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**Official Report
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Wednesday 22 April 2015

**Journal
des débats
(Hansard)**

Mercredi 22 avril 2015

**Select Committee
on Sexual Violence
and Harassment**

Strategy on sexual violence
and harassment

**Comité spécial de la violence
et du harcèlement
à caractère sexuel**

Stratégie de lutte contre
la violence et le harcèlement
à caractère sexuel

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LEGISLATIVE ASSEMBLY OF ONTARIO

**SELECT COMMITTEE
ON SEXUAL VIOLENCE
AND HARASSMENT**

Wednesday 22 April 2015

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ SPÉCIAL DE LA VIOLENCE
ET DU HARCÈLEMENT
À CARACTÈRE SEXUEL**

Mercredi 22 avril 2015

The committee met at 1601 in committee room 1.

The Chair (Ms. Daiene Vernile): Good afternoon, everyone. The Select Committee on Sexual Violence and Harassment will now come to order.

SUBCOMMITTEE REPORT

The Chair (Ms. Daiene Vernile): We begin this afternoon with a motion from our subcommittee. I understand that MPP McMahon is going to put that motion forward.

Ms. Eleanor McMahon: Thank you, Madam Chair. The motion reads as follows:

Your subcommittee met on Wednesday, April 15 and Tuesday, April 21, 2015, to consider the method of proceeding on its order of the House dated Thursday, December 11, 2014, and recommends the following:

(1) That witnesses be scheduled in Toronto commencing Wednesday, April 22, 2015, in 20-minute intervals, and be offered up to 15 minutes for their presentation, and five minutes to answer questions from committee members.

(2) That the committee charter a bus during the week of May 18, 2015, for travel to Windsor, Kitchener-Waterloo, Kingston and Ottawa.

(3) That the Clerk of the Committee, in consultation with the Chair, is authorized immediately to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Thank you, Madam Chair.

The Chair (Ms. Daiene Vernile): Thank you, MPP McMahon. Do we have any discussion on this motion? Are we all in favour? Motion carried.

While I would like to welcome all of the presenters who are here with us today along with guests, I want to share the mandate of this committee with you. We are here to listen to the experiences of survivors, front-line workers, advocates