, at my house. To me, that's not my job to do that. It's their job—Corrections, the Parole Board—to keep an eye on him, to make sure they know where he is, so that the victims don't have to worry all the time. We shouldn't be the ones who have to go and put it out to the public. He's a high-risk offender. He's a violent offender. He's been in jail since the 1970s almost continuously. When he has been out, it's been on parole, and his parole has been revoked.

We're not getting answers. We only find stuff out later. We get to the parole hearings and he already has all of our statements, so he knows what to say. It's not fair to the victims. What we say should not be given to him prior to....

• (1230)

**Ms. Anju Dhillon:** I'm so sorry that we are so limited on time.

You spoke also about publication bans. Can you talk to us a bit about how they're good for maintaining the privacy and dignity of victims, of complainants, but how they can also have unintended consequences?

**Ms. Brenda Davis:** I suppose it depends on the crime as to whether or not something should be publicized. In this case, I believe it should have been put out to the public immediately, and it wasn't. That's why I put it out. I put it out to protect people, so that people would know, if they'd seen him, to call the police.

Yes, in some cases maybe it shouldn't be put out, to protect the victim, but in our case, he's a violent offender. He wasn't a sexual offender. His victim didn't live, so we weren't protecting her. We just wanted him found to protect ourselves and to protect the public.

**Ms. Anju Dhillon:** I thank you so much.

**The Chair:** Thank you, Ms. Dhillon.

Next we go to Monsieur Fortin for six minutes.

[*Translation*]

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

Good afternoon, Ms. Davis. Thank you for being with us today.

Your testimony is almost disturbing. What you have had to go through because of how things were done makes no sense. For one thing, I am thinking of the fact that you were not informed in advance of the adjournments, which is unacceptable, in my opinion. It would be fairly easy to change the way that is done. Victims should participate in court proceedings in some way, particularly when it comes to adjournments. They could be notified at least the day before, or two days before, so they could avoid travelling. I think that is a minimum.

I would like to talk with you about the question of the language the trial is held in. From what I understand, you were put at a disadvantage to some extent. I am not certain I grasped the details, but I gather that the accused asked that his trial be held in French. Since I am a francophone myself, I can understand that, in spite of my lack of sympathy for him because of the things he has done. However, that should not be at the expense of the victims or the victim's family, as in this case.

I would like you to tell me more about the way things happened. I thought I understood that you were not informed that you would not be offered interpretation services.

Is that right? I would like to know a bit more about this.

[*English*]

**Ms. Brenda Davis:** Originally, for the first hearing, we were told that there was not an ability to have translation. They didn't have the room for it. They didn't have the setup, and my father fought tooth and nail for us to get translation. It did mean that we had to move to a different prison in order to get the translation booth and the translators in there.

His original trial was in English, but I know he's French, and that is his right. It's also the right of the victims. We're the ones who are suffering. He's put himself in that position, but we, as victims, de-

serve to hear everything and understand everything. We did accomplish that, but it wasn't easy.

● (1235)

[*Translation*]

**Mr. Rhéal Fortin:** If I understand correctly, it was when the accused applied for parole that the proceedings were held in French.

Is that it?

The trial at which he was convicted was held in English, but the parole application was in French.

Is that right?

[*English*]

**Ms. Brenda Davis:** Yes.

[*Translation*]

**Mr. Rhéal Fortin:** Thank you.

This is a question we will have to come back to in our report, because I think it is important. We will certainly be discussing it. Thank you for bringing this question to our attention.

Now let's talk about adjournments that happen on the spur of the moment, or nearly so, on the morning of the hearing. I understand that the accused, as he is entitled to do, opts for a trial by judge or jury and that this inconveniences victims.

Were you contacted by the prosecutor handling the case in advance, one way or another, or did you have no contact and learn about the adjournment on the morning of the hearing?

[*English*]

**Ms. Brenda Davis:** I flew up there. My parents drove. They were probably in their early sixties, so they drove from New Brunswick to Montreal. As soon as they pulled up to the hotel, they had a phone call saying that the hearing was cancelled, and we weren't given another date for I don't know how long.

[*Translation*]

**Mr. Rhéal Fortin:** Did you get the telephone call about the adjournment the day before the hearing or a few days before? I understand that your parents had just arrived at the hotel, but did the call only happen the day before, or before that?

[*English*]

**Ms. Brenda Davis:** It was the afternoon before the hearing.

[*Translation*]

**Mr. Rhéal Fortin:** Did that happen again, or was that the only time there was a last-minute adjournment?

[*English*]

**Ms. Brenda Davis:** I believe he's cancelled a couple more, but they weren't ones where we were to attend. They were reviews they just did there. He had cancelled some, and we came to find out later that he cancelled them because he had done something wrong. He doesn't want to go in there and have them say right off, "No, you don't get it. Go back."



