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# Standing Committee on Justice and Human Rights

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Chair: Mr. Randeep Sarai





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• (1655)

[English]

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

Welcome to meeting number 55 of the House of Commons Standing Committee on Justice and Human Rights.

I'd like to give a special welcome to the students of the University of Ottawa law school and Professor Martha Jackman in the back. Welcome. Hopefully we will have an entertaining session for you, and you won't be disappointed. You have a minister, experts, department officials and the RCMP here, so I'm sure you'll have a full and wholesome session.

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

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. I won't go into details, as I don't see anybody other than those who have already been on these, like the analysts, who are on Zoom.

I will remind anybody who's here, either listening in the back or at the stand, that you can turn your earpiece to floor, English or French audio, so that your interpretation services are accurate.

For the first hour, we are resuming our study on Canada's bail system.

We have the pleasure of having with us the Honourable Marco Mendicino, Minister of Public Safety. Minister Mendicino is accompanied by officials. We have Matthew Taylor from the Department of Justice. Talal Dakalbab is from the Department of Public Safety. He is a senior assistant deputy minister. From the RCMP, we have Chief Superintendent Sue Efford, director general of national crime operations in contract and indigenous policing.

We welcome you, Minister, and are glad that you're here.

The floor is yours. You have 10 minutes.

[Translation]

**Hon. Marco Mendicino (Minister of Public Safety):** Good afternoon.

Mr. Chair, ladies and gentlemen of the committee, honourable members, thank you for inviting me today.

I am here to discuss Canada's bail system, an issue that has generated growing public interest in recent months.

[English]

I want to commend the committee for studying this issue. It is an important one. It is vital to our public safety. It is also very emotional subject matter, particularly for the families of those who have been impacted by violent crime and for offenders who are attempting to pursue their paths toward reform and reintegration. On both sides of the equation, it is terribly important that we undertake this study in a constructive and civil way, and I want to commend each of you for the work and the energy that you are putting into it.

As we know all too well, the consequences of violent crime in our communities cannot be overstated. We owe it to all Canadians to take concrete action to address and reduce crime, so that all Canadians can be safe.

This begins with smart policy and investments in our law enforcement, as well as upstream social supports for those who are most vulnerable and at risk. Ensuring that Canada's criminal justice system prioritizes rehabilitation and safe reintegration goes hand in hand with all of those efforts.

[Translation]

As Minister of Public Safety, I am responsible for Correctional Service Canada, and thus the agency in charge of the rehabilitation of offenders and their safe re-entry into the community.

[English]

As such, this issue is at the core of my mandate. We know that addressing the issue of repeat violent offenders is a very complex one, but it is essential.

It begins with taking a hard look at achieving rehabilitation and safe reintegration. Reintegration comes with its own unique set of challenges, which, if left unaddressed, will increase the likelihood of someone reoffending and, by extension, causing harm, grief and loss.

That's why, in June 2022, I tabled the federal framework to reduce recidivism. It was to break the cycle of reoffending, to support rehabilitation and to make our communities safer for everyone. The framework is an important step toward identifying factors that lead people to reoffend and determining how to overcome those challenges to support the safest reintegration into their respective communities.

• (1700)

[*Translation*]

Developed in consultation with a variety of stakeholders, the framework lays out five priority areas essential to reintegration. They are housing, education, employment, health and positive support networks.

By June 2023, we will have an implementation plan to ensure that the supports are sustained over time.

[*English*]

This framework is an important step, but we know there is no one magic solution to addressing repeat violent offenders. Addressing the root causes of crime is also crucial to its success, and in this vein, Mr. Chair, we have made concrete investments in terms of the social determinants that can often lead to a life of crime.

Since 2015 we have focused on the social causes of crime with programs like the \$250-million building safer communities fund, so that we can tackle gun crime and support community-led projects. This is in addition to the over \$40 million provided annually through the national crime prevention strategy, which invests in community-based efforts that prevent youth involvement in crime and help to address the risk factors that have been known to lead to criminal activity.

[*Translation*]

More recently, I announced \$5.79 million in funding under the crime prevention action fund for 902 ManUp's Black empowerment initiative, in Halifax.

[*English*]

This funding will help empower young Black people across Nova Scotia to make the right choices by giving them a strong foundation in education and in the pursuit of their career, and by reducing barriers to the types of services and supports they need, as led by the community itself.

Since 2018, the gun and gang violence action fund has also provided funding to provinces and territories to increase community resources and to get guns and gun violence off our streets.

In Ontario, for example, this funding has been used to funnel additional resources to local law enforcement, prosecutors and community partners to reduce illegal gun and gang violence. This is in addition to the over \$450 million that we've allocated to the CBSA in the last two years alone to reinforce our borders and stop the illegal flow of guns into our country.

[*Translation*]

We realize, of course, that some individuals go on to reoffend, and that's why we provide annual funding to our provincial and ter-

ritorial counterparts, helping to build their capacity to identify and monitor high-risk violent offenders, and equip them with better tools for prosecution and conviction.

[*English*]

Mr. Chair, smart policy on guns is also an essential policy and part of this plan. We have made historic strides in combatting gun violence through our recent firearms legislation. In 2020, our government banned over 1,500 models of assault-style weapons, and last year we expanded background checks to keep firearms out of the hands of criminals.

Bill C-21, which is currently being studied by Parliament at committee, will increase maximum penalties from 10 to 14 years for firearms-related offences and include new charges for altering the magazine or cartridge of a gun to exceed its lawful capacity. This is about tackling violent crime and preventing senseless tragic deaths.

[*Translation*]

We know that no single initiative can solve the complex problem that is gun violence. This bill is merely one facet of our comprehensive approach.

[*English*]

This legislative session, we agreed to strengthen public safety through the Criminal Code, with amendments targeting violent offenders and serious offences committed with firearms. I know this committee has also been seized with legislation that includes Bill C-75 and Bill C-71, and, as I said, our colleagues at the Standing Committee on Public Safety are also studying Bill C-21.

When it comes to bail reform, Mr. Chair, we are listening to Canadians; we are listening to the law enforcement community, and we are listening to victims and survivors.

[*Translation*]

I am working closely with the justice minister, Mr. Lametti, as well as with our provincial and territorial partners, to carefully examine how the bail system is structured and ensure that it takes into account the safety of all Canadians.

[English]

As you know, Mr. Chair, we recently met with our federal, provincial and territorial colleagues to talk about the ways in which we can make certain modifications to the bail system so that we can address specifically the challenges around repeat violent offenders who have used either firearms or other weapons. We have committed to undertaking this work within this legislative session, one in which we will work in close collaboration with our provincial and territorial partners as well as with all the members of this committee and all parliamentarians.

Mr. Chair, I am very much looking forward to the questions and comments from your committee. Thank you very much.

• (1705)

**The Chair:** Thank you, Minister Mendicino.

We'll now go to our first round of questions. We'll begin with Mr. Moore for six minutes.

**Hon. Rob Moore (Fundy Royal, CPC):** Thank you, Mr. Chair, and thank you, Minister, for your appearance here today.

Minister, all 13 premiers rarely agree on anything, yet we have unanimity among all premiers in this country that your government's approach on crime is failing.

When your colleague, the Minister of Justice, appeared here to discuss this bail study that we're undertaking, he said, "I don't accept that," when confronted with the claim made by all the premiers that Bill C-75, which changed the law when it comes to bail in this country.... Also, all the police testimony that we've heard has suggested that Bill C-75 has made it easier for criminals who should be behind bars to get bail and be back out on the street. The revolving door that has been put in place by this has caused great concern and has led to great tragedy in this country.

It shouldn't take a tragedy, Minister, for a government to look at the obvious consequence of misguided legislation and accept responsibility for it.

