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# Standing Committee on Public Safety and National Security

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Chair: Mr. Heath MacDonald





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• (1100)

[English]

**The Chair (Mr. Heath MacDonald (Malpeque, Lib.)):** Good morning, everyone. I call the meeting to order.

Welcome to meeting 85 of the House of Commons Standing Committee on Public Safety and National Security.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application.

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

Please wait until I recognize you by name before speaking. Feedback events can occur. This can be extremely harmful to interpreters and can cause serious injuries. The most common cause of sound feedback is an earpiece that is worn too close to a microphone. We therefore ask all participants to exercise a high degree of caution while handling their earpieces, especially when your microphone or your neighbour's microphone is turned on.

As a reminder, all comments should be addressed through the chair.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Monday, October 23, 2023, the committee resumes its study of the rights of victims, reclassification and the transfer of federal offenders.

I would like to now welcome our witnesses here today. From the Correctional Service of Canada, we have Anne Kelly, commissioner; Kirstan Gagnon, assistant commissioner, communications and engagement; and France Gratton, assistant commissioner, correctional operations and programs. From the Department of Public Safety and Emergency Preparedness, we have Chad Westmacott, director general, community safety, corrections and criminal justice; and Shawn Tupper, deputy minister. From the Office of the Correctional Investigator of Canada, we have Dr. Ivan Zinger, correctional investigator of Canada.

Welcome to all of you. You have up to five minutes for opening remarks, after which we will proceed with the rounds of questions.

I now invite Ms. Kelly to make her opening statement.

[Translation]

**Ms. Anne Kelly (Commissioner, Correctional Service of Canada):** Good morning, Mr. Chair and committee members.

Thank you for inviting me as part of your study on the security classification, the transfer of offenders and the rights of victims of crime.

These issues have received considerable public attention, following the transfer of offender Paul Bernardo from a maximum-security to a medium-security institution this past summer. I would like to take the time today to explain more about how security classification works and how we uphold victims' rights in the process.

[English]

As we are here, my thoughts are with the victims and their families. What they have gone through is unimaginable. This offender committed horrific crimes. Hearing about this case has brought up strong emotions, and rightly so. I regret any pain and concern that this has caused. Public safety and the victims' safety continue to be top of mind for CSC in any decisions we make.

Chair and members of this committee, I have worked with the Correctional Service of Canada for 40 years. I have dedicated my career to serving Canadians and upholding the rule of law. I can attest first-hand that our correctional service works only if we perform our duties according to the law.

In Canada, our correctional system is fundamentally based on the rehabilitation of offenders, even if some remain incarcerated for the rest of their lives. This is our legislated mandate.

Under the law, CSC must assign a security classification to each inmate and review it at regular intervals. Our approach to both initial security classification and security reclassification is very rigorous. It includes a statistical component, using research-based actuarial tools, and a clinical component based on the assessment of the set of factors by trained, specialized staff. The custody rating scale and the security reclassification scale are both actuarial tools that generate a score based on an inmate's history. This includes, for example, any security-related incidents, previous escapes and offence severity.

The assessment also includes consideration of three areas by parole officers: the required degree of supervision and control within the institution, also referred to as “institutional adjustment”; escape risk; and public safety. These factors are set out in law and policy.

The final risk assessment, which combines the actuarial score and the assessment of the three areas, determines an inmate's security classification. Once the security classification has been determined, inmates must be placed in an institution that corresponds with their security classification.

It is important to stress that, at any point, an inmate can be placed or returned to higher security level if deemed necessary to ensure the safety of the public or an institution. When deciding on which institution is most suitable for the management of an inmate, the law requires that CSC take into account a number of factors, including the availability of appropriate programs and services.

● (1105)

[Translation]

CSC has always required that victim information be considered in recommendations and decisions. At any time in an inmate's sentence, a victim can submit a new or updated statement to CSC. Prior to the decisions, these statements must be considered by the case management team in the overall assessment for transfers.

At CSC, we strive to provide victims with the information that they need to have an effective voice in the corrections system. We also ensure that victims are treated with compassion, respect and fairness.

[English]

Following the transfer of Paul Bernardo, I heard a wide array of views and felt it was important to order an additional review to make sure that this decision was compliant with the law, policies and procedures that guide our work. While the review committee concluded that CSC followed all applicable laws and policies, it also recommended that I establish a multidisciplinary working committee to enhance policies and practices pertaining to victims, which I accepted and put in place.

The committee is comprised of 11 members, including victims as well as members of our CSC and Parole Board of Canada regional victim advisory committees, corrections experts and the federal ombudsperson for victims of crime. The multidisciplinary committee on victims services started its work on November 17. Over the next months, it will explore how we provide services to victims of crime and examine additional areas that could be further strengthened.

We have also recently undertaken a review of our policies to see how we can better serve victims and provide them with more timely information about the offender who harmed them.

**The Chair:** Thank you, Ms. Kelly. Thank you for your remarks. Hopefully, you'll have some more time to continue your opening remarks through questions.

Mr. Tupper, go ahead, please.

**Mr. Shawn Tupper (Deputy Minister, Department of Public Safety and Emergency Preparedness):** Thank you, Mr. Chair.

I'm happy to be here to say a few words about the work of Public Safety Canada with respect to your study on the rights of victims of crime, reclassification and the transfer of federal offenders.

I am joined here, as you mentioned previously, by Chad Westmcott, who is our DG for community safety, corrections and criminal justice.

Mr. Chair, from a legislative perspective, Public Safety Canada is responsible for the Corrections and Conditional Release Act. As such, I will be speaking about my department's work in this space. I will note that we are not involved in the operational decisions of the Correctional Service of Canada, which are under the purview of my colleague here beside me.

The act clearly outlines that decision-making authorities related to operations rest solely with CSC. As you know, that act guides both the Correctional Service of Canada and the Parole Board in how federal sentences of two years or more are carried out. It also provides the foundation for the rights to information, protection and participation of victims of federal offenders as set out in the Canadian Victims Bill of Rights.

[Translation]

Public Safety Canada's national office for victims is an important resource in terms of how we provide information. It helps victims navigate the federal corrections and conditional release system by providing information about their rights and the federal services available to them.

Input from victims is constantly helping us adjust and refine the information that we share. One example would be how we help to explain basic sentence calculation rules for federal offenders. This includes how the eligibility dates for various types of releases are determined.

Since 2015, the national office for victims has distributed over 80,000 copies of its publications.

● (1110)

[English]

The Correctional Service of Canada and the Parole Board of Canada provide registered victims with information about the federal offender who harmed them. They assist victims with submitting impact statements, which can be considered in decision-making and can facilitate victim attendance at parole hearings.

On July 20, 2023, a ministerial directive was issued to the service entitled “Information Sharing: Security Classification and Transfer of Offenders”. It recognizes that more can be done to ensure that victims' rights are considered earlier as part of the decision-making process. This includes implementing a victim-sensitive approach. It seeks to enhance notification to registered victims and to improve how and when it provides notification regarding security classification and transfers.

Work is now ongoing across Public Safety and the CSC to identify the policy and legislative changes to implement the directive. In addition, my department supports recent legislative amendments to strengthen the national sex offender registry and empower victims of crime.

To ensure victims are aware of their right to information, judges will now be required to ask if victims want to receive ongoing information about their case after sentencing. They will also be required to ensure that their wishes, if known, are entered into the record of proceedings. By receiving victim contact details from the courts, the Correctional Service of Canada will be able to proactively register victims to receive information rather than the onus being placed on the victim.

Under the Canadian Victims Bill of Rights, victims can also complain directly to federal departments and agencies if they feel their rights have been denied or infringed upon in order to resolve this in a timely fashion. If the outcome of a complaint is not satisfactory to the victim, there is an ombudsperson for victims of crime who is ready to assist.

My department also plays a role here in terms of increasing the transparency of the complaint process. The national office for victims, in collaboration with portfolio partners, prepares an annual report that compiles standardized information on complaints and how they are resolved. This helps us and our partners monitor new and emerging trends, address any systemic policy issues and find ways to further reduce the burden on victims.

In terms of the implementation of the Canadian Victims Bill of Rights within the federal corrections and conditional release system, the office has held five national round tables so far, so that we can all approach this the right way together.

[*Translation*]

We've talked about accountability, how offenders are reintegrated, restorative justice, outreach and engagement.

Our department is committed to implementing the Canadian Victims Bill of Rights. Victims must be treated with compassion and respect. We remain committed to getting them timely and accurate information, in accordance with legislation and policies and with how they've told us that they want to receive it.

[*English*]

**The Chair:** I will end it there. I appreciate it. Thank you.

Everybody received their written statement from Dr. Zinger earlier today, so we're going to move right into questions.

The first questions will be from Mr. Lloyd for six minutes, please.

**Mr. Dane Lloyd (Sturgeon River—Parkland, CPC):** Thank you, Mr. Chair.

My first question is for Dr. Zinger.

In June and July 2022, your office was engaged with Paul Bernardo to ensure that the principle of the least restrictive measures was being respected by Correctional Service Canada. Is that correct?

**Dr. Ivan Zinger (Correctional Investigator of Canada, Office of the Correctional Investigator of Canada):** It's yes and no. Thank you for your question.

As you know, we're an independent ombuds office. We investigate complaints and we focus on compliance with the law.

Typically, when it comes to transfers, the complaints we receive are usually related to a denial. We investigate to see whether the denial is justified. In this case, we did have contact with Mr. Bernardo, and it is highlighted in the report of the review committee that was initiated by the commissioner.

We weren't asked by Mr. Bernardo to look at his denial for a transfer to an institution in Ontario. He was obviously—

• (1115)

**Mr. Dane Lloyd:** I'm sorry, Dr. Zinger. I have limited time. I will move on.

Prior to Bill C-83, under the changes made by the Safe Streets and Communities Act in 2012, the language of “least restrictive measures” was changed to “necessary and proportionate”. Is that correct?