[Translation]

**Mr. Rhéal Fortin:** Regardless of whether the reasons were good or bad, personally, it is how it was done that concerns me. I think it is unacceptable that you were only informed the day before, particularly given the long trip to get to Montreal.

If I understand correctly, the Crown prosecutor did not telephone you to ask whether you agreed to there being an adjournment or something like that. Everything was done without you being consulted or informed in advance.

Is that right?

[English]

**Ms. Brenda Davis:** No, we had no information before and no warning. We thought the hearing should have gone on regardless. If he did something wrong, it should have come out so that we are all aware of what happened. We weren't told. We were just told that they had to send him back to medium-security prison.

**The Chair:** Thank you, Ms. Davis, and thank you, Monsieur Fortin.

[Translation]

**Mr. Rhéal Fortin:** Thank you, Ms. Davis.

[English]

**The Chair:** Next we'll go to a six-minute round with Mr. Garrison.

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

I want to start by thanking Ms. Davis for being with us today. Even though many years have passed, I know it must not be any less difficult to come and relive the loss of your family. Your dedication to public safety and to making sure there are no other victims of this offender is admirable. Despite the difficulties with the system you have, you have persevered, and I think we all thank you for that.

I know it was a long time ago, but can you talk a little bit about how you became aware of your rights as a victim of this crime? Was this all through your own research, or was there any outreach to you at the beginning?

• (1240)

**Ms. Brenda Davis:** During the trial we did have a victim services person with us, but after the trial that was it. It was done. No one told us anything.

I had moved to the Yukon, and I decided up there that I was going to try to see what I could do and what I could find out, but it wasn't given to me.

I searched and searched for it until I found that I could get information on him and that it was my right to get information. I got that, I passed that information on to my family and we went on from there, just trying to do our best to find ways to get information on what was going to happen, what was coming next and how long until it was going to happen.

But nobody reached out to us at all to tell us where we should go when it was getting closer to his parole dates. No one reached out and said, just so you know, it's coming up in another year or two.

He'll be due for parole. We just want to get you ready for it. There was nothing like that.

**Mr. Randall Garrison:** We've heard testimony from other victims and victims' rights groups that there should be both some kind of initial compulsory notification of victims and ongoing compulsory notification of victims. I'm assuming you would be in support of those kinds of provisions.

**Ms. Brenda Davis:** Absolutely, yes.

**Mr. Randall Garrison:** I think your point on transparency is an important one. Not only does there need to be information about the process but the content of the process is quite often kept hidden from victims. I guess I'm asking you a leading question again here. Not just notification of the process but the content of what's going to be happening in the process would be important to victims.

**Ms. Brenda Davis:** It would be, and it would be good for us as victims to know what's gone on since the previous parole hearing. Has he made any changes? Has his behaviour gotten any better? Is he going to start to show remorse? Has he done anything to better himself? We don't find out any of that until the parole hearing. That's all kept away from us. All we get are updates on his day parole or if he has to go to a doctor's appointment out of the area and stuff like that.

When it comes down to stuff that really matters, which we need to know in order to talk to the Parole Board and let them know how we feel and what we think, we don't have that information. We don't have his convictions or anything he's done until afterwards.

We found out he was gambling, then he was selling cigarettes and then he got himself into debt. Then he couldn't afford this and that. He gets to those places and that's when you start to commit crimes again because that's all you know. But they don't tell us any of that.

**Mr. Randall Garrison:** When you're trying to prepare victim impact statements, you're actually doing it in the dark, essentially.

**Ms. Brenda Davis:** We are. We're doing it from the last parole hearing and what the decision was then. That's basically all we have to base our statements on, which isn't much. We go back to when it happened because that is still very fresh in our minds, and we relive it every time we go to a parole hearing.

**Mr. Randall Garrison:** I want to return to the question that Mr. Fortin was asking about language.

Has the situation improved on language since your previous experiences, or are the proceedings...? Have they been going on in English so that this became not an issue again?

**Ms. Brenda Davis:** They remain in French, but we have been able to continue with the translation services. My father worked with the victims ombudsman for a while, and he was on a committee for victim services, so I think a lot of that is due to my dad's insistence and fight for victims, which I appreciate greatly because none of us are French. We really need to know what's going on in these hearings.

• (1245)

**Mr. Randall Garrison:** It wasn't really offered as a matter of right. It was something you, again, had to fight for.

**Ms. Brenda Davis:** No, it wasn't offered at all. It was just said that the hearing was going to be in French. We could read our statements in English, but the whole hearing was going to be in French. My father just said that can't happen. It's not fair to the victims; we need to know. We're given the right, as victims, to go to these hearings and present statements, but we should also be able to learn what has been going on and be able to hear and understand what the parole board is saying, what he is saying, and what his parole officer is saying.