Minister Lametti said, "I don't accept that." I'll ask you the same question. Do you accept the criticism from 13 premiers and from law enforcement that says that Bill C-75 went too far and that the bail system has to be strengthened?

**Hon. Marco Mendicino:** I accept that there have been far too many tragedies in our communities. One of the most difficult aspects of the job I do as Minister of Public Safety is to grieve with families who have lost loved ones to gun violence and other violent crime. It is because of those tragedies that we must continue to find ways to work together to improve and strengthen our system. This is why Minister Lametti and I recently chaired and facilitated a conversation on the heels of the letter that you mentioned from the premiers of all 13 jurisdictions in Canada, so that we could have a candid discussion on how we might amend the Criminal Code to address the specific issue of repeat violent offenders who have used either guns or other weapons to visit upon communities and individuals violence and harm, which then leads to grief.

As you heard me say in my introductory remarks, that was a very productive and constructive meeting. At the conclusion of it, we were able to issue a joint press statement in which the federal gov-

ernment agreed to look at the Criminal Code to make certain amendments to the bail system so that we could be sure that we would both, one, protect communities from future harm by offenders or those charged with serious violent offences and, two, promote the successful reintegration of those individuals safely back into our communities.

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

I guess it's two very different things. I don't think there's anyone around this table who wouldn't accept that the tragic deaths that have taken place are just that: unacceptable.

What we need to hear is an acceptance of some of the criticism of the revolving-door justice system, including the criticism around Bill C-75. In fact, it would appear that your government's moving in exactly the wrong direction when it comes to firearms. Bill C-75 has made it easier for repeat offenders to get bail.

The Toronto police were here, and they provided this committee with testimony that said that there are individuals in Toronto who have been arrested on a firearms offence, receive bail, while on bail are arrested on a firearms offence and then receive bail again. Do you think in Canada that it's ever acceptable for someone who is on bail for a firearms offence to be arrested for a firearms offence and then get bail again? Is this what you're committed to addressing?

**Hon. Marco Mendicino:** Mr. Moore, obviously I share the concern that you do, that individuals who pose a serious to our communities, including through gun violence, should not be casually or easily released. That's one of the reasons we have committed to taking a look at the bail system.

I also want to say to you the following. I've spent the better part of a decade working on the front lines of the criminal justice system, and I've seen with my own eyes the consequences of the revolving door that you refer to. It is a metaphor that, yes, is deeply concerning from the standpoint of public safety, but it's also the concern of this government, and I hope you as well, Mr. Moore, that there are structural and systemic challenges within our criminal justice system that have led to the overrepresentation of indigenous people and racialized people in our criminal justice system. It is those twin-pillar objectives that we are striving to accomplish in Bill C-75: to clear the criminal justice system of non-violent offenders so that we can off-ramp them to get the treatment they need and they can be successfully reintegrated into communities; and to focus instead on the serious violent offenders who do, yes, pose a risk to our communities.

I would add one last thing, Mr. Moore. Bill C-75 essentially codified a number of legal precedents that were issued by the Supreme Court of Canada, so that we could provide clear guidance to the judiciary and to all the actors within our justice system, and so that the best possible decisions are taken. Is this an ongoing conversation? Yes. That's one of the reasons I'm here.

• (1710)

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

Next we'll go to Mr. Naqvi for six minutes.

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

Welcome, Minister. Thank you for coming back.

I'm glad that in your last comment you spoke about your front-line experience. I believe you were a Crown, and you know these systems quite well. I get a little concerned, sitting in this committee, especially as we're doing the bail study, that at times the conversation somehow morphs into how the entire bail system is broken. That's the language that's being used primarily by the opposition parties.

That's not what we're talking about in the circumstances that we're dealing with, where we know that the bail system has many aspects to it, particularly dealing with a lot of vulnerable individuals who come through the system. A lot of times they're facing bail court because of administrative charges or because bail conditions were put on them. An oft-repeated example is of somebody who has an addiction issue and is told they cannot consume alcohol. The chances are that nine times out of 10 they're going to contravene that bail condition.

In your view, as we look at this particular instance, and recently having had a meeting with the ministers of public safety and attorneys general from across the country, what's the precise nature of the problem we're dealing with and what are the kinds of issues we need to look at?

**Hon. Marco Mendicino:** First, I think you're quite right to highlight that in those instances in which charges are laid with regard to breaches of terms of bail that are unrelated to violent offences, we should be innovative in finding ways to ensure that, yes, there is accountability for that, but not at the expense of allowing the criminal justice system to prioritize those individuals who pose the greatest

risk to community safety as a result of either having committed violent crimes or having been alleged to have committed violent crimes, including in some instances with regard to firearms.

I would say that the consensus at the federal-provincial-territorial meeting that Minister Lametti and I recently co-chaired with our colleagues was that despite having well-established principles in place to determine who gets reasonable bail and who does not, there is still a cohort of serious violent offenders, or those who have been charged with violent offences, and we may need to recalibrate some of the law to be sure that we are taking the best possible decisions around who is eligible and who is not eligible for release.

That was the consensus coming out of the federal-provincial-territorial meeting. Our commitment as a government is to work with our partners and to work with all of you to see what that legislative option might look like under the Criminal Code.

**Mr. Yasir Naqvi:** I appreciate what you're suggesting, but I just want to have it on the record that you still have to operate within a paradigm in which the discretion still lies with the person—whether that's a judge or a Justice of the Peace—who is making the determination, because at the end of the day, it will be his or her decision as to whether a person gets bail or not. Am I correct in that assertion?

• (1715)

**Hon. Marco Mendicino:** Mr. Naqvi, you are absolutely correct that whatever law or amendment we come up with must be consistent with the charter, and what the charter says is that every individual is entitled to “reasonable” bail.

Now, there are some instances in which the question that is posed before a court... You've pointed out that bail hearings are presided over by Justices of the Peace or, in some cases, judges or Superior Court judges for the most strict offences. They undertake an analysis that looks at whether or not the individual before them is a flight risk, whether or not they impose a serious and substantial risk to community safety, and whether or not it would offend the administration of justice and the public's confidence in it to release them.

On the basis of those three principles, they will make a determination as to whether an individual gets bail or is detained. Whatever we end up determining, the proposal going forward vis-à-vis bail must be consistent with those established principles and the charter.

**Mr. Yasir Naqvi:** Yes, and that is not to mention the various Supreme Court decisions that have come out recently, in less than 10 years, that have also put some really strict parameters around the process for Justices of the Peace or judges to make the bail decisions that need to be made under the Criminal Code. You have to find ways to conform yourself within that paradigm as well.

**Hon. Marco Mendicino:** You are correct. That's one of the things we did in Bill C-75. We took a look at the Supreme Court jurisprudence on the specific subject matter of bail and codified those principles so that we are using the criminal law as much as possible, and so that detention and the deprivation of liberty are a last resort and we otherwise look for ways to successfully rehabilitate.

For those who don't pose any risk and who are not violent offenders—those with mental health challenges and those with substance challenges—I think and I would hope that we can all agree that our resources should be invested in a public health approach to off-ramp. For those who do pose a serious violent threat to our communities, then yes, in some circumstances they will have to be separated from the community.

**Mr. Yasir Naqvi:** I have very little time left.

Very quickly, I know that Correctional Service is also within your portfolio. Can you speak to the principles on a reintegration framework that you may have and that also ties into ensuring that individuals, once released, do not reoffend?

**Hon. Marco Mendicino:** Yes.

First, at the core of those decisions that are undertaken independently, specifically for those who are seeking parole where it's discretionary, community safety and reintegration obviously are the two fundamental principles that are assessed. Again, that is not by elected members of the government, but rather by delegated authorities, who exercise that discretion independently and in a non-partisan way.

There are other rules that govern statutory release for those who are serving federal sentences of two years plus a day or more. There are statutory rules around how much of that sentence they must serve in a federal incarceration facility and then around transitioning them stage by stage back into the community.