**Dr. Ivan Zinger:** That is correct.

**Mr. Dane Lloyd:** In 2012, your predecessor Howard Sapers, for whom you served as chief of staff, noted his concerns about changing the language from “least restrictive measures” to “necessary and proportionate”. He felt this was ambiguous and would give more discretion to Correctional Service Canada in their decisions, which could include security classifications.

Is that correct?

**Dr. Ivan Zinger:** I don't recall. You would have to ask him.

If you ask me—

**Mr. Dane Lloyd:** This was cited in the OCI's 2012-13 annual report.

He said:

replacing the...“least restrictive” principle with “necessary and proportionate” measures seems to add an unnecessary layer of ambiguity and discretion where precision and consistency are required. This language may make it more difficult for my staff to hold CSC to account for decisions and actions carrying significant life, liberty and security interests (e.g....security classifications....

Mr. Zinger, if Bill C-83 had not amended the CCRA to restore the “least restrictive measures” principle back in 2019, do you believe Correctional Service Canada would have had more discretion under the CCRA when determining an inmate's classification?

**Dr. Ivan Zinger:** This is hypothetical. I'm not sure I'm best placed to respond.

I can tell you that the criteria brought in by the Harper government that dealt with “necessary and proportionate” were likely to be interpreted as the “least restrictive” measure, which is consistent with public safety. I think it—

**Mr. Dane Lloyd:** Not necessarily....

**Dr. Ivan Zinger:** —becomes an interpretation—

**Mr. Dane Lloyd:** Not necessarily....

**Dr. Ivan Zinger:** —because it is something that....

“Least restrictive” is a pillar of principles that Canada and many countries around the world have adopted. It is grounded in international human rights law. It is reflected in, for example, the standard minimum rules for the treatment of prisoners, which were redone in 2015. Canada endorsed those. It also appears in instruments such as the body of principles for the treatment of—

**Mr. Dane Lloyd:** Dr. Zinger, I have very limited time to ask you questions.

You say it could be interpreted as the least restrictive measure, but that does not necessarily mean it would always be interpreted as the least restrictive measure.

**Dr. Ivan Zinger:** I think this is speculation. I don't know.

**Mr. Dane Lloyd:** Considering that, in the review report released by Correctional Service Canada, the term “least restrictive measures” was cited numerous times in relation to your office's engagement with Mr. Bernardo.

Do you believe the principle of least restrictive measures, as you understand it, was a contributing factor in his security reclassification?

**Dr. Ivan Zinger:** I think “least restrictive measures” is a pillar, as I said, that is not just applied to transfers. It applies to things such as searches, use of restraints, use of force, placement in secure intervention units—

**Mr. Dane Lloyd:** I'm sorry, Dr. Zinger. This is a simple yes or no question.

**Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.):** I have a point of order.

**Mr. Dane Lloyd:** Was the security classification...?

I would like to stop my time there, Mr. Chair.

**The Chair:** I'm sorry. The member has a point of order.

**Ms. Jennifer O'Connell:** Mr. Chair, the rules of committee are these: The questioner doesn't get to dictate that the response by the witness be a yes or no. They have the opportunity to answer the question. I would encourage all members not to speak over the witnesses while they speak. We have interpreters, and we'd all like to hear the answers.

Mr. Chair, I hope the rules will be enforced. The length of time of the question.... You have approximately the same amount of time for the witnesses—

• (1120)

**Mr. Dane Lloyd:** Again, that was my time to ask my questions.

**Ms. Jennifer O'Connell:** They cannot dictate that it be a yes or no question.

Thank you.

**The Chair:** Can we all refrain from talking over one another, MPs as well as witnesses? It can be a detriment to our interpreters.

You can continue, Mr. Lloyd. You have one minute remaining.

**Mr. Dane Lloyd:** Thank you.

Dr. Zinger, my question was clear. In the Bernardo case, was the principle and legal requirement of least restrictive measures, as outlined in the CCRA, a contributing factor in determining his security reclassification?

**Dr. Ivan Zinger:** I don't know. That's a truthful answer, because we never assessed whether that.... There were no complaints. We were never asked to look at whether or not the Correctional Service acted appropriately in this case. We never investigated. We never made any recommendation with respect to cascading Mr. Bernardo from a maximum-security institution to medium security.

That's my answer.

**Mr. Dane Lloyd:** I know my time is short.

Millhaven undertook a strategic change to “provide a less restrictive environment for offenders” in July 2022. Do you attribute that change to the integration of Paul Bernardo into the population?

**Dr. Ivan Zinger:** I'm not sure I understand your question.

**The Chair:** Thank you.

Thank you, Mr. Zinger.

Now we're moving on to Mr. McKinnon, please, for six minutes.

**Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.):** Thank you, Mr. Chair.

I'll address this question to Commissioner Kelly. I'm not sure if she's the correct person to take it, so please fend it off as you need to.

I think many Canadians are concerned that a transfer of this kind from a maximum- to a medium-security classification involves some sort of mitigation of sentence for the offender. Could you talk about that, and maybe give us a heads-up on the difference in the prison conditions for an offender under the two different classifications?

**Ms. Anne Kelly:** Thank you for the question.

I would say that, in this case, Paul Bernardo was given the harshest sentence we have in the criminal justice system, which is a life sentence. He was also designated a dangerous offender, and the sentence is the punishment.

In terms of the different security classifications, at maximum security, you have to be either high institutional adjustment, which means you require a high degree of control and supervision, or high on escape risk as well as high on public safety. If you go to minimum, you have to be low on institutional adjustment, escape risk and risk to the safety of the public. Medium includes the other types of ratings.

Obviously, maximum and medium have the same perimeter control. However, in maximum, it's strictly controlled inside as opposed to medium, where it's less controlled, but it continues to be controlled. That would be the difference between the levels of security.

**Mr. Ron McKinnon:** My understanding is that the security classification is really about how the inmate is managed within the system and the controls, as you mentioned, that are placed upon them. It really has nothing to do with the severity or intensity of the punishment they undergo.

**Ms. Anne Kelly:** Actually, when we do a security classification, as I said, there are two tools. There's a statistical component and a clinical component. Obviously, we look at security risks, so we look at offence severity and previous offences. We look at those things.

In terms of assigning a security classification, that's done by law. We have to assign one to each inmate and do reviews at regular intervals. For those who are in maximum and medium security, we have to review the security classification every two years. However, you can have somebody like Paul Bernardo, who remains a high risk to the safety of the public, yet we can manage this particular offender or offenders like him in a medium-security institution.

It's managing the risk that the offender presents in the institution.

• (1125)

**Mr. Ron McKinnon:** How does this change life for the offender? I think there's a perception that a lower security classification means that he's out golfing all day.

What's the difference in the quality of life for the offender between medium and maximum security?

**Ms. Anne Kelly:** First of all, again, maximum security is very strictly guarded. The movement is very controlled. It's not as easy to do programming, and that's one.... We're mandated by law to rehabilitate offenders, and that's done through the delivery of services, interventions and programming.

Certainly, when an inmate goes to medium security, there are more opportunities, again, for interventions and programming.

**Mr. Ron McKinnon:** How often do these kinds of transfers occur? Also, in the event that this particular inmate exhibits some violent behaviour, how quickly would it be possible for him to be transferred back to maximum security?

**Ms. Anne Kelly:** We do many transfers a year, and inmates do move between maximum, medium and minimum security. However—and I think this was mentioned by the president of UCCO-SACC-CSN—if an offender exhibits behaviours, we monitor the offender's behaviour. If there's something the offender is doing that they shouldn't be doing, we do not hesitate to return them to a higher security level.

I think the previous witnesses talked about the different types of transfers—voluntary, involuntary and emergency. We do use emergency transfers in those cases. Therefore, the transfer is immediate or they are placed in what we call our structured intervention units until we can transfer them.

**Mr. Ron McKinnon:** One of the differences you mentioned was access to programming. If the offender—

**The Chair:** Your time is up, Mr. McKinnon.

**Mr. Ron McKinnon:** Thank you.

**The Chair:** You can keep that for the next round.

Thank you, Ms. Kelly.

**Mr. Ron McKinnon:** Thank you, Mr. Chair.

**The Chair:** Now we're moving to Mr. Blanchette-Joncas with the Bloc. Thank you.

[*Translation*]

**Mr. Maxime Blanchette-Joncas (Rimouski-Neigette—Témiscouata—Les Basques, BQ):** Thank you, Mr. Chair.

I want to extend my greetings to the witnesses and colleagues who are here for our study.

Mr. Zinger, I'll begin by quoting a Radio-Canada article:

After a preliminary review of the Correctional Service's report, counsel Tim Danson, who represents the French and Mahaffy families...believes that it's inappropriate to apply the principle that an inmate should be imprisoned in the "least restrictive" environment on the basis of the inmate's classification.

In his view, this rule can't be applied mechanically to all inmates, and the legislation should be amended to take into account the situation of the most dangerous offenders.

The counsel is also challenging the argument that the Correctional Service has a limited ability to share information in order to respect the inmate's privacy and confidentiality.

Tim Danson also said that “it's time for the government to completely re-evaluate the need for transparency in our corrections and parole system.”

Mr. Zinger, in 2018, your office argued that Correctional Service Canada lacked transparency and accountability. Does this also apply to inmate transfers and the review of the related decisions? Has your opinion changed since then?

**Dr. Ivan Zinger:** We can now see that most Canadians agree on the underlying principles of the Correctional Service of Canada. We hear about the emphasis on rehabilitation and the fact that punishment means sending people to prison.

[English]

It's as punishment, not for punishment.

[Translation]

People agree that inmates should retain all their rights, except the restricted rights. This applies to most inmates. The issue arises when much more difficult or challenging cases come up. Applying these principles becomes a real challenge. It tests the system.