There are other languages in Canada. I don't know if those are offered for translation when it comes to parole hearings, but I know that French and English are.

**The Chair:** Thank you.

Thank you, Mr. Garrison.

We'll go to Mr. Richards next for five minutes.

**Mr. Blake Richards:** First of all, thank you very much for being here today.

I know this cannot be easy for you, much like everything you have to do in participating in the parole processes and various other things, which I'm sure are incredibly traumatic, so I thank you for being willing to step forward and put yourself through this difficult situation. I'm sure it will help ensure others a little less pain—ensure a little less pain in other victim's families' lives, I hope.

There are a few things that really hit me in terms of things you were talking about.

The first one, certainly, is the whole parole process. You can correct me if I'm wrong in how I understood this timeline, essentially, to have worked.

This offender was in prison for a previous crime, was paroled, reoffended and has been in what sounds like a lot of trouble in prison at various times. You talked about several hearings being cancelled as a result of the offender being in trouble, so he's clearly not on his best behaviour in prison as it is, by any means. Then he still somehow managed to get put on day parole and was able to, essentially, escape as a result of that and be out on....

When you look at that, and when anyone looks at that and hears that timeline, the outcome there is almost entirely predictable. It's predictable to you, as a victim's family member. It's predictable to me, hearing it for the very first time. How could it not have been predictable to our Parole Board? There's clearly a problem there. There's clearly something wrong with that system.

I wonder if you could shed any light on potential ways that it could be fixed. What could be done to ensure that those kinds of mistakes aren't being made again?

**Ms. Brenda Davis:** I think their backgrounds really need to be looked at. If they keep having their paroles revoked and if they keep committing crimes while on parole and while they're in prison, it's obvious that they haven't changed. They're not changing. They don't deserve parole. You can only give someone so many

chances. For someone who's been in and out of prison since 1970, as this offender was, I don't think you can rehabilitate them. I think he chooses crime and that's his choice. We, as victims and as the public, shouldn't have to suffer for it.

I think the Parole Board just kind of looks at as if, since they've been in there for this long, it has to continue giving them parole hearings. Even in this case there's not going to be a parole hearing, even though he just escaped and he was gone for three weeks. No one knew where he was. For three weeks he escaped custody. We don't even know what the warrant was for. We don't know what he did wrong.

It's difficult knowing that this decision is going to be made without any input from the victims.

• (1250)

**Mr. Blake Richards:** There's clearly a problem there. Clearly something needs to be learned from far too many examples of what your family and, unfortunately, many families have gone through as a result of, frankly, a failed system that allows offenders to continue to reoffend. There's a real problem there.

Thank you for those suggestions.

You mentioned the translation. I think there's an obvious solution there. If a victim needs translation into their language, it should be offered without a victim having to fight for it. I'm sure you would agree with that one.

I also want to commend you for taking action where the system itself didn't to ensure that the public was informed and protected from someone who was clearly a danger to society. I commend you for doing that. It sounds like it may have resulted or at least potentially aided in him being essentially caught. That is good, but obviously we shouldn't be in a situation where a victim's family has to take that kind of action. Clearly, there's something that needs to change here as well.

Can you give us any suggestions or recommendations on what should be improved to enable the system to ensure that victims don't have to be the ones taking action and so that the system actually takes action to protect Canadians?

**The Chair:** I'm sorry, Mr. Richards, but unfortunately time's up—

**Mr. Blake Richards:** If I can, Mr. Chair, I would just ask Ms. Davis, if she has suggestions on that, to please provide them to this committee in writing.

I think it's very important that any suggestions you have be considered by this committee. Since you're not being given the time, maybe you could send it in writing and we can make sure they're followed up on.

**Ms. Brenda Davis:** Absolutely. Thank you very much.

**The Chair:** Ms. Brière, you have five minutes, please.

[*Translation*]

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

Ms. Davis, thank you for your testimony, which brought back very painful feelings for you. We certainly felt that.

Since the CVBR was adopted, have you noticed a difference? Has it had positive effects?

If not, what recommendations or suggestions do you have?

[*English*]

**Ms. Brenda Davis:** All of the parole hearings I've gone to seemed the same to me. I haven't noticed that anything has changed.

I can't say that we're offered support when we're there. We're not, when we go for our hearings. We're not provided information, especially. There's barely any transparency about what goes on outside of the parole hearings. We really don't know anything. All we're told is that they're on work release or they have to leave the area to do something. Other than that, we know nothing until we go to a parole hearing.

I think that we, as victims, should be able to know more of what he does day to day and, if he's doing anything wrong, whether they're thinking about revoking his parole. We should be told that stuff. That's stuff that we, as victims, deserve to know.

The only thing I've noticed that has got better is the ability to get the translation.