**The Chair:** Thank you.

Thank you, Mr. Naqvi.

Next is Ms. Normandin, please.

[*Translation*]

**Ms. Christine Normandin (Saint-Jean, BQ):** Thank you, Mr. Chair.

Thank you, Minister, for being here.

In your opening remarks, you spoke mainly about preventing repeat offences and providing rehabilitation. You didn't mention the bail system or your examination of the system in conjunction with Mr. Lametti until the end. I thought you were somewhat evasive about your examination of the bail system, so I'd like you to talk more about that.

Let's assume that, in order to find the right solution to a problem, you have to be able to identify the problem correctly. Tell us, if you would, about what you've already identified as problems. Just to be clear, when I say problems, I don't mean the overrepresentation of indigenous populations or the release of offenders who go on to commit crimes. Those are outcomes, symptoms of the problem, if you will.

I'd like you to talk about the problems you have identified in the bail system.

**Hon. Marco Mendicino:** Thank you for your question.

The system has challenges, especially when it comes to resources. That's one of the reasons why the federal government is continuing to invest in supporting the good work of police services. For example, we've already invested more than \$350 million to strengthen police presence in communities.

Issues with the bail system have indeed been discussed. The last time we met with our provincial and territorial partners, the focus was on violent offenders.

We are always willing to consider amendments to the Criminal Code that would strengthen the bail system. We'll see where things go.

● (1720)

**Ms. Christine Normandin:** On that topic, a number of witnesses told us that the Criminal Code already provided the technical tools necessary for a sound bail system, especially with section 515. What's lacking is precisely the capacity or resources needed to enforce bail conditions.

Do you agree that, to do that, we need to better apply the provisions we already have, as opposed to amending the Criminal Code?

**Hon. Marco Mendicino:** With all due respect, I must tell you that I don't completely agree.

Resources have always been a challenge, and that's why we need to have discussions and work with our provincial and territorial partners and police services. I've spoken numerous times with police chiefs and associations wanting to convey their priorities.

Legislation and principles do, however, play a role. You brought up section 515 of the Criminal Code. That is the very provision we are looking at right now, in conjunction with the provinces and territories, in an effort to perhaps strengthen the bail system.

**Ms. Christine Normandin:** If we apply the ladder principle to a case where the offender to be released is at risk of reoffending, but the idea is to avoid keeping the individual in prison, one of the options is an electronic monitoring bracelet. It could be one of the offender's release conditions. Unfortunately, we've seen cases recently where individuals under house arrest were able to break their electronic monitoring devices and leave their homes without any follow-up by police.

Isn't it those types of problems that need to be fixed quickly in order for the system to work well?

**Hon. Marco Mendicino:** You're right. When a device is being used and an offender breaches their release conditions, the authorities have to respond accordingly to keep the community and those close to the offender safe. The problem is more than just the technology, though.

Recidivism is a complex issue. It's important to take an in-depth look at a number of factors, including housing and access to health care, education and other programs and services that build confidence in the high-risk individual. That's the reason we created the building safer communities fund.

**Ms. Christine Normandin:** Quickly, I have one last question for you.

We've heard a lot of information that tends to be empirical. On one hand, we've been told that the number of people granted release who then commit crimes has gone up significantly since Bill C-75 came into force. On the other, we've been told that it has been much harder for offenders to be granted bail since the legislation came into force.

How can the data be compiled in order to accurately reflect what's going on, so that real—not anecdotal—evidence informs decision-making?

**Hon. Marco Mendicino:** That's another very important question.

As far as statistics, figures, data and evidence go, Mr. Lametti and I, as well as our provincial and territorial counterparts and partners all agree. We need all the available data to develop policies and new administrative tools aimed at addressing systemic issues like the overrepresentation of certain populations, indigenous and racialized individuals in particular. We need to start by examining what they experience. For decades, they have been overrepresented in the justice system.

Data and other types of evidence will help us develop a better approach, one that will reduce barriers.

• (1725)

[English]

**The Chair:** Thank you.

Thank you, Ms. Normandin.

Now we have Mr. Garrison for six minutes.

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** Thank you, Mr. Chair, and thank you very much to the minister for being here today.

We've had a lot of discussion about fine-tuning the bail system, I would call it, to better ensure public safety from those who are repeat violent offenders. One of the suggestions that have come forward from the premiers is using the reverse bail onus in additional cases when it comes to firearms. There is specifically one that seems surprising to me, and that is that currently, possession of a prohibited handgun is not a reverse-onus offence for bail.

Is this the kind of thing the government is talking about when it's talking about working with the premiers on this question?

**Hon. Marco Mendicino:** It is, Mr. Garrison.

I will tell you that the question of reverse onus, which is a legal threshold, in many cases is borne by the state, especially where the offences are not as serious and where violence is not implicated. In some cases, though, where there is violence and where the offence is serious, the onus does shift to the accused to, in the words of the Criminal Code, “show cause” as to why they should be entitled to reasonable bail.

We are examining that, among other potential areas, to be sure that we've got the system finely tuned to the challenges that are on the ground right now when it comes to serious violent offenders, as well as repeat offenders.

**Mr. Randall Garrison:** A second thing we've heard here, I guess in order to increase public trust in the bail system, is that there needs to be better supervision of bail, especially when there are conditions, and also that, in order to make sure we're not unduly detaining people who should be out, we need better systems for making sure more people can get bail.

You're the minister for the RCMP, and the RCMP is responsible for policing in a large part of the country. My question is: Do you think the RCMP has the resources it needs to police bail conditions? In my riding, I don't see that.

**Hon. Marco Mendicino:** Mr. Garrison, I appreciate your highlighting the commitment of the RCMP to providing public safety across the country. For the benefit of the members of the committee, they cover, geographically, roughly 75% of all the territory in Canada and about 25% or 27% of the population, so it is not an insignificant amount of work.

We're grateful to the RCMP for their dedication on the ground, but it does pose challenges. I would submit to you, in particular in rural areas, where there are large stretches and distances between communities, that it's not easy work, but we endeavour to get them all the resources and tools they need.

Year after year the government makes investments. You've already heard me make reference to the anti-guns and gang violence fund. We also are the primary funder of the RCMP in all those jurisdictions where they are the police of jurisdiction, as opposed to through some of the contractual service agreements that we reach with provinces and territories.

**Mr. Randall Garrison:** We've also heard, though, that community-based bail supervision programs quite often are more effective, more successful, than relying on police, whether it's the RCMP or another police force.

Do you see any role for the federal government in helping to increase the availability of community-based bail supervision programs?



**Hon. Marco Mendicino:** It's an important point to raise. In my experience, any successful plan for reintegration has to involve the community itself. For individuals, that begins with the network of those who are closest to them, so in some cases family, in other cases protectorates and guardians and others who are loved ones, who have taken an interest in the reintegration of the individual who has been charged.

Ensuring that there is accountability when those conditions are not followed is one of the reasons we are having the conversation we are having right now with our provincial and territorial partners, and it is why, I assume, this committee is undertaking this study. That's why it is important that, even as we look at the community, we also take a look at our laws, to be sure they are finely tuned to the challenges we have on the ground.

• (1730)

**Mr. Randall Garrison:** I think you're right, but one of the challenges we face is that those who are most marginalized often lack those very resources you're talking about in terms of family and community to support them in getting bail and to help make sure they can meet bail conditions.

That's why I've been talking a lot about community-based bail supervision programs. We end with a lot of marginalized people spending a long time in detention because they don't have the resources personally and in their family to be able to be released on bail.

I guess what happens is—and I'm not accusing you of this personally—that the federal government tends to say it's a provincial responsibility to provide that, but in fact, when it's not provided, then the RCMP ends up with these additional challenges of enforcing bail supervision.