You spoke about victims' rights. In my opinion, the committee can take a closer look at public perception. According to this perception, there's a lack of consistency between victims' rights inmates' rights. I hope that all the committee members can reach a consensus on this matter. I agree that it isn't just a perception. It's a reality supported by facts. I think that the federal government could do a lot more in this area. I'm quite willing to share my thoughts on this issue.

• (1130)

**Mr. Maxime Blanchette-Joncas:** You spoke about perception. Perception is based on the information provided to the public. Trust may or may not be established afterwards.

I'll focus on two key words, which are “transparency” and “accountability”. I didn't come up with these words. Your office referred to them in 2018. Today, we're talking about perception, and the information shared in connection with Mr. Bernardo's case.

Did the issues raised by your office in 2018 also concern inmate transfers and the review of the related decisions? Has anything changed between 2018 and 2023? If things haven't changed, what could be put in place to improve the agency's transparency?

**Dr. Ivan Zinger:** Clearly, the issue persists.

Over the past two months, for example, I've continued to push for Canada to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. I want Canada to improve its structure by ensuring external oversight not only for the Correctional Service of Canada, but also for any detention facility in Canada. That's one possible measure.

In terms of the victim issue, I think that it isn't just a matter of perception. In Canada, when it comes to the rights of accused individuals and inmates, there seems to be all kinds of recourse mechanisms. I'm aware of that.

However, this isn't always the case for victims. I think that there's a great deal of work to do. In my opinion, the Criminal Code and criminal court procedure could be reviewed to address the simple fact that many so-called victims' rights aren't really rights at all. There are no rights without recourse.

I might also add that the office of the federal ombudsperson for victims of crime is overseen by the Department of Justice. In my opinion, it should be governed by separate legislation and be independent. It should also have a budget similar to mine. Right now, I believe that the ombudsperson's budget is \$1.2 million. Mine will be \$7.5 million next year. As far as perceptions are concerned, the lack of parity in this area makes no sense.

[English]

**The Chair:** Dr. Zinger, that's all the time we have.

We'll move on to Ms. Barron, please.

**Ms. Lisa Marie Barron (Nanaimo—Ladysmith, NDP):** Thank you, Chair.

First of all, I'm here covering for my colleague, MP Peter Julian. I want to express my condolences to the families and victims of Paul Bernardo, because I haven't had a chance yet to do so.

My first question is for you, Ms. Kelly.

In your opening statement, you talked about the importance of victims' rights in making decisions, ensuring communications with victims and taking an approach that uses compassion and respect for victims.

Can you please clarify how you followed through with the process of ensuring victims' rights in making decisions when transferring Paul Bernardo from maximum to medium security?

• (1135)

**Ms. Anne Kelly:** As part of the transfer process, we have to take into consideration whether the victims have submitted victim statements. Those are taken into consideration.

In the transfer at hand, we actually communicated with victims, and I spoke with one victim before we reviewed the case. After the case was reviewed, again, we communicated with victims, and I spoke with many of them to review the findings and recommendations with them. As a result of the review, a recommendation was made, as I said, that we establish a multidisciplinary committee, and we have done so. I mentioned the composition of the committee. So far, there have been two meetings.



We're going to listen to the victims. We're going to listen to what they need, and we're going to enhance our policies and practices in terms of information sharing.

**Ms. Lisa Marie Barron:** Thank you.

What I'm trying to understand is whether the victims and families—specifically, the families of the victims of Paul Bernardo—were notified of this transfer in a timely manner. What did that look like?

**Ms. Anne Kelly:** With regard to the way it works for transfers, let's say, from maximum to medium, in this case we are mandated to advise the victims. Normally, it's after the transfer occurs. In the case of a transfer to minimum security, we advise the victims prior to the transfer.

In this particular case, we advised the victims the morning of the transfer.

**Ms. Lisa Marie Barron:** Thank you.

Do you feel that victims and families of victims finding out after the fact or on the morning of is following what you identified as ensuring compassion and respect for the families of victims? How does that align?

**Ms. Anne Kelly:** Again, in this case, we followed the legislation and the policies, but I think there was a recognition—and that was part of the review—that maybe more could have been done. That is why we are having the multidisciplinary committee, to discuss exactly those things.

**Ms. Lisa Marie Barron:** Can you clarify the transition from maximum to medium security of Paul Bernardo? Does that mean there is an increased chance or likelihood now that the families of the victims will see him, after being shifted into medium security, being transferred into the community? What does that look like for future steps around ensuring justice for the victims, who Paul Bernardo so brutally...and the violence that he inflicted on them?

**Ms. Anne Kelly:** He committed absolutely horrific crimes.

The other thing I would say is that Paul Bernardo has spent 30 consecutive years in maximum security. He was transferred to medium security. At this point, there is absolutely no talk of going to a lower security level. He just got to medium security, and he remains there. I mentioned this during the press conference—so it's out there—that he remains high in terms of safety of the public. No inmate who is high on safety of the public can go to minimum.

**Ms. Lisa Marie Barron:** Thank you. I want to build off that a little bit.

We know that—I'm trying to remember the year—at William Head, there were two inmates who were convicted of violent crimes who, of course, escaped from minimum security and then murdered a local man in his home. This has come up in this committee before. Rightfully so, there are some concerns here around Paul Bernardo being shifted from maximum security to minimum security, when we see incidents of people escaping and inflicting further harm. I'm wondering—

• (1140)

**Mr. Peter Schiefke (Vaudreuil—Soulanges, Lib.):** I have a point of order, Mr. Chair.

I'm sorry, but was that a slip-up? He was transferred—correct me if I'm wrong—from maximum to medium, not from maximum to minimum. You said “minimum” twice. I just want to make sure that was a mix-up.

**Ms. Lisa Marie Barron:** That was a miss. Thank you very much for clarifying. I would have been correcting that after the fact, so thank you for clarifying now.

Can you please share with us what you would say to victims of families and communities that are concerned about what this means for moving forward and ensuring justice for these families?

**Ms. Anne Kelly:** Again, with the fact that he is in medium security, as I mentioned, in terms of perimeter control, it's the same as maximum security. He spent 30 years in a maximum-security prison. He not so long ago got to medium security, so there is more work to do.

**The Chair:** Thank you.

Thank you, Ms. Barron.

Mr. Shipley, please, you have five minutes.

**Mr. Doug Shipley (Barrie—Springwater—Oro-Medonte, CPC):** Thank you, Chair.

First of all, thank you to all the witnesses for being here today. I'll start with Ms. Kelly.

In 2018, the Parole Board of Canada found that Bernardo was at a high risk for violence against a domestic partner, and that he was callous, glib, grandiose, cunning, deceptive, manipulative and a liar.

In 2021, the Parole Board of Canada found that Bernardo displays psychopathic traits, such as arrogance, entitlement and lack of empathy”, which they found to be not treatable. The Crown psychiatrist for Bernardo's dangerous offender designation found evidence of paraphilia, narcissistic personality disorder, alcohol misuse and psychopathy.

Patrick LeSage, Bernardo's trial judge, stated that Bernardo is “a dangerous offender” and “a sexually sadistic psychopath” whose likelihood of “being treated is remote in the extreme”.

Is it your position that this man belongs in a medium-security prison?

**Ms. Anne Kelly:** Again, our job is to assign a security classification to each inmate and to review it at regular intervals, which we have done in this case, and Bernardo came out as medium. Once that's determined, we have to ensure they are transferred to an institution that corresponds to their security level.

The fact that he's at medium does not negate the fact that he's also a psychopath and the other things that you mentioned. Mr. Bernardo can be managed in a medium-security environment.

**Mr. Doug Shipley:** Mr. Zinger, I'll now turn to you.

The CSC review report states that the security reclassification protocol for Bernardo was applied 14 times between 1999 and 2022, always with a recommendation of medium, but was overridden to maximum every time, except this one. What's shocking is that Bernardo was denied a transfer and a reclassification to medium security four months before it was finally approved.

The report also states that Bernardo suddenly had a change of heart. In fact, the report seems to state that your office's meeting with Bernardo was the catalyst for Bernardo's willingness to integrate.

Who from your office met with Bernardo, and what was the nature of that activity?

**Dr. Ivan Zinger:** Thank you for the question.

As you mentioned, Mr. Bernardo was denied reclassification several times. We never investigated that, and we never made any recommendation with respect to having him transferred to medium.

How it actually happened was, primarily, that we got involved quite late in the process because Correctional Service of Canada did not meet its policy requirement to process a request within a certain time frame, which was 60 days for a request. We were involved because of that allegation of non-compliance with policy in terms of processing a request.

We met with the—

**Mr. Doug Shipley:** Thank you, Mr. Zinger.

I too have only five minutes, and I have only about a minute left, so thank you. I apologize for interrupting.

Ms. Kelly, I'll go back to you for one last quick question.

While incarcerated, Bernardo has been an instigator in nine different incidents including possession of an unauthorized item and possession of contraband. His parole hearings have also confirmed that he shows no remorse for his crimes. Why didn't his track record behind bars and lack of remorse for his crimes play a larger role in his revised security classification?

• (1145)

**Ms. Anne Kelly:** Again, the security classification is a process. We assess a number of factors. We apply an actuarial tool. The final assessment is a combination of both, so definitely what you mentioned was taken into consideration, but the final assessment was that this particular offender could be managed in a medium-security institution.

**Mr. Doug Shipley:** Very quickly, because I have very limited time, you mentioned in your previous discussion that, at this point in time, there are no talks to have Bernardo moved from medium to minimum. Is that not a potential now for the future?

**Ms. Anne Kelly:** I can't speak for the future. What I can say is that, as I said, he has spent 30 years in maximum. He has been in

medium now for about a year. He is still a high risk to the safety of the public, so certainly minimum is not on the radar.

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

Thank you, Mr. Shipley.

Now we'll move to Ms. O'Connell.

Go ahead, please.

**Ms. Jennifer O'Connell:** Thank you, Chair.

Thank you to all the witnesses for being here today.