I wonder if there are victims out there who can't attend hearings because they can't afford to go to them. I know that your travel, meals and whatnot are paid for, but especially these days, people can't afford to take that time off work to travel. It's three days. How many victims are not able to speak up and fight to make sure that justice is served?

I think victims deserve that. They deserve some type of compensation, aside from their travel, to be able to go. People can't afford to lose three days' wages to go and fight for something that's their right to do.

• (1255)

[*Translation*]

**Mrs. Élisabeth Brière:** Thank you.

Earlier, we heard testimony from organizations that are dedicated to protecting victims' rights. To your knowledge, are victims and families aware of the existence of these organizations and the fact that they can get help from them?

If not, which victims should be informed that these organizations and services exist, and that they can use them? When should they be informed about them?

[*English*]

**Ms. Brenda Davis:** It would be nice if, through our victim services through Corrections, they could compile a list of organizations that are there for the victims. We don't know any of them. We've never been given a list with organizations that you can go to

if you need help, if you need to talk or if you're looking for information.

Personally, I don't know what's out there. I have no idea because no one has ever told us.

[*Translation*]

**Mrs. Élisabeth Brière:** Thank you.

You also said that it had been impossible for you to access an interpretation service and that your father had to fight to get it, so that is a barrier to access to justice.

What other existing barriers do you think would make access to justice harder?

How could we make navigating the justice system better for victims?

[*English*]

**Ms. Brenda Davis:** For one, we're not given a whole lot of notice before a parole hearing. Three weeks to a month is what we're given, which can make it hard.

Some people can't change their schedule, so they end up not going. I don't think that's fair, because a victim should be there. They should be there to fight for justice and to show that they're there, they're strong and they want to fight.

It's only short notice. Some people just can't arrange their schedule to get to these hearings.

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

Thank you, Ms. Davis.

The last round will go to Monsieur Fortin for two and a half minutes.

[*Translation*]

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

Ms. Davis, the facts you are telling us are truly deplorable, but they are interesting in connection with our work. I note the question of the lack of interpretation services, the idea of unannounced adjournments, which makes no sense, and the breach of conditions, which could result in revocation of parole. The person can make a new parole application two years after the previous one. Maybe that should be extended to five years, depending on the case.

I would like to explore a point with you, about participation at trial. I understand the major inconveniences caused by last-minute adjournments, the problems with interpretation and all that.

During the pandemic, we worked virtually a lot. For example, I am at my constituency office right now, because I could not be in Ottawa. I can participate in the Committee's work virtually. We have access to interpretation services, so the questions I ask in French are interpreted in English, and the answers given in English are interpreted in French. This is an effective service and I will take this opportunity to thank the interpreters.

Do you think that if parole hearings were adapted and allowed for participation by the accused or the inmate applying for parole in person and if they also allowed victims to attend hearings virtually, that would be satisfactory, or not?

[*English*]

**Ms. Brenda Davis:** Yes, we tried to get that for the last hearing and we were told they couldn't do video for us. The offender and the Parole Board had video, which I assume was maybe like this, like Zoom, but it wasn't offered to us. We weren't happy about it. We were on a phone for hours and hours. For victims it helps to be there in person and actually see what's going on.

• (1300)

[*Translation*]

**Mr. Rhéal Fortin:** Since I have only a few seconds left, I will be brief.

Were you told why it was not possible for the victims?

[*English*]

**Ms. Brenda Davis:** They just said they didn't have the equipment to do it. They just couldn't do it.

[*Translation*]

**Mr. Rhéal Fortin:** And yet the equipment was offered to the accused and the Crown representatives.

Why was it not offered to the victims? Were you given an explanation for that?

[*English*]

**Ms. Brenda Davis:** I don't believe so, aside from just saying they didn't have the ability to do it for that, which I don't agree with because Zoom was in place at that time because we were using it for school.

[*Translation*]

**Mr. Rhéal Fortin:** Thank you, Ms. Davis.

Thank you, Mr. Chair.

[*English*]

**The Chair:** Thank you, Monsieur Fortin.

I want to thank Ms. Davis. Mr. Garrison has passed over his time in light of the schedule right now. I just want to thank Ms. Davis, who's been advocating for this for so long for her family. It must be very challenging to go over this over and over again, but we commend you for giving us insight into this.

I want to thank all the members.

Before we go, I just want to let you know for the next meeting on Thursday, from 3:30 to 4:30, in the first round we have five witnesses, but in the second hour we're still waiting for Calgary Legal Guidance, the Criminal Lawyers' Association, the Ottawa Coalition to End Violence Against Women, and Dr. Loanna Heidinger. If any of those witnesses are yours, maybe you could just push them to see if they can attend.

Otherwise, the meeting is adjourned. See you on Thursday.

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