**Hon. Marco Mendicino:** I would say three things in response, which I think speak directly to the point that you're raising.

The federal government is investing in communities to promote the successful reintegration of those who have been charged and those who have been convicted and are being reintegrated into the communities through, one, the \$250-million building safer communities fund; two, the national crime prevention strategy fund; and three, the indigenous community corrections initiative, which just yesterday we announced additional funding for and which focuses on promoting indigenous language, culture and history for indigenous inmates who are looking to anchor their reintegration based on their own identity and cultures.

By doing those three things, we are putting community at the centre of our reintegration efforts.

**The Chair:** Thank you.

We will next go to Mr. Brock for five minutes.

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

Good afternoon, Minister. It's always a pleasure to have you here at justice.

Good afternoon to the remaining witnesses. I mean no disrespect, but we're going to save the questions for you for the second hour. We have to utilize our time appropriately with the minister.

Minister, I want to go back into your past. I understand that you are a former federal prosecutor, and you worked for the Public Prosecution Service of Canada. Is that correct?

**Hon. Marco Mendicino:** Yes.

**Mr. Larry Brock:** Part of that prosecution responsibility included prosecuting individuals charged under the Controlled Drugs and Substances Act.

**Hon. Marco Mendicino:** Yes.

**Mr. Larry Brock:** That would include individuals charged with the trafficking of drugs or possession for the purposes of trafficking, as well as simple possession. Is that correct?

• (1735)

**Hon. Marco Mendicino:** It included production offences as well. Yes.

**Mr. Larry Brock:** As a lawyer and as a prosecutor, you would also agree with me, I hope, that many of the individuals you have prosecuted and many individuals I have prosecuted have similar criminogenic factors. These quite often include addictions—whether that be alcohol or drugs—or mental health.

**Hon. Marco Mendicino:** I would agree that in some of the cases I dealt with there were individuals who had challenges around substance and mental health issues. Yes.

**Mr. Larry Brock:** A lot of individuals I saw—maybe that you didn't see—certainly had that as a predominant criminogenic factor, as well as lack of education, lack of supports, lack of housing and lack of a job, etc.

Would you agree with me, sir, that it's crucially important that after they are sentenced, discharged or whatever the circumstance may be, these individuals get help to lead a productive lifestyle?

**Hon. Marco Mendicino:** Mr. Brock, I would go one step further than what your question suggests, which is to say that where possible, we should be off-ramping those individuals from the criminal justice system at the earliest point in the system.

As you yourself underlined, in a lot of those cases the determinants that have led to their intersection with the criminal justice system are based on a lack of access to safe or affordable housing, education, health care, etc. Off-ramping them, the earlier the better, lets us focus on violent offenders.

**Mr. Larry Brock:** Right.

You would agree with me, though, that if we can't off-ramp and we have to sentence these individuals and place them on probation or send them to institutions, we want to ensure that there are supports, either in the community or in our institutions, to help them address those issues.

Would you agree with that?

**Hon. Marco Mendicino:** I would agree with that.

**Mr. Larry Brock:** Which really begs the question.... It is really ironic that today my Conservative colleague, Tracy Gray, from the riding of Kelowna—Lake Country, had a private member's bill introduced into the House with a vote. Bill C-283 is an act to amend the Criminal Code and the Corrections and Conditional Release Act to provide additional addiction treatment in penitentiaries. It's specifically to allow judges to make recommendations after sentencing that the person serve their sentence in a penitentiary that has been designated as an addictions treatment facility.

Minister, this is a question for you, for Canadians who are following this committee. Why did you, as a minister who has a portfolio that includes the Correctional Service, and your entire Liberal caucus vote that down?

**Hon. Marco Mendicino:** In short, it was for two reasons.

First, we believe there is already the discretion within the judiciary to make those orders. I'm in no way dismissing the merit of them. I think it is right to point out that there should be conditions that foreshadow the ultimate release of individuals who may have mental health and substance challenges and, therefore... Certainly, I have seen in my experience judges who fashion orders that foreshadow the kind of mental health and public health treatment that those offenders need to reintegrate.

Secondly, I would say there are other initiatives, which this government is investing in, to promote that kind of reintegration for individuals who may be suffering from those challenges as well.

**Mr. Larry Brock:** You also took credit, I understand, Minister, for the federal framework to reduce recidivism. You mentioned that during either the opening statement or a response to a question.

You will acknowledge on the record, sir, that the private member's bill of my Conservative colleague, Richard Bragdon, Bill C-228, which was passed into law in 2021, did exactly that.

Would you give him credit, sir?

**Hon. Marco Mendicino:** I think we need to be working across partisan lines as much as possible. There are private members' bills that the government has seen fit to support, regardless of partisan stripe. I don't think any one individual—or any party, for that matter—has a monopoly on how we keep our communities safe.

One of the reasons it's important for me to be here in front of this committee is not only to take questions but also to take advice, which then, in turn, may shape future government policy. That includes the matter of bail reform and the bail system.

I would say that one of the things I found most encouraging at the last federal-provincial-territorial was that there was a strong consensus that, yes, we should look at the bail system. That was true no matter which government was sitting within which party. There is a multipartisan effort here to get this right.

**The Chair:** Thank you, Minister.

Thank you, Mr. Brock.

Next we'll go to Ms. Diab for five minutes.

**Ms. Lena Metlege Diab (Halifax West, Lib.):** Thanks, Chair.

Minister, welcome.

Welcome to our witnesses.

As we've been discussing in the committee, and, of course, as we know, social factors play a significant role in leading individuals to engage in crime and violence.

I want to thank you again for coming to my province earlier this month, where you announced funding to the Halifax Regional Municipality to support local projects aimed at young people involved in gangs and at risk of joining them, so we can set them up for better success. Of course, in your opening, you mentioned the 902 Man Up Black empowerment initiatives. We know how important it is to work with community groups that have local grassroots expertise.

There is no policing-exclusive solution, as we know, to violent crime. This is one way you're addressing that. Can you mention how else government is addressing...? Again, I've mentioned those, but I'm sure you have many other examples.

**Hon. Marco Mendicino:** First, thank you again, Ms. Diab, for welcoming me into your community. It's always a pleasure to see you and to meet with your community leaders.

There were two announcements we made there that build upon the investments we are making, both at the border.... We had a chance to go to the port of Halifax terminal to see the direct benefits of the approximately \$450 million we're investing in the CBSA.

I would encourage all colleagues to acknowledge and express gratitude to the CBSA for the work they are doing by stopping year after year more and more illegal firearms. That's good, but it's not the only thing we need to be doing. We need to do more than just support law enforcement. We have to look at the root causes of crime, so that we can stop it before it starts. That includes through the announcement we made with 902 Man Up under the national crime prevention funding programs.

This is an organization that started with two individuals, members of the Black community, who were fed up after a spate of gun violence, who had seen too much bloodshed and who said, "Enough is enough. That's it. *C'est assez.*" They started this organization. We've given them some additional support so they can increase their programming and their reach and invite more people who may be at risk to being exposed to criminal elements into their shelter, into their safe and inclusive space, to give them all the skills they need to make the right choices.

We did the same thing, along with you, our colleague Darren Fisher and the mayor of Halifax, Mike Savage, under the building safer communities fund. Right across Halifax and Dartmouth, we'll also be able to do similar initiatives under that federal initiative.

• (1740)

**Ms. Lena Metlege Diab:** That's great.

Can you also elaborate a little on the discussions you had with your provincial-territorial counterparts earlier this month on bail and what we're talking about here?

**Hon. Marco Mendicino:** They were very constructive. I think everyone is grasped with the recent tragedies that have befallen communities right across the country. We spent considerable time talking about potential modifications to the bail system under the Criminal Code.