Commissioner Kelly, I'm certainly glad you spoke about the need to do more when it comes to notifying victims. We certainly agree. We think it is completely unacceptable to think that victims, especially in this case, would read about a transfer in the media. It is something that I hope you and your team are looking at very closely. It is unacceptable. I think this committee would look forward to the future recommendations and changes that you will be implementing.

We had witnesses from the correctional services union and parole board representatives. They talked about more notification, but I can certainly see the balancing between not wanting interference in a transfer and the public notification, to avoid any of those types of incidents. That is not being talked about here, but I think that's a very real threat. You wouldn't want someone to try to help an inmate escape, for example, during a transfer. I think that's crucial, but to rely on that and not notify victims' families is not the right balance.

I'll leave it there, because I appreciate, as you have indicated already, that you are working on that.

I want to speak about the suggestion that the members opposite have brought up several times about Bill C-83 being the catalyst to allow this to happen. There was a quote in *The Globe and Mail* that the original wording around "least restrictive" was actually introduced by Brian Mulroney in the nineties and that it changed to "necessary", which was outlined by Stephen Harper. The quote was from Public Safety, so maybe Mr. Tupper can speak to this. There was the suggestion that, regardless of "less restrictive" or "necessary", the process for the custody rating scale in the Bernardo example would not have made any difference. Are you aware of this quote? It was by Magali Deussing.

Can you confirm whether you feel that the custody rating scale would still have been implemented the same, whether it was "least restrictive" or "necessary"?

**Mr. Shawn Tupper:** I'm not aware of the quote. What I will say is that we know that the decisions made by the service are based on evidence. They are grounded in modelling that is reflective of decades of experience in applying these assessments. We know that the most effort is placed on those who are at highest risk.

As we work through those processes and look at the evidence-based approach that they take to making these assessments, I'm confident that outcomes are consistent across time.

**Ms. Jennifer O'Connell:** Thank you.

I have to admit that, from the public's perspective and even my own, especially before being in this role, understanding the difference between maximum and medium.... They sound different, but they're not an extension of the punishment for the heinous crimes or the crimes in general. Even if there were offenders who had, say, less heinous crimes who were in maximum security, it's really based on the safety and movement of correctional workers inside the facility or on the flight risk. We heard at our last meeting the difference between maximum and medium. In medium, there are the same perimeters but not weapons to control inside the facility. That allows for a little bit more movement in terms of programming.

There's one programming piece that we don't talk about. We've heard about the heinous nature of Paul Bernardo, but what about ensuring that he understands the consequences of his crimes and his actions and ensuring that the victims have that approach to ensure that he doesn't get to live without understanding the damage he did to victims and to, frankly, women across this country?

• (1150)

**The Chair:** Thank you, Ms. O'Connell and Mr. Tupper. That's your time.

We'll move on to Mr. Blanchette-Joncas, please.

[*Translation*]

**Mr. Maxime Blanchette-Joncas:** Thank you, Mr. Chair.

Ms. Kelly, I'll quote former public safety minister Marco Mendicino, who said that Canadians deserve to know why the offender was transferred from a maximum-security prison to a medium-security prison. He said the following: "The system should have done better. [...] More must be done to place victims at the forefront of decisions—and I am determined to make that happen." This is from a press release issued last July.

We're familiar with Correctional Service Canada's mandate, the transfer protocol and the offenders' privacy rights. Do you think that the minister's comments went too far?

**Ms. Anne Kelly:** We've set up a multidisciplinary committee to look at how we can further assist victims and at what information we can give them and when. In addition, the review of that specific case showed that this area needs work.

**Mr. Maxime Blanchette-Joncas:** Okay.

Right now, we're aware that the privacy rights of an incarcerated person take precedence over the right of victims and their families to obtain information. In practical terms, you're referring to what the minister brought up, and you spoke about a committee that was established. However, what more can we do to ensure that families receive information earlier?

**Ms. Anne Kelly:** The ministerial directive states that, when a transfer is being considered, the Correctional Service of Canada will contact victims to let them know that they can update their

statement at any time, which is very important. It's part of the information provided.

Ms. Gagnon, would you like to elaborate on this?

**Ms. Kirstan Gagnon (Assistant Commissioner, Communications and Engagement Sector, Correctional Service of Canada):** Yes. I also want to point out that, in this case, we really did inform the victims before the transfer took place, even though it wasn't much notice. It was a week before the media reported on the transfer. The victims were grateful to receive the information.

The ministerial directive requires us to give more information to victims, so that they can inform us about their safety. We must determine whether any considerations, such as geographic considerations, must be taken into account in a transfer. We apply these rules.

[*English*]

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

We'll move to Ms. Barron now, please.

**Ms. Lisa Marie Barron:** Thank you, Chair.

I'll continue with questions for you, Ms. Kelly.

Mr. Wilkins, who was here prior to my being here and is the president of the Union of Canadian Correctional Officers, said in his testimony last week that correctional officers are often not being engaged with case management teams in making decisions around the transfers of inmates.

Is this true? Can you comment on this?

• (1155)

**Ms. Anne Kelly:** The case management team consists of the parole officer and other members, including correctional officers. Correctional officers are assigned a small caseload. France could speak more to this.

Every 45 days they have to do a structured casework record. It's a bit of a template. They know whether the offender was involved in any incident and whether the offender works or is in any programs. It's quite detailed. Also, every day they submit observation reports. Those observation reports and structured intervention records are information that is taken into consideration by the parole officer, who is the person that actually makes recommendations. They are definitely part of it.

**Ms. Lisa Marie Barron:** Could you explain why the concerns that they're not being engaged at that level would be there then? If the union president is bringing forward these concerns, can you explain what that might be based on?

**Ms. Anne Kelly:** Actually, I was very pleased to hear Mr. Wilkins say that correctional officers would want to be even more involved in the case management process. I can tell you that this is something I'll be discussing with Mr. Wilkins.

**Ms. Lisa Marie Barron:** Thank you. I forgot to set my timer, so I'm going to keep asking questions until I get cut off.

Ms. Kelly, can you tell us about the process of information sharing between the institutions that Paul Bernardo was transferred between and amongst the correctional officers in both institutions? What does that communication process look like between the two?

**Ms. Anne Kelly:** When we transfer an offender, normally there's information shared among the parole officers from one institution to the other, so they know who they are getting at the other end. That's the way it works.

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

Now we'll move on to Mrs. Thomas, please.

**Mrs. Rachael Thomas (Lethbridge, CPC):** Thank you very much.

Ms. Kelly, I'm wondering about a couple of questions with regard to the timeline. Can you confirm to us on what date the transfer took place with Paul Bernardo from maximum to medium security?

**Ms. Anne Kelly:** The transfer took place on May 29.

**Mrs. Rachael Thomas:** Thank you. Can you tell me what date the minister was made aware that this transfer would be done?

**Ms. Anne Kelly:** There were notifications beginning in February, then again in March and in May. I think this was something that was also mentioned in the press conference.

**Mrs. Rachael Thomas:** Can you tell me on what date the victims' families were made aware of his transfer?

**Ms. Anne Kelly:** The victims' families were made aware of the transfer on the day of the transfer, in the morning.

**Mrs. Rachael Thomas:** Was that notification given before Mr. Bernardo was transferred or after?

**Ms. Kirstan Gagnon:** It was by phone and in writing, and then afterwards some of them we recontacted and spoke with to give more rationale around the decision-making.

**Mrs. Rachael Thomas:** Had the transfer already taken place?

**Ms. Kirstan Gagnon:** Not the morning of...no.

**Mrs. Rachael Thomas:** It's interesting to me that the victims' families were not told until essentially the moment of Mr. Bernardo's transfer.

As a system, in your opening remarks, Ms. Kelly, you said that victims need to come first and that they would be the priority, but it seems that Bernardo actually knew of his transfer before the victims' families did, which would then be putting him, as the criminal, ahead of the victims. Is that not true?

**Ms. Anne Kelly:** Again, in terms of offenders, they can request a transfer and/or we have to do the security classification at intervals, and sometimes that will lead to a transfer, so we work with the offender.

In terms of the victims, again, we followed what was in the law and the policy. Because he was transferred to a medium-security institution, as Kirsten said, we informed the victims the morning of the transfer. Moving forward, this is again a recommendation that was made, and this was why I established a multidisciplinary committee so that we can work with the victims to see how we can improve our services.

• (1200)

**Mrs. Rachael Thomas:** My point still remains. Mr. Bernardo was afforded the opportunity to know that he was going to be transferred before the families of the victims were made aware of such a thing, which again highlights the fact that the perpetrator was put before the victims' families—the victims, essentially.

I think that highlights something that is very wrong with our justice system. When we're talking about the revictimization of those who are impacted by scenarios like this, we have example after example. I can think of Terri-Lynne McClintic, who of course brutally assaulted, raped and murdered an eight-year-old girl and was moved from a prison to a healing lodge. Only after that was the family all of a sudden notified. The father spoke of the traumatic impact that had on him.

I think about Nicholas Baig. In 2017, he was in Pickering, Ontario—Ms. O'Connell's riding—and he murdered his wife. She was nine months pregnant. He stabbed her 17 times, and he was moved from maximum to medium security. Only after that was the family made aware of this. The mother has spoken out about this and the revictimization of that and the impact it has had on her as an individual.

I think about Mark Smich. He brutally killed two people for no other reason than simply being fascinated by death. He was convicted to serve two life sentences, and he too was moved from maximum to medium, and then families found out only after. They have spoken out about the impact of that revictimization.

I would have to ask you this, Ms. Kelly: Do you truly believe that victims are put first?

**Ms. Anne Kelly:** It's a delicate balance. I can understand. As I said, some of the crimes you mentioned that were committed were unspeakable, unimaginable.