We also devoted some space to talking about the ways we can prevent crime from occurring and prevent violence from occurring. We heard from different jurisdictions about integrated teams, such as police services going out with public health professionals and other supports. If a call comes in related to a substance abuse challenge or other mental health issue, then the appropriate professional is on hand to de-escalate the situation without the need for force.

We talked about how mental health calls have been on the increase and how taking an integrated approach can be a more effective way to streamline resources so that we are really only using the criminal law as a last resort. That is consistent with my own experiences on the front lines of the criminal justice system, and I think it is one of the ways we can reduce the kinds of recidivist, systemic challenges that we've seen, which in turn lead to overrepresentation.

As much as we have to be focused on ensuring that our bail systems work correctly, we also have an obligation to acknowledge that the systemic challenges remain, and that overrepresentation is shockingly high, especially when it comes to Indigenous peoples and racialized Canadians. We have an obligation to reduce those trends and reverse them as well.

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

We'll go next to a two-and-a-half-minute round.

Go ahead, Mr. Fortin.

[*Translation*]

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

I want to begin by thanking my fellow member for standing in for me on Monday and at the beginning of today's meeting. I'm sure

that the committee members were none the worse as a result of the switch.

Good evening, Minister. I'm really glad you're here.

The bail rules for accused go back quite a few years. Those rules are assessed on a case-by-case basis. The courts consider each accused's case and make decisions based on those rules. However, you'll probably agree with me that the assessment of those rules has changed over time, according to the circumstances. A case in which an accused would have been remanded 20 years ago may no longer warrant remand today, and vice versa.

That said, as you will recall, it wasn't that long ago when Parliament adopted provisions, through former Bill C-5, to do away with mandatory minimum sentences in certain circumstances, including for some firearms-related offences. One offence that no longer carries a mandatory minimum sentence always comes to mind, discharging a firearm with intent. Furthermore, conditional sentences now apply to some sexual assault offences, meaning offenders can serve their sentence in the community.

In your view, Minister, does that influence the courts' decisions about whether to hold someone in remand when they are accused of discharging a firearm with intent, for example?

Five years ago, the offence carried a mandatory minimum sentence, which attested to the fact that the crime was fairly serious. Today, the mandatory minimum sentence no longer exists. It's akin to telling the courts that lawmakers consider the offence to be less serious than they did five years ago.

Do you agree with that? What impact do you think that has on interim release?

• (1745)

**Hon. Marco Mendicino:** That's a complex question. You're right that some principles are well established. At the same time, though, the Supreme Court has made adjustments to certain principles in response to challenges identified on the ground. The constitutional principles still apply, no matter how the law is amended.

**Mr. Rhéal Fortin:** I have just a few seconds left, so I'll simply ask you whether former Bill C-5 impacts interim release decisions or not.

**Hon. Marco Mendicino:** Any amendment brought forward by the government always has to respect the charter, even when it comes to the release system.

**Mr. Rhéal Fortin:** You're quite the violin player, Minister.

**Hon. Marco Mendicino:** Thank you, Mr. Fortin.

[*English*]

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

We'll next go to Mr. Garrison.

I'll give you three minutes to match up.

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

I want to go back to where I ran out of time the last time.

Mr. Minister, you talked about various crime reduction and recidivism programs. I'm going to restate the problem I see: The RCMP is the police force of jurisdiction in half my riding, as it is in many other places where there aren't good community bail supervision programs.

You left off by saying there are funding programs. I guess my question is very specific: Would community-based bail supervision program expansions fit within the initiatives you talked about, as possible projects for funding?

**Hon. Marco Mendicino:** I'll try to give you the clearest answer I can.

In my mind, "community bail" means a very specific thing. Any bail structured to involve a surety, for example, involves an aspect of community supervision. If somebody is released with certain conditions, and one of those conditions is a surety, that surety has a responsibility to be the custodian and supervisor of that individual while they are out on bail. If there are any conditions breached with the knowledge of the surety, they have an obligation to report, under the terms of the bail.

I think what you are.... I don't want to over-interpret your question.

**Mr. Randall Garrison:** I'm thinking of the John Howard Society, which, in many places in Ontario, runs those programs, rather than depending on individuals or family members. There's actually somebody who has the trust of the community to enforce those bail supervision programs. It's not the police.

• (1750)

**Hon. Marco Mendicino:** I'm glad you provided that clarification.

Again, I know first-hand that there are bail programs wherein we work with the John Howards, Liz Frys and other organizations to provide that wraparound support. I think the challenge is around sustained supports in areas where the individual offender needs it, and in making sure we balance the treatment and support with the counterbalancing need to protect the community.

That's why this study is important. At times, it can be a very complex balance to strike. You may have somebody who has mental health issues but also poses a very serious threat to the safety and security of the community. In the absence of a type of required support ecosystem, there may be no other choice but to detain that individual.

In the course of detention, it is equally important that we look to provide rehabilitative programming, services and supports. That's why, for example, the indigenous community corrections services program we announced yesterday is one way in which that goal can be accomplished. Admittedly, that is post trial and post conviction. In sentencing.... It is a challenge at the front end of the process.

**Mr. Randall Garrison:** I know you recognize that most people in pretrial detention are in provincial facilities, which don't provide mental health or addictions services. We've had many cases in

which people have served quite long times. They hit not only their first 90-day review but also, sometimes, a second 90-day review. They don't have access to those. I understand the jurisdictional problem there. It's very challenging.

**Hon. Marco Mendicino:** I agree with you, Mr. Garrison. There are definitely challenges in providing reintegration up front. That's why we have to continue to work closely with our provincial and territorial partners.

**The Chair:** Thank you, Mr. Garrison. That will conclude our first round.

Minister Mendicino, you are excused.

I'm not going to suspend or anything, because of the time frame. I'll give you a few seconds, then we'll continue onwards.

**Hon. Marco Mendicino:** Thank you, Mr. Chair and members of the committee.

**The Chair:** All right, we'll resume.

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

Mr. Van Popta, the floor is yours.

**Mr. Tako Van Popta (Langley—Aldergrove, CPC):** Good. Thank you to the witnesses for being here.

Mr. Taylor, I'll start with you.

I believe there is a consensus across Canada now that Canada's bail system needs to be reformed. We have a letter signed by 13 premiers saying that. We heard the minister just a few minutes ago talking very favourably about a federal-provincial meeting that he and Minister Lametti were at, saying that there is good progress being made. That is despite what Mr. Lametti said not too long ago, when he was asked about this. He said that he was open to suggestions for improvements, but he believed our bail system to be strong and sound. That's what he said.

Anyway, today it appears that we have a consensus that something needs to be done. There's been quite a bit of talk about reverse onuses and amending the Criminal Code, but my question is going to focus on work that some provincial governments and attorneys general have done, particularly in my province, British Columbia. We also had the Attorney General of Saskatchewan here the other day talking about that.

I want your opinion on that. What do you think the provinces have done effectively, and what could they do effectively when it comes to bail reform?

**Mr. Matthew Taylor (General Counsel and Director, Criminal Law Policy Section, Department of Justice):** Mr. Dakalbab and I were also in attendance at the ministers' meeting and had the good fortune to see the discussions and the consensus that Minister Mendicino has talked about.

If you talk about bail reform in terms of what the provinces and territories can do, I can interpret that in one of two ways.

We received a number of different proposals for Criminal Code reform from the provinces and territories, either through the work we do as officials with our provincial and territorial partners.... I think the last time I appeared before this committee, I talked a bit about that work, which we have been doing for some time.

We heard a number of specific proposals for law reform at the March 10 meeting, which Minister Mendicino spoke to, but we've also heard about non-legislative changes that are needed or that are important to improve the functioning of the bail system.

Mr. Garrison has talked a bit about bail supervision. I think the Attorney General of Saskatchewan talked a bit about some of the work they're doing in their jurisdictions as well in terms of changes to Crown policies around when to argue for bail to be denied versus when bail should be favoured.