Frankly, I don't know what they go through. I can only imagine. The thing is—

**Mrs. Rachael Thomas:** We're at time. My question is simple. Do you believe that the rights of victims are put first?

**Ms. Anne Kelly:** Again, it's a balance.

**Mrs. Rachael Thomas:** The question is simple. Do you believe that the rights of victims are put first?

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

Thank you, Mrs. Thomas.

We're going to move on to Mr. Bittle online now, please.

**Mr. Chris Bittle (St. Catharines, Lib.):** Thank you so much.

I'd like to ask my first question of Mr. Tupper.

You stated that Public Safety is not involved in the operational decisions of the Correctional Service of Canada. Can you explain why that is?

**Mr. Shawn Tupper:** Within the context of how our portfolio works, my relationship with all of the portfolios would be driven by policy, by our ability to convene and provide oversight within the portfolio. Operational matters in all of our organizations are vested in the leadership of the respective organizations, and that has to do with the expertise of the organizations and their capacity to best make those decisions.

**Mr. Chris Bittle:** Thank you so much.

There's been some suggestion, maybe more so in the past when this first came up, that the minister could merely make an order pursuant to standing legislation specifically related to one specific offender. Is that something within the minister's powers under the legislation?

**Mr. Shawn Tupper:** On the specifics of the powers, Chad, why don't you drop in?

**Mr. Chad Westmacott (Director General, Community Safety, Corrections and Criminal Justice, Department of Public Safety and Emergency Preparedness):** Thank you very much.

There is definitely a separation. We'll have to take a look at the specifics in legislation, but there is definitely a separation in terms of the ministerial decision making and the operational nature of CSC. The legislation sets the parameters under which CSC operates and the authorities of the minister, but in the case of a transfer of an offender, it definitely comes down to the legislation in setting the parameters that Commissioner Kelly has referred to. Then the operationalization of those parameters falls under the CSC's mandate.

**Mr. Chris Bittle:** I'll be even more blunt. Would it be a legal order for the minister to interject in the specific transfer of an individual?

Maybe that's a better question for Ms. Kelly.

**Ms. Anne Kelly:** My understanding is that the minister does not have a role. It's very much an operational decision.

• (1205)

**Mr. Chris Bittle:** Thank you so much. I'll turn to Dr. Zinger.

Later this week, the House will debate Bill C-351, which requires inmates who have been found to be dangerous offenders to be designated to a maximum-security penitentiary. If passed, what impact would this bill have on public safety, if any?

**Dr. Ivan Zinger:** I'm not sure. Again, I'm not familiar with that.

What I can tell you is that, for those who are designated as dangerous offenders and receive an indeterminate sentence—not a determinate followed by a long-term supervision order—the vast and great majority of them will never get out of the penitentiary. The great majority will die behind bars, to the point where we could suggest that a dangerous offender designation with an indeterminate sentence is actually a life sentence without parole for the majority of them.

**Mr. Chris Bittle:** On the topic of Bill C-351, for Ms. Kelly, with the potential requirement of maximum security, would that impact safety within an institution?

**Ms. Anne Kelly:** I would say yes.

First of all, we might need more space at maximum security. Also, at this point, there's no incentive for offenders to participate in rehabilitation programs in terms of maintaining good behaviour. The fact is that we have security classification and we have processes, but there are inmates who will never make their way to minimum security. I just want to be clear on that.

Definitely, keeping those who are serving life in maximum security for the rest of their lives would have impacts on how we manage the population, and potential impacts on the safety of our staff.

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

Thank you, Mr. Bittle.

We are moving now to Mr. Baldinelli, please.

**Mr. Tony Baldinelli (Niagara Falls, CPC):** Thank you, Chair.

Thank you to the witnesses for being here. I think all of us can fully sympathize with the victims and their loved ones. I think that's why we're all here today. It's to try to make some sense of the decisions that were made to allow an individual as heinous as Paul Bernardo to be transferred to a medium-security institution.

Ms. Kelly, I want to begin with you. On July 20, which was the same date that you and the Correctional Service of Canada published the review into the transfer of Paul Bernardo, the Canadian Press quoted you as saying, "The fact that he is at a medium-security institution does not negate the fact that he is a psychopath, and that he committed horrific and unspeakable crimes".

How is it, then, that you could call Paul Bernardo a psychopath on that day—and you repeated it today—and still feel comfortable with your decision?

**Ms. Anne Kelly:** Again, when we look at the security classification and we do the process, we can have inmates who may lack remorse or are psychopaths, but we can still manage their behaviour in a medium-security environment.

I think it's important to remember that in a maximum-security environment, over 95% of the inmates who are there are there because of their behaviour. They're assaultive. They're harming other inmates. They're assaulting staff. That's not the case with this particular offender. He can actually be managed in a medium-security environment.

**Mr. Tony Baldinelli:** Ms. Kelly, let me build on that, then, if you think he can be rehabilitated in some sense or taken care of.

I'm in receipt of an email that was written to you on June 8 by my constituent, Marcia Penner, to indicate her clear opposition to the decision made by CSC. Marcia was one of the best friends of Kristen French, who was raped and murdered by Bernardo.

In her letter, she wrote:

This "man" is a monster, and one that is beyond rehabilitation. He is a serial pedophile rapist, abductor, and murderer. He has been deemed a dangerous offender. The worst of the worst. If he doesn't fit the mandatory requirements for maximum security for his entire prison stay, then please tell me who does.

In your email response, you provided a link to the statement you issued on this on June 5. However, what I find more interesting is your boilerplate contact information, which contains this quote: "Every job is a self-portrait of the person who does it. Autograph your work with excellence." I would seriously question whether this transfer decision was excellent.

If it's not Paul Bernardo, which dangerous offender, rapist or serial killer needs to be in a maximum-security institution? If it's not Paul Bernardo—the worst of the worst—who is it?

• (1210)

**Ms. Anne Kelly:** Again, in maximum-security institutions, according to the legislation and regulations, are those who are high institutional adjustment, so they are those who require a high degree of control and supervision or are a high escape risk and high public safety risk in the event of an escape.

Those are the offenders who actually meet the criteria for maximum security.

**Mr. Tony Baldinelli:** Ms. Kelly, this is the worst of the worst of offenders in Canada. He's a self-admitted psychopath. You've admitted that here again today.

Do you not realize, when you make comments like that, the impact it has on the families, the friends and the general public? It almost brings the justice and correctional system into disrepute because they begin to question who your client is.

Is your client Paul Bernardo or is it the Canadian public? Can you answer that for me? Who is your client?

**Ms. Anne Kelly:** As the commissioner, obviously, I take my job seriously. The quote that you mentioned is one that is in my signature block that I've use for over 30 years. I believe in that.

As the commissioner, I want to obviously ensure that the public and staff are safe. That is doing our job. I can understand, again, that this particular transfer evokes strong emotions, and rightly so. The thing is, though, is an offender manageable within a certain institution? Both maximum- and medium-security institutions have the same perimeter controls.

**Mr. Tony Baldinelli:** Why make the change? Why could Paul Bernardo, who has committed the most heinous of crimes, not stay in maximum security?

**Ms. Anne Kelly:** Because when we reviewed his security classification... For many years, he was in maximum security, because he required a high degree of supervision and because he couldn't integrate with other inmates.

**Mr. Tony Baldinelli:** Did that change in four months?

**The Chair:** Thank you, Ms. Kelly and Mr. Baldinelli.

We'll move on to Mr. Gaheer, please.

**Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.):** Thank you, Chair.

Thank you to all the witnesses for making time to appear before the committee.

My questions are for Commissioner Kelly.

I want to talk about the custody rating scale. At our last meeting, I cited the 2022 Auditor General report that focused on systemic barriers in corrections. In that report, the AG actually noted:

For each offender admitted into custody, corrections staff are to assess the Custody Rating Scale's result to determine an offender's security level.

The AG found that corrections staff had overwritten the results recommended by that scale for 30% of all security assessments, with almost half moved to a higher level of security. Why would there be manual overrides in 30% of the cases?

**Ms. Anne Kelly:** The custody rating scale and the security classification scale are tools that assess certain measures. They assess institutional adjustment and security risk. A parole officer, who has specialized training, must then assess the three areas: institutional adjustment, escape risk and public safety. It is possible.... The actuarial tools give you a score, but then, based on an appraisal of factors, which combine the actuarial tools and the assessment, the security classification of the inmate is determined.

It does happen that the final offender security level is different from the score generated by the actuarial tool. There are very valid reasons for that.

• (1215)

**Mr. Iqwinder Gaheer:** We know the custody rating of offenders can change over the period of their incarceration. For example, if offenders are in a medium-security facility, and they commit a violent act or are involved in smuggling contraband, they can always have their security classification raised back to maximum. Is that correct?

**Ms. Anne Kelly:** Yes. Their behaviour is monitored at any level. At medium and minimum security, if offenders are, for example, involved in trafficking, and we find out, they can be sent back to a higher level of security, and they are.

**Mr. Iqwinder Gaheer:** I want to talk about the independence of correctional services.

Could you comment on the importance of the operational independence of Correctional Service Canada?

**Ms. Anne Kelly:** We are trained to do this work. We have professionals. The authority is delegated to CSC through legislation. We have tools, procedures and practices. We certainly have the expertise. I'm very confident in the ability of our CSC employees to make informed assessments and decisions.

**Mr. Iqwinder Gaheer:** Finally, who do you think is best placed to make decisions regarding the security classifications of offenders? Is it correctional professionals who work collectively as part of an individual's case management team, or do you think it is politicians sitting in Ottawa?

**Ms. Anne Kelly:** It should be correctional professionals.

**Mr. Iqwinder Gaheer:** Thank you.

**The Chair:** Thank you, Mr. Gaheer and Ms. Kelly.

We are moving on to Mr. Blanchette-Joncas, please.

[*Translation*]

**Mr. Maxime Blanchette-Joncas:** Thank you, Mr. Chair.

Ms. Kelly, I'd like to hear again about the importance of maintaining the completely independent and apolitical nature of the assessment and security classification process.