It probably doesn't answer your question specifically, but there are a lot of different things that are being talked about as ways to fine-tune or improve upon a good foundation.

I think, by and large, most would agree that for most cases, the bail system is working well. However, where the focus has been—and, as bureaucrats, how we're supporting the government—is on that more targeted area of repeat and violent offending.

• (1755)

**Mr. Tako Van Popta:** Okay. Thank you.

The Attorney General of British Columbia has amended his directive to Crown counsel and is specifically telling them to no longer seek detention, even if a fit sentence upon conviction would include incarceration. It used to be that they were to seek detention, and they are now reversing that.

Do you have a comment on that?

**Mr. Matthew Taylor:** Yes. From what I've reviewed in terms of the guidance that is reflected in the new directive from the Attorney General of British Columbia, it is really to try to reinforce some core principles that exist in the bail system.

In terms of the specific point that you raised, sir, about the seriousness of the offence and the likelihood of a carceral sentence if convicted, that's built into the system already, so that's very much a reflection of what the law already tells prosecutors.

Of course, what the law says and how it's implemented are two different things. By developing these guidelines and policies, provincial attorneys general help to ensure that the law operates as it's intended.

**Mr. Tako Van Popta:** Good.

I want to pivot to the reverse onus and possible amendments to the Criminal Code. This is what the premiers are asking for, particularly relating to firearm offences and repeat violent offenders.

A couple of days ago, we had a witness here who is a criminal defence lawyer. He said that whether or not there is a reverse onus, it's not going to make a lot of difference to the way he practises law because it is, effectively, a reverse onus in any event. I'm going to quote you, Mr. Taylor. You were here the other day and you said, "These reverse onuses reflect Parliament's intention to make it more difficult for an accused to obtain release in certain situations that align with the grounds of detention".

My question is to what extent bail judges respect Parliament's intention as set out in implementing a reverse onus. How seriously do they take it? Does it make a difference?

**Mr. Matthew Taylor:** That's a tough one to answer, but the quote sounded nice. I know we're out of time. I would just say that any law reform in this space, if it provides for a new reverse onus, would very much reinforce Parliament's belief that these offences should be treated in a particular way.

Thank you.

**The Chair:** Thank you.

Thank you, Mr. Van Popta.

Next we have Ms. Brière for six minutes.

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

Good evening, witnesses. I will ask my question in French.

[*Translation*]

Mr. Dakalbab, we've heard a number of witnesses who weren't necessarily criticizing the principle of bail but who highlighted concerns with release conditions.

As we've also heard and seen, in a number of cases, offenders have committed crimes while out on bail.

The federal framework to reduce recidivism was announced in 2022, with the engagement process beginning in February 2023.

Can you please tell us the purpose of the framework and the stakeholder consultations?

Which stakeholders are you consulting?

Besides the framework, what measures has the department taken to address recidivism?

**Mr. Talal Dakalbab (Senior Assistant Deputy Minister, Crime Prevention Branch, Department of Public Safety and Emergency Preparedness):** Thank you for your question.

The framework was indeed released in 2022. Minister Mendicino spoke about the framework's priority areas, health, housing, education and support networks.

I worked in corrections and the parole system for over a decade. In developing the framework, we consulted extensively to really pinpoint the problem we wanted to address. Those stakeholders included community partners and representatives of the John Howard Society, the Elizabeth Fry Society and other such organizations.

The program the minister announced yesterday is one of the initiatives identified in the first framework. The framework was designed to allow for nimble approaches to address the issue of recidivism through federally funded initiatives and programs. The Government of Canada committed to following up on the priority areas laid out in the framework. By June, we will report back to the Standing Committee on Public Safety and National Security on the pillars through which we will begin taking more concrete actions.

We are currently engaged in consultations and research to come up with a concrete proposal for the minister, which will eventually be tabled in Parliament.

I'm glad that you made such a clear distinction between the conditional release system and the bail system. It's true that they are similar, in that they have successful outcomes in the majority of cases. According to our data, the conditional release recidivism rate is less than 1% for violent crimes. That means the success rate is pretty high and is comparable to that of the bail system.

Nevertheless, they are two completely different systems with different sets of requirements.

● (1800)

**Mrs. Élisabeth Brière:** Who are you consulting, and who are the stakeholders?

**Mr. Talal Dakalbab:** I don't have the list with me, but I can tell you that we are consulting with academics, not-for-profit organizations, as well as indigenous and Black communities, which are overrepresented in the criminal justice system.

I can send you the list, if you like.

**Mrs. Élisabeth Brière:** Thank you very much, Mr. Dakalbab.

Ms. Efford, the minister said that you needed more resources to strengthen your capacity to monitor offenders. In another committee meeting, we learned about other methods that were successful in the area of conditional release, methods we could apply to our system.

I'd like to hear your thoughts on that.

[English]

**Chief Superintendent Sue Efford (Director General, National Criminal Operations, Contract and Indigenous Policing, Royal Canadian Mounted Police):** I just want to ensure that I understand the question. Is it a question around resourcing on behalf of the RCMP and how we would effectively use that? Yes. Thank you.

To start, the RCMP uses its existing resources by distributing them throughout the force in accordance with the established priorities. Under the police service agreements, the RCMP will work closely with local jurisdictions to set priorities and establish adequate resourcing requirements to assist and meet policing goals.

I'd just like to point out as well that although we cover 75% of the geographic mass of Canada, we're responsible for policing between 22% and 25% of the population, which is mostly rural.

What I can say is that the RCMP will endeavour to enforce the law to the greatest extent possible in line with its mandate and in accordance with the priorities that have been identified.

**Mrs. Élisabeth Brière:** How can we help you to reinforce your capacity?

[Translation]

**Mr. Talal Dakalbab:** If it's all right with you, I can partly answer that.

I am the minister's co-lead for RCMP contract policing services, so I work on RCMP contracting with my colleagues across the country every single day. In my role, I also work with Quebec and Ontario.

In our experience, the most positive measure is to fund police capacity—whether in the RCMP or other organizations—so that better evidence can be provided to the courts. It's very important to provide judges with the information before they make a bail decision. For example, Ontario used federal funding for that purpose, and that's what we are trying to do under the police service agreements between the RCMP and the provinces and territories.

It also means teams have more resources available so they can put more effort into finding individuals who breached the conditions of their release and are free illegally.

Those are two concrete ways we can help. That said, as you mentioned earlier, recruiting people is difficult. It's a common refrain of police services, but I wanted to support what my colleague said.

● (1805)

[English]

**The Chair:** Thank you, Ms. Brière.

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

[Translation]

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

Thank you, Mr. Dakalbab, Ms. Efford and Mr. Taylor, for being with us.

My question is for you, Mr. Dakalbab, and it has to do with a subject I raised with the minister earlier. With the passage of former Bill C-5, mandatory minimum sentences were eliminated in certain cases. I won't go on about the need for minimum sentences. I believe in judicial discretion, but in some cases, the fact remains: doing away with minimum sentences sends a message. Lawmakers don't talk for the sake of talking. In certain cases, when handing down sentences, the courts were influenced by the fact that mandatory minimum sentences had been eliminated.

How do we avoid giving the impression that the parameters for assessing the seriousness of those crimes are less stringent? We don't want the courts to think that when deciding whether to grant an accused conditional release.

**Mr. Talal Dakalbab:** As far as I know, the courts usually take into account the maximum sentence as well.

**Mr. Rhéal Fortin:** Yes, but that hasn't changed, so it really makes no difference. The maximum sentence is still the same. What has changed in the judge's mind is that they have more discretion to impose, not stricter sentences, but more lenient ones. The judge can hand down less than the minimum sentence that was in place previously, whether it was six months, a year, two years or whatever the case may have been. That still sends a signal from lawmakers to the judge who is hearing the case. It could suggest that the requirements have been relaxed, that lawmakers are less stringent than they were before.