**Ms. Anne Kelly:** The legislation clearly states that we must assign a security classification to each inmate, review this classification regularly, which we do, and transfer the offender to an institution that matches the security classification.

**Mr. Maxime Blanchette-Joncas:** Thank you.

Can you talk about the importance of keeping this process independent and apolitical? I'd like to hear your comments on the apolitical aspect.

**Ms. Anne Kelly:** Again, our duty is to comply with the law. As I said, our employees are trained for this job, and the law applies to every inmate.

**Mr. Maxime Blanchette-Joncas:** Do you agree that politicians shouldn't be managing prisons?

**Ms. Anne Kelly:** The operational staff should be doing that.

**Mr. Maxime Blanchette-Joncas:** Thank you.

On that note, I'd like to hear your comments on Bill C-351, which was tabled by a Conservative MP and which will be debated in the House tomorrow. The bill basically seeks to remove the discretionary power of the Correctional Service of Canada officers to change the security classification of people designated as dangerous offenders and people convicted of more than one first-degree murder.

Will this bill help strengthen the rights of victims of crime, or does it seem to do little for them?

**Ms. Anne Kelly:** Obviously, this bill would affect the institutions. Inmates would no longer have a compelling reason to show good behaviour or to participate in interventions or programs. In my opinion, this could jeopardize the safety of our staff and, ultimately, the public.

In terms of victims' rights, if there were no reclassification, offenders would remain incarcerated for the rest of their lives.

• (1220)

[*English*]

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

We'll move on to Ms. Barron for two and a half minutes, please.

**Ms. Lisa Marie Barron:** Thank you, Chair.

I'm wondering if you can help me understand. There have been many discussions so far in this meeting about Paul Bernardo having been in maximum security for 30 years. You discussed the factors that are considered in that transfer from maximum to medium, including institutional adjustment, the risk that he could escape and the risk to the public if he did escape.

The rationale I've heard so far is around the fact that he has apparently shown some signs of institutional adjustment. Is it not a combination of factors that is looked at? Why would one factor supersede the remainder, including the known risks if he were to escape or the risk to others in medium security alongside him?

It seems like maybe attention was being paid to one factor over the others. Can you speak to that?

**Ms. Anne Kelly:** Actually, all three have to be considered. It's an assessment, and it's in the regulations that we have to assess the three areas, which are institutional adjustment, escape risk and risk to the safety of the public.

**Ms. Lisa Marie Barron:** Okay, maybe I could just clarify quickly.

For somebody who is on the outside—I'm not on the inside of this—we hear reports that a psychologist's report concluded that Paul Bernardo participated in “offence-related programming but continues to exhibit offence-related problematic attitudes and behaviours”, that he's had “several responsibility issues” and warned that improvements remained “intermittent”.

I don't know about you, but I have serious concerns when I see reports that Paul Bernardo has been displaying the same behaviours as he previously had, that his remorse is not there and that he has a high risk of—I can't think of the word right now—doing the same sorts of things he had done before. I am just worried.

How is it possible that he has been moved from maximum to medium under the circumstances of the information that we have, which is publicly available, and the concerns surrounding this particular person?

**Ms. Anne Kelly:** In the regulations, it specifies what you have to be to be classified as maximum, medium or minimum. For maximum, you have to be high on institutional adjustment or high on escape risk and risk to the safety of the public. It has to be both.

**The Chair:** Time's up. Thank you.

We'll move on to Mr. Shipley now for five minutes.

**Mr. Doug Shipley:** Thank you, Chair.

There have been a few questions today about the differences between a maximum-security prison and a medium-security prison.

Earlier today, Ms. Kelly, you mentioned that there are more opportunities for offenders in medium. I make no apology for my next statement. I expect and want Paul Bernardo to have zero opportunities.

You also mentioned that he was incarcerated in a maximum penitentiary for 30 years and he was integrated, which was part of the reason that led to his getting classified to medium. He was only integrated for four months. How could there possibly be such a change of heart in just four months of integration, after 30 years in maximum?

**Ms. Anne Kelly:** Yes, he was 30 years in maximum, but when we say that, in July 2022, he was fully integrated.... In the report, you will see that this inmate's integration was part of a longer-term strategy that involved many steps over several years. He started integrating with smaller groups at a time, and he was monitored throughout that time. In July 2022, he was fully integrated, and that is the reason that, at that point months later, his security classification was reviewed and he was classified as medium.

• (1225)

**Mr. Doug Shipley:** Thank you for that answer. You mentioned that he was monitored during that time. I hope this horrendous criminal has been monitored for his entire 30 years.

Ms. Kelly, in our last meeting, Jeff Wilkins, the head of the corrections union, raised serious concerns about the routine overriding and downgrading of security classifications by upper management at Corrections Canada. He stated that he has no issues when a security classification is upgraded, but that, when it is downgraded, it can lead to serious public safety concerns. We heard that this practice contributed to two inmates' escaping and brutally murdering a 60-year-old man in British Columbia.

How many offenders' security classifications were overwritten to a lower security classification last year?

**Ms. Anne Kelly:** There are more overrides to medium than to minimum. Minimum is around 9%, but we did some research. The custody rating—

**Mr. Doug Shipley:** My question is not about your research. My question is about how many offenders' security classifications were overwritten to a lower security classification last year. Do you have that information today?

**Ms. Anne Kelly:** No, I don't.

**Mr. Doug Shipley:** Will you commit to this committee that you will be able to provide that and table that over the next little bit?

**Ms. Anne Kelly:** Yes.

**Mr. Doug Shipley:** Thank you for that. That would be very interesting information to receive.

Ms. Kelly, your department emailed the minister's office multiple times about the Bernardo transfer. Given that you followed the process put in place by the Minister of Public Safety, did you have any reason to believe that the minister was unaware of the transfer?

**Ms. Anne Kelly:** We followed the long-standing process. We notified and.... I am not in the minister's office. Like I said, we followed the long-standing process.

**Mr. Doug Shipley:** That process is long-standing, and I'm sure you've had many chats with the minister and his staff over that period. Did you not find it odd that Minister Mendicino did not bring up the transfer at all between February 27, when the assistant commissioner gave the heads-up to the minister's office, and May 29, when the transfer occurred? That's almost three months.

**Ms. Anne Kelly:** First of all, I have to go back to see if I had any meetings. Normally, if we do have meetings, it's on very specific topics.

**Mr. Doug Shipley:** If you were having any discussions with the minister or his staff, this was very high profile. The minister stated on the day of the transfer that he was shocked and dismayed that this had taken place, so I'm surprised that there was no discussion or that you weren't surprised that nothing was being brought up to you. This was probably one of the most high-profile transfers.

You mentioned 41 years. That's a long career, and thank you for that, but this must be one of the largest high-profile transfers ever to take place, and there were no direct discussions between you and the minister regarding it. Is that correct?

**Ms. Anne Kelly:** Again, we followed the long-standing process, but afterwards, the former minister said that he wanted to be directly and formally advised, so we put in place a process to do so.

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

Thank you, Mr. Shipley.

We will now move to Mr. McKinnon for five minutes.

Go ahead, please.

**Mr. Ron McKinnon:** Thank you, Mr. Chair.

I was about to ask you earlier, Commissioner Kelly, about program access under medium security. Why is that important for the administration of the prisoner?



**Ms. Anne Kelly:** It's because our programs are world-renowned and research-based, and they do reduce recidivism. However, that doesn't mean they work in the same way for every offender. I think the president of UCCO-SACC-CSN said that they didn't want idle hands. We want offenders to be participating in either education, programs, employment or constructive leisure. That's very important for the management of the institutions. Research has shown that programs do reduce recidivism.

• (1230)

**Mr. Ron McKinnon:** I think reducing recidivism is important, but certainly all of us hope that he never sees the light of day. It seems to me that recidivism is not our major concern here.

Is access to better programs seen as a benefit to the inmate, or is the value really in terms of helping them to be managed within the prison environment?

**Ms. Anne Kelly:** It's about being managed.

In programs you learn many things. Even those who may never be released from an institution still learn valuable skills in programs, and you actually see that in their behaviour in the institution. That certainly helps to protect staff and to ensure the safety of staff and of other inmates as well.

**Mr. Ron McKinnon:** Thank you.

I notice a common thread in questions from my Conservative colleagues. There seems to be, still, an impression that somehow the reclassification of Mr. Bernardo to medium security is somehow a mitigation of his sentence. Can you tell me if the pillows are softer in medium security?

**Ms. Anne Kelly:** No, they are not.

**Mr. Ron McKinnon:** Under the conditions of his imprisonment, he was not sentenced to maximum security. He was sentenced to serve a term of some number of years in a prison. He wasn't sentenced to medium versus maximum, so the change of classification is really only about managing the prisoner, managing the conditions of the prison and determining whether or not this person is a danger within the institution. They do not, in any way, increase his opportunity to be put on the street or to escape.

**Ms. Anne Kelly:** That's right. Security classification is very important. It's to manage the inmates where they should be managed.

**Mr. Ron McKinnon:** Okay. The day-to-day experience of Mr. Bernardo in medium security is, except for the increased access to programs, essentially the same as it would be under maximum security.

**Ms. Anne Kelly:** Yes. He gets up. It's the same food. It's the same type of cell. It's the same bedding. Many of the same things that you would have in maximum security are there in medium security.

**Mr. Ron McKinnon:** He's not getting any kind of a free ride here. He's still enduring the full import of his sentence.

Is the benefit to society that it is perhaps less expensive to manage him in a medium-security environment?

**Ms. Anne Kelly:** It is.

**Mr. Ron McKinnon:** Do you have any further comments on the nature of his experience? You indicated he is not likely to ever see minimum security.

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

**Mr. Ron McKinnon:** Thank you.

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

We're moving into the fourth round now. Mr. Lloyd is up first, for five minutes.

**Mr. Dane Lloyd:** Thank you, Mr. Chair.

Commissioner Kelly, thank you for coming here today.