What can we, as lawmakers, do to counter that negative effect and avoid giving the impression that we no longer consider certain offences to be serious, offences such as discharging a firearm with intent and sexual assault?

**Mr. Talal Dakalbab:** I'm going to come back to what I said initially.

Bill C-21 provides for a maximum penalty of 14 years, the harshest penalty after a life sentence.

I think that sends a pretty clear message about how serious the crime is.

**Mr. Rhéal Fortin:** Of course, but you'll agree with me that that hasn't changed.

**Mr. Talal Dakalbab:** It hasn't changed yet.

It could be a clear message—

**Mr. Rhéal Fortin:** All right.

What has changed, however, is that the minimum sentence has been eliminated.

I gather from your remarks that you don't think it's had any impact on the courts' decisions.

Is that correct?

**Mr. Talal Dakalbab:** To be honest, I don't have the data I would need to answer that.

**Mr. Rhéal Fortin:** I see.

Let's say it had an impact. Do you think there's anything we could do to counter that impact?

**Mr. Talal Dakalbab:** I'm going to come back to the minister's point about the importance of prevention.

A look at correctional systems around the world—Canada is reputed for being a global leader, by the way—reveals that the successful ones place the most emphasis on prevention, as opposed to intervention.

It's necessary to invest in crime prevention or to identify adequate supports when it comes to employment, health, substance abuse and mental health. Addressing those issues appropriately does more than arresting people and putting them in prison.

I truly believe that is the best way to prevent the serious crimes we are currently seeing.

• (1810)

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

**Mr. Talal Dakalbab:** My pleasure.

**Mr. Rhéal Fortin:** Ms. Efford, do you think there are provisions the committee could add to the bill to allow for better monitoring and ensure that an individual who has been granted bail or conditional release does not reoffend?

I know the figures you shared with the committee show that it doesn't happen that often, and that's great. It does happen, though, and the premiers are worried. They wrote a letter on the subject to the Prime Minister of Canada not that long ago, in fact.

What can we do to more effectively monitor individuals, accused, who are out on bail or conditional release?

[English]

**C/Supt Sue Efford:** It's a challenging question from a policing perspective. I don't have numerous ideas right now—not that I couldn't consult and come back to the committee if that would suit.

Ultimately, for the RCMP, we are responsible for enforcing the law. In the case of monitoring supervision of concerns for breaches, we don't have infinite resources. There are so many who are on conditions that being able to monitor and effectively monitor them presents a significant challenge, to say the least, for policing.

[Translation]

**Mr. Rhéal Fortin:** All right.

Do you have any ideas on how to make sure the courts take these crimes more seriously despite the elimination of the mandatory minimum sentences?

[English]

**C/Supt Sue Efford:** I do not have that response with me, but I can certainly reach out to our provincial leaders within the RCMP and seek the suggestions, if you wish, and endeavour to get back to the committee in writing.

[Translation]

**Mr. Rhéal Fortin:** I would appreciate it if you could get back to us with that information.

Thank you.

[English]

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

Next it's Mr. Garrison for six minutes.

**Mr. Randall Garrison:** Thank you very much, Mr. Chair, and thank you to the officials for sticking with us through this process.

I want to go back to Chief Superintendent Efford. You mentioned the police service agreements, which set priorities on policing. What priorities do those agreements give to supervising bail conditions and breaches of bail conditions? That's what directs you as the RCMP, in terms of the contract policing, so do those agreements give any priority to that?

**C/Supt Sue Efford:** Unfortunately, to answer that accurately, I would have to take it back and ask the people who are dealing with the provincial and territorial agreements, who actually understand the priorities. I would endeavour to return with that response in writing.

**Mr. Randall Garrison:** That would be useful for the committee, because I think that's where we have a problem in terms of.... I'm not seeking to find the guilty party here, but the public would like to see—and I think we've heard this quite often—better supervision of bail conditions. That would increase public safety and confidence in the system.

However, if the provinces aren't making that a priority in their policing contracts, that's a problem that we need to attack from both ends.

Mr. Dakalbab, do you want to weigh in?

**Mr. Talal Dakalbab:** Yes, if you don't mind, as I am the contract authority for contract policing on behalf of the minister. The RCMP is the operational arm, but the negotiations with the provinces and territories on the terms and conditions of the contract happen with the Department of Public Safety and me personally, so I'll be more than happy to tell you.

I just came back last week, actually, from two consultations to hear from communities in Manitoba and Alberta on contract policing. I met with mayors. I met with indigenous communities. I met with a lot of provincial colleagues. We are working more and more toward local governance through contract policing to ensure that.... Canada is a big country—I always say that—and to police Canada through contract policing with one size fits all is extremely complex. Quite frankly, it's not very productive for the needs of our citizens in Canada.

I would say that we are working closely with each jurisdiction, each province, and even with the municipalities, to ensure that local governments are having more and more say in the contracts and priorities they are identifying within the resources and funding they have. Whether it's bail or something else, that's where the negotiation with the CO in each division will happen. They will be establishing these priorities accordingly. Canada is not dictating, per se, what they should do or what they need to work on.

• (1815)

**Mr. Randall Garrison:** Thank you. That's quite useful.

I have a similar question. I guess it goes back first to Chief Superintendent Efford. Once the courts have recognized that there are breaches of bail conditions, and they issue a bench warrant, what priority does that have in terms of the many responsibilities the RCMP has? In some of the very high-profile cases we've been talking about, bench warrants were issued, but for whatever reason the person still wasn't back in custody.

Again, maybe that's a function of those agreements. I'm not sure.

**Mr. Talal Dakalbab:** It is a big challenge—I'm not going to lie to you—in the sense that there are a lot of priorities. In rural areas it's not always that easy. The Government of Canada and the provinces and territories are looking at a pan-Canadian rural crime framework to address the specific concerns you're raising. The resources of the RCMP—even in Quebec and Ontario, according to my colleagues—are quite limited once we get out of the urban areas. It is a challenge that we're aware of and are trying to work on, not only through policing. Quite frankly, they have their own challenge in recruiting, so we're trying to be more creative with community-based support and with what kinds of services we can provide differently.

**Mr. Randall Garrison:** I have to just say that I wouldn't call my riding "rural". I'd call it "suburban". The RCMP is the policing authority in my riding, but we see these challenges with resources and priorities all the time. Quite often the public's perception of what should be a priority and perhaps what the province has asked the RCMP to have as a priority don't seem to align very well, so—

**Mr. Talal Dakalbab:** Even in urban areas these problems are present.

**Mr. Randall Garrison:** Yes.

I don't have much time, but I have one last question. I may not have the right person in front of me to answer this question.

We've had a large problem in Nunavut with long periods of pre-trial detention. Corrections Canada was previously responsible, but I believe we're in a transition period whereby Nunavut is taking over responsibility for corrections facilities and pre-trial detention.

I don't know, Mr. Dakalbab, if you can help answer that.

**Mr. Talal Dakalbab:** I don't have the details. I have heard of the situation, but I don't have the details.



**Mr. Randall Garrison:** We had a lot of concern in the indigenous community, not just about the size of Nunavut, but also about the lack of community resources in many places. People are spending very long times in detention without any access to services. I know that Corrections Canada was previously responsible, but I've been unable to figure out where we are in that transition. I know Nunavut passed a new act in 2019 that aimed to transition to take control of those things and to institute a different approach for pre-trial detention.

I probably don't have the right people here to answer that question.

Thanks very much.

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

Next we'll go to Mr. Brock for five minutes.

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

Again, I'd like to thank the witnesses for their appearance today.