Would you say the law was followed in the transfer of Paul Bernardo?

**Ms. Anne Kelly:** Yes.

**Mr. Dane Lloyd:** Would that law include the principle of "least restrictive measures"?

**Ms. Anne Kelly:** I want to say they were the least restrictive measures consistent with the protection of the public.

**Mr. Dane Lloyd:** Of course.

However, that is part of the law. Is this not true?

**Ms. Anne Kelly:** Yes.

**Mr. Dane Lloyd:** There has been a lot of debate about "least restrictive measures", so I'm hoping you can provide this committee with some information.

I would like details about the total number of inmates who have been transferred from maximum security to minimum security from January 1, 2012 to the present day. I'm not asking for it now. If you could provide that, it would be great.

**Ms. Anne Kelly:** Okay.

**Mr. Dane Lloyd:** Second, can you provide a justification for the transfer of each of those inmates? No personal information...but a general justification for the reasons for those transfers during that same time period.

• (1235)

**Ms. Anne Kelly:** We can tell you the type. We'll see what we can do.

**Mr. Dane Lloyd:** Okay.

Also, given this is a somewhat unprecedented transfer... The only precedent we can find for a transfer of this magnitude is the Terri-Lynne McClintic transfer, which happened prior to Bill C-83 becoming law. Protecting all personal information—which is redacted—and given the precedent that you released the review into Paul Bernardo's transfer, will you commit to providing the review of Terri-Lynne McClintic's transfer information?

**Ms. Anne Kelly:** I am making a note of that as well.

**Mr. Dane Lloyd:** I'd like to get a commitment, barring any concerns about personal information, which you redacted in the Bernardo case. On the same precedent, can you commit to providing this committee with the review on Terri-Lynne McClintic?

**Ms. Anne Kelly:** Yes.

**Mr. Dane Lloyd:** Thank you.

Going into my final round, I'll note that, at page iv of the review report into the Bernardo transfer, the fourth paragraph outlines that, after his June 2022 rejection, he applied in July 2022, after he had integrated into his unit.

At that time, it said:

Information provided to the Review Committee indicated that, after the offender had applied for a transfer—

Then it's redacted.

—the Office of the Correctional Investigator (OCI) initiated informal discussions concerning his security classification, to ensure compliance with the “least restrictive measures” principle and legal requirements, as per the CCRA.

What is your understanding of the Office of the Correctional Investigator's intervention with regard to the security reclassification of Paul Bernardo and his rights under the principle of “least restrictive measures”?

**Ms. Anne Kelly:** Ivan is gone.

I can't speak to that. That discussion would have been done at the local level.

**Mr. Dane Lloyd:** The review report indicated that the OCI had concerns about whether or not his security classification was appropriate. He was here earlier. He suggested he was concerned about the timeline. He wanted it done in 60 days. He was concerned that the Correctional Service wasn't getting it done on the timeline. However, it said that he “initiated informal discussions”. I want to know what those informal discussions were, regarding Correctional Service Canada's “compliance with the 'least restrictive measures' principle and legal requirements”.

What were those discussions?

**Ms. Anne Kelly:** I can't speak to those.

**Mr. Dane Lloyd:** Okay.

I would also like to confirm this, as per my previous request: Could those be deposited by January 15 with the clerk? Is that enough time for you to deposit those previous commitments?

**Ms. Anne Kelly:** Those reports you requested...by January 15?

**Mr. Dane Lloyd:** Yes.

**Ms. Anne Kelly:** Yes.

**Mr. Dane Lloyd:** Thank you.

It seems to me that the Office of the Correctional Investigator got involved in July 2022. However, the report said there was a previous ongoing investigation by the Office of the Correctional Investigator.

What was the nature of that investigation in relation to Paul Bernardo?

**Ms. Anne Kelly:** I don't know.

**Mr. Dane Lloyd:** Did the Office of the Correctional Investigator make known to you that it was doing an investigation? Did it make inquiries with regard to Paul Bernardo's security classification process?

**Ms. Anne Kelly:** Not to my office.

**Mr. Dane Lloyd:** Can you commit that your office, barring any confidentiality requirements, will share that information with this committee to determine the nature of these investigations and the Office of the Correctional Investigator's concerns in launching this investigation?

**Ms. Anne Kelly:** Do you mean whether we received any correspondence?

**Mr. Dane Lloyd:** Yes—

**Ms. Anne Kelly:** Like I said, I don't know of any, but—

**Mr. Dane Lloyd:** —if you have it.

Thank you.

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

Thank you, Ms. Kelly.

We are now moving on to Mr. Schiefke.

**Mr. Peter Schiefke:** Thank you very much, Mr. Chair.

I want to thank our witnesses for being here today and also add my thoughts for the families of the victims of Mr. Bernardo.

I'm going to dedicate most of my questions to you, Ms. Kelly. My first question is with regard to the maximum penalty under Canadian law. That was applied to Mr. Bernardo. Is that correct?

• (1240)

**Ms. Anne Kelly:** Yes.

**Mr. Peter Schiefke:** Since he's been incarcerated, he has been, for the last 30 years, in maximum security. Is that correct?

**Ms. Anne Kelly:** Yes, for 30 consecutive years.

**Mr. Peter Schiefke:** Okay.

In your opening remarks, you commented on actuarial tools and the actuarial scale that you use in determining whether or not an inmate is transferred. Can you give me three factors, out of all the factors that you use, in determining whether or not one should be transferred from maximum security to medium security?

**Ms. Anne Kelly:** First of all, it's very important to say that the actuarial tools help anchor the clinical judgment of the parole officer. It's really a tool to assist.

We look at institutional adjustment and any incidents, escape history, street stability, alcohol or drug use, age at the time of sentencing, number of prior convictions, severity of the current offence, sentence length and breaches of conditions.

**Mr. Peter Schiefke:** Ms. Kelly, all of that was used in determining that Mr. Bernardo should be transferred from maximum security to medium security. Is that correct?

**Ms. Anne Kelly:** Yes.

**Mr. Peter Schiefke:** In your determination, would there be any points attributed to how much media coverage any particular inmate received? Is that part of the discussion?

**Ms. Anne Kelly:** No.

**Mr. Peter Schiefke:** Would there be any points awarded one way or the other as to how much we, as elected representatives, wanted to see an inmate housed, where we would want to see that person housed?

**Ms. Anne Kelly:** No.

**Mr. Peter Schiefke:** Would there be any points put forward either way as to the strong will of any minister of any political party? Would that play a factor in your consideration of whether or not an inmate should be transferred?

**Ms. Anne Kelly:** No. That is because we are guided by the legislation and regulations and by policies.

**Mr. Peter Schiefke:** Correct me if I'm wrong, but the top priority for you and all of the workers of the correctional facilities in Canada is to keep Canadians safe. That is the basis for your decisions.

**Ms. Anne Kelly:** Absolutely.

**Mr. Peter Schiefke:** So far, you've done.... I will credit you and your team for this: We've seen the rates go down significantly in terms of inmates who have escaped. We reached a high, in 2006-07, of 38 inmates who escaped. We went down to a 20-year low of nine in 2016-17. Then we saw 13 in 2018-19, 12 in 2019-20, and 11 in 2020-21. We're going steadily down. That is the result of the good work that you and your team are doing. I want to congratulate you on that.

What I want to use my time here for—and this is the message I would like to convey to you and your team, whom I've said have done good work in keeping Canadians safe—is to say that I think there was something that was done, unfortunately, incorrectly here, and I hope that this is the focus of your work and your team's work with the multidisciplinary committee. It was the way that the families of the victims were treated here. They were told the morning of the transfer, without being given any kind of necessary counselling, possibly, after hearing this news and watching it on the media. The way that must have impacted them.... I say this as a father, as a brother, as a son and as a member of Parliament representing my community, Vaudeuil-Soulanges. I cannot imagine what kind of an impact that must have had and what kind of a day they had.

There was an oversight here. I'm glad that you acknowledge that, and I truly hope—and I'm passing this message along to you—that this will be the focus of the work that this committee does and that there's due diligence put in place to ensure that families and victims are treated with greater due diligence and greater care moving forward.

That's how I want to use my line of questioning today. Thank you.

**Ms. Anne Kelly:** Thank you.

**The Chair:** Is that it? Thank you, Mr. Schiefke.

We will continue moving on.

Mr. Blanchette-Joncas, you have two and a half minutes, please.

[*Translation*]

**Mr. Maxime Blanchette-Joncas:** Thank you, Mr. Chair.

Ms. Kelly, the review committee that looked into the Paul Bernardo case made two recommendations. The first was that Correctional Service Canada share the findings and recommendations of the review with registered victims, prior to any release of information to the media or to the public. You said that you had done so.

The second recommendation was that Correctional Service Canada strengthen victim notifications and engagement by striking a committee dedicated to this work. You said that you had also done this.

In practical terms, what has your organization implemented in response to these two recommendations?

**Ms. Anne Kelly:** As I said, we set up the committee. It has held meetings to discuss how and when to share information. Various steps have been taken, and Ms. Gagnon could elaborate on them.

● (1245)

**Mr. Maxime Blanchette-Joncas:** Ms. Kelly, you're saying that you support the recommendations and that you're ready to implement them.

However, let's take a step back. If Paul Bernardo's transfer were to take place again today, would things be done differently? If so, what?

**Ms. Anne Kelly:** According to the ministerial directive, when considering the transfer of an inmate, it's vital to contact the victims, inform them of the process, talk to them and ask them if they want to update their statement. I think that this is really important. I've had a chance to talk to the victims. I think that these changes will be beneficial.

**Mr. Maxime Blanchette-Joncas:** In terms of these recommendations, how would you rate public trust in the justice system and Correctional Service Canada? What message would you like to share with the public today about how things could be done differently and better in the future?

**Ms. Anne Kelly:** I've spent so much time with Correctional Service Canada. It's tough to hear that Canadians no longer trust our decisions. As commissioner, I don't want this to be the case. I'd like to invite all committee members to visit our institutions and see the work that we do.

I'm very open to suggestions for improvement. If anything can be improved, I think that we should make the adjustments. We'll do the same thing for the victims.

[*English*]

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

We're going to move on to Ms. Barron now for two and half minutes, please.

**Ms. Lisa Marie Barron:** Thank you, Chair.

Ms. Kelly, I can't remember if you said that you were 41 or 42 years—

**Ms. Anne Kelly:** It's 40 years.

**Ms. Lisa Marie Barron:** In 40 years, I'm certain there's a wealth of information that you can provide to us. I'm just curious if you can share, in those 40 years, if you have seen any patterns or changes in security cases being overridden and moved to lower security. Have you seen any patterns of that increasing recently? Do you have any thoughts on that?

**Ms. Anne Kelly:** No, actually.... Obviously, when I started, you had to write your reports. There were no computers. There was no social media. However, at the core, I was a parole officer—that's how I started. We did the same thing. We assessed areas. We transferred inmates to minimum.

Actually, I will say, though, early on in the 1980s, there were lots more escapes from minimum, for example. I think it's been mentioned that we don't have as many. The population has changed, though, a lot, since I first started with CSC. There are lots more complexities in the inmate population.

**Ms. Lisa Marie Barron:** Thank you—

**Ms. Anne Kelly:** I want to say.... Because our staff does phenomenal work in very challenging circumstances, I just want to thank them.

**Ms. Lisa Marie Barron:** Thank you. That's very appropriate.

The question that was posed by one of my Conservative colleagues on the constituent who was asking the question, "If not Paul Bernardo in maximum security, then who?" really resonated with me. I hear us talking about the differences of the experience that Paul Bernardo would have in maximum security versus medium security. Why do we have maximum security if there's really no difference of experience? I'm not understanding this.

Maximum security seems like the place for someone like Paul Bernardo, who is showing no remorse. He's a risk to the public. He's a risk to other inmates. Why is he not in maximum security? If not, to reiterate the question of my Conservative colleague, then who is in maximum security?

**Ms. Anne Kelly:** I have five seconds. Very quickly, the people who are in maximum security are those whose behaviour we cannot manage elsewhere. They assault staff. They throw urine on staff. They stab each other. These—

• (1250)

**The Chair:** Thank you, Ms. Kelly. The time is up.

We'll move on to Mrs. Thomas, please.

**Mrs. Rachael Thomas:** Thank you.

Ms. Kelly, you opened up your remarks by saying that victims' safety continues to be "top of mind". Is that true?

**Ms. Anne Kelly:** Yes.

**Mrs. Rachael Thomas:** In the case of Bernardo, victims were told only after the transfer took place or maybe simultaneously. Nevertheless, Bernardo would have known before the victims knew. Does that sound like victims were put first?

**Ms. Anne Kelly:** First of all, we work with the offenders. There are different reasons for a transfer, so they're definitely involved in the process.

In terms of notifying victims, in this case, as I said, we notified them the morning of. Normally, for medium security, according to legislation, we notify them after the transfer, but in this case, because of the high-profile nature of the case, we notified them in the morning. However, with the multidisciplinary committee that we've established, these are things that we are discussing, and we're seeing how we can enhance information to victims.

**Mrs. Rachael Thomas:** I find it interesting, because you continuously go back to the findings of the multidisciplinary committee, yet, at the same time, you seem to be quite defensive of this terminology around achieving balance.

According to the Supreme Court decision in 2012, the language used around that is this: There would be "a just and proportionate balance...based on the particular case before the court."

It says, "just and proportionate". Proportionality suggests that the scale isn't like this, but rather that the factors that might tip the scale slightly are considered. That's balance, according to the Supreme Court decision in 2012.

In this case, that scale was tipped towards Bernardo and not towards the victims' families. Why is that?

**Ms. Anne Kelly:** Again, in this case, we did the security classification. We did the transfer and, as per legislation, we notified the victims the morning of, but moving forward—and this is what I was saying in French—now, when we consider a transfer, when we're going to support a transfer, we will reach out to the victims so they have a chance to update their victim statements.

I think that's a good thing, and we're very open to that.

**Mrs. Rachael Thomas:** Again, though, Mr. Bernardo was put ahead of the victims. Why?

**Ms. Anne Kelly:** I wouldn't say that he was put ahead of the victims. Again, we—

**Mrs. Rachael Thomas:** Would you say that notifying the victims after the transfer or simultaneously was putting them in a fair place?

**Ms. Anne Kelly:** First of all, we would have considered as well in the transfer decision any victim statement they had provided. That would have been part, definitely, of the—

**Mrs. Rachael Thomas:** Just to be clear here then, Ms. Kelly, you're saying that you considered their statements and, based on their statements, you determined that it was in their best interest to find out either simultaneously or after the transfer took place. You decided, based on the victim statements, that's what would be in their best interest.

**Ms. Anne Kelly:** No, there are two things.

If the victims submit a victim statement, an updated one, that's considered in the transfer process.

In terms of the notification, once it was decided that he was going to be transferred, again, we followed the law and the policies. However, moving forward—

**Mrs. Rachael Thomas:** Ms. Kelly, I understand. I understand what your intentions are moving forward. I hope that's true, but what I've heard over and over again from you here today—

**Mr. Ron McKinnon:** I have a point of order, Mr. Chair. I believe that my colleague is badgering the witness. I suggest that's not appropriate.

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

Continue, Mrs. Thomas, please.

**Mrs. Rachael Thomas:** Thank you.

Nevertheless, what I hear today is that, in this case, Bernardo was put ahead of the victims.

I'll give the remainder of my time to Mr. Tony Baldinelli.

**The Chair:** You have 30 seconds, Mr. Baldinelli.

**Mr. Tony Baldinelli:** Quickly, just building on my colleague's comments, Benjamin Roebuck, the federal ombudsperson, stated this on the transfer and its decision. He indicated that the "system strikes the wrong balance between victims' rights and prisoners' privacy rights", indicating that the system is imbalanced. It leads to this question: Whom does the justice system serve?

• (1255)

**Ms. Anne Kelly:** For us, obviously, we take into consideration the protection of the public, our staff and our institutions. We also work with victims and provide them with information.

We have 8,000 registered victims. That amounts to approximately 40,000 contacts per year.

**The Chair:** Thank you. The time is up.

We're going to move to Ms. O'Connell now.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair.

Thank you, again, for answering all these questions. I think it has been very helpful.

I want to follow up on Ms. Barron's last question, where you were cut off.

At the beginning of the testimony, we talked about how maximum versus medium is not an extension of the sentence that any

given offender is provided. You started to explain. I don't think it's necessarily a mistrust by Canadians. It's a misunderstanding of the inner workings of corrections services.

You were talking about the types of inmates who would be under maximum security. Can you continue with that answer? I found it very helpful.

**Ms. Anne Kelly:** Very quickly, over 95% of the inmates in maximum security are inmates whose behaviour we cannot control other than in that environment. As I said, they assault staff. They assault other inmates. They traffic drugs. They need a high degree of control and supervision.

Paul Bernardo is not of that type. Again, I know he committed horrific crimes. Now he's under minimum security, but there are offenders who never get to minimum—

**Ms. Jennifer O'Connell:** Medium.

**Ms. Anne Kelly:** Yes, he's at medium, but there are offenders who never get to minimum security.

**Ms. Jennifer O'Connell:** Thank you for that.

I think a crucial point is the suggestion that meddling in this classification process could actually leave our correctional services employees at risk, and that the process is not a determination of sentence but a safety issue primarily for the people who serve Canadians and actually do this incredibly difficult work with people who have committed the most heinous of heinous crimes.

We have people who work in those institutions. Is a fundamental piece of maximum security versus medium security about ensuring that the right classifications and security measures are applied to those who pose the greatest risk and ensuring that those parameters are put in place, essentially, to keep our employees safe and protected doing this work?

**Ms. Anne Kelly:** Absolutely. It's a very challenging environment. However, as I said, maximum security institutions are for those whose behaviour cannot be controlled elsewhere.

**Ms. Jennifer O'Connell:** Thank you.

When an inmate is moved to medium security, for example, the perimeters are still secure to maintain that lack of public safety risk, but the incentives for good behaviour would also encourage inmates not to attack correctional service workers. They still would have controlled limits to ensure that there's not a chance of escaping or somehow a more comfortable stay in prison. Medium security operates as a mechanism for behavioural changes, to ensure the safety of correctional workers.

**Ms. Anne Kelly:** Absolutely.

We work with the offenders through programs, interventions and services. The goal is always that they can acquire certain skills and move to, let's say, medium.

A lot of inmates in maximum security are serving determinate sentences and are going to be released. We want to ensure that when they are released, they are better than when they came in, to ensure the safety of the public.

• (1300)

**Ms. Jennifer O'Connell:** Thank you. I think that's certainly the case. We could probably have an entire conversation on determinate sentences and inmates, but in this case, where it's indeterminate, one could think, who cares? If he is someone who can never be rehabilitated, there is no benefit.

However, if the benefit is to ensure a behaviour that keeps correctional workers safe, then there is a benefit.

**Ms. Anne Kelly:** Absolutely.

**Ms. Jennifer O'Connell:** The benefit is to ensure that the behaviour doesn't invoke more violence within the system and more violence to innocent victims—those who, frankly, do incredibly difficult work on behalf of Canadians to keep those inmates secure and not a risk to public safety.

Thank you.

**The Chair:** Thank you, Ms. O'Connell.

Thank you, Ms. Kelly, for your co-operation and all your answers.

To everyone else sitting at that end of the table, we appreciate it.

At the moment, that brings this meeting to an end. I will look for agreement to adjourn the meeting.

**Some hon. members:** Agreed.

**The Chair:** The meeting is adjourned.

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