It's over to you, Mr. Taylor. Would you agree that the whole concept of bail reform and the need to address the problems with prolific repeat dangerous offenders is not a new phenomenon, and that in fact it's been brewing for a number of years? In fact, what really crystallized that, in my view—I don't know if you share it—was the unfortunate and tragic killing of OPP officer Pierzchala.

Would you agree with me, sir?

**Mr. Matthew Taylor:** I think that certainly was a moment that crystallized, for many people, the urgency of the situation. I think you're aware—as we've discussed previously—that we had been looking at these issues prior to that. However, certainly that was a catalyst for the urgency.

**Mr. Larry Brock:** Sure.

It really crystallized and mobilized a lot of the support and advocacy groups across this country, with premiers, AGs, mayors, police chiefs, police associations and the like. Is that correct?

• (1820)

**Mr. Matthew Taylor:** Absolutely.

**Mr. Larry Brock:** I want to talk briefly about the Randall McKenzie matter. He is an accused. He has the presumption of innocence; I do acknowledge that. He was released after a bail review. My colleague, Frank Caputo, raised this with a defence witness this past Monday. We really haven't heard much evidence on the frailties, in my view, of our bail review system.

Under section 520 of the Criminal Code—I'm sure you're familiar with the language, but for the benefit of Canadians watching this and our committee members—there are two areas in which you can bring a bail review: where there's an error in principle in the actual order itself from the lower court, or where there's a material change in circumstances that will make it unjust not to vacate the order.

Mr. Taylor, with the resources I've been able to access with respect to the evidence, it's clear that Mr. McKenzie was denied bail at the Ontario court level by a Justice of the Peace, given his prolific repeat behaviour of breaching orders, breaching firearm orders, and given the significant, serious nature of the substantive offence.

Regardless of the plan—which included house arrest, electronic monitoring and a surety—the Justice of the Peace felt that the tertiary grounds were activated, and he was detained on the tertiary grounds.

Six months later, he ended up in bail review in Hamilton. He is indigenous, and Gladue factors were referenced at the lower level. The same Gladue factors were talked about at the superior court level. However, he changed the deck.

I often saw this in my previous career. If you get one kick at the can and you don't choose the right surety—that surety gets rejected, or the plan gets rejected—then you just shuffle the deck. You go to the superior court, get a new surety, maybe add a few conditions, add to the quantum of the promise to pay, and take your chances.

In this particular case, it was the same terms that he had advanced in the lower court and the same amount by way of a promise to pay, but he swapped up the surety—it was originally the girlfriend—to his mother. Clearly, we have a disconnect here in terms of community safety.

Sir, I believe you to be the lead...the highest legal officer at the Department of Justice. Is that accurate?

**Mr. Matthew Taylor:** It certainly is not, although I appreciate the compliment.

**Voices:** Oh, oh!

**Mr. Larry Brock:** I was prepared to give that to you, sir. I was prepared to give you that honour.

Well, you're held in high esteem at the Department of Justice.

Is there any sort of appetite to tighten up the weak bail review system that we have across this country?

**Mr. Matthew Taylor:** There are a few things.

I think Minister Lametti has been very clear that he's open to any good idea. He said that when he appeared.

We have had some discussions with our provincial and territorial partners. Bail review—speaking candidly—has not been prominent in those discussions. I know it is something that we're aware of and that we're following. Obviously, the circumstances of Constable Pierzchala and that case bring this to the forefront. However, it is not something that has been the primary focus of the advocacy to date.

The primary focus, as I think you know, has been on what we can do around the tightening of the rules governing the initial decision on whether to release or detain a repeat violent offender.

**Mr. Larry Brock:** Would there be an appetite at the department for a private member's bill to tighten up section 520 of the Criminal Code?

**Mr. Matthew Taylor:** As you absolutely know, we support the government in analyzing any private member's legislation that comes forward.

Thank you.

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

Next, for our final five minutes, we have Mr. Naqvi.

**Mr. Yasir Naqvi:** Thank you very much, Chair.

It's good to have some experts at the table—not to suggest that the minister is not an expert, but you are both there, Mr. Dakalbab and Mr. Taylor, involved every day from a frontline perspective in law enforcement, working at the policy level, and I'm sure liaising with your provincial counterparts as well.

Discussion around bail is not unusual. Every little while we hear some discussion in terms of which way the pendulum is swinging, and it's perhaps a healthy tension within the system.

I wonder how many of the issues that we are trying to deal with here at a policy level, from the perspective of the Criminal Code, are really an issue around administration of justice matters, which is a provincial responsibility. I'm not asking you to pass the buck or lay the blame, but in your conversations with your FPT counterparts, how much of that fulsome discussion is taking place in the room, where policy needs to be reformed, but then, from an administration of justice perspective, where things need to happen as well?

I leave it for any one of you to start, to pick up the ball.

• (1825)

**Mr. Talal Dakalbab:** I'll start, if that's okay.

I think it was made clear by my minister, Minister Mendicino, and by Minister Lametti, that not only one solution is required, and it's not a question of blaming. It's a holistic responsibility of both federal and provincial...and frontline officers, quite frankly, in my opinion. Looking at the Criminal Code is one, but that will not solve the problem. For sure, we need to continue looking at other ways of doing it, whether it's through prevention and intervention or funding, resources and better training for our police officers, better monitoring conditions for bail or parole, or whatever kinds of conditions.

Honestly, I believe that everybody is committed. From my discussions with my colleagues at the provincial level and the federal partners, I think everybody is working very hard to put their heads together to look at the proper innovative ideas that we could bring forward, whether legal or policy, or from intervention. I think the work we are doing right now will lead us to answer these questions properly on how best we can mitigate the risks from all angles, and not only from one perspective, which would be the legislative perspective.

I don't know if my colleague Mr. Taylor wants to add anything else.

**Mr. Matthew Taylor:** Just quickly, not to take your time, it is absolutely the case. If you look at the statement that was released by the ministers from the March 10 meeting, you see there is an ac-

knowledgement that there's an important place for law reform, but there's also a place for non-legislative measures. You can have the best laws, the clearest laws, but if they're not implemented properly, then they are not worth their salt.

I would just validate everything that Mr. Dakalbab has said.

**Mr. Yasir Naqvi:** Thank you.

When I was involved at the provincial level in Ontario, one of the biggest challenges we were facing—this was pre-pandemic; I want to recognize that—was that two-thirds of the population in provincial detention centres in Ontario were in remand. That was a high number. The numbers in Ontario at that time were close to 8,000 people in provincial detention centres, and about 5,000 of them were not convicted yet. They were charged, but there was no conviction.

That was a high number. The majority of them, when you looked at the data, had serious mental health and addiction issues. We had, obviously, deteriorating conditions in our detention centres. The question that always kept coming up when I spoke to people who provided those frontline services was whether we were making the circumstances of those individuals worse by putting them in detention centres as opposed to keeping them in the community and providing them wraparound services, as the terminology goes, around mental health and addictions. We actually created something called bail beds in Ontario at that time, which I think is still operational, to allow for individuals to be in a secure facility but out in the community with minimal conditions, still getting their necessary support.

Are those types of solutions, which I would argue are not innovative or creative solutions, part of the conversation that you are having with your FPT colleagues as you look at reforming the bail system?

**The Chair:** Answer very briefly, please.

**Mr. Talal Dakalbab:** Actually, Public Safety is offering stigma awareness training to police officers across Canada to address the kind of harm reduction approach that is necessary to avoid having these people in prison. It's not necessarily just part of the bail discussion. Overall, it's part of the discussion about the opiate crisis and the other addictions to drugs we have in Canada.

• (1830)

**Mr. Yasir Naqvi:** Thank you.

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

I want to thank all the witnesses for your valuable testimony, and, once again, for coming here.

I want to thank the students and Professor Jackman in the back. Hopefully you've found this invigorating and entertaining, as we do.

Thank you. I will now adjourn the meeting, and we'll see you all next week.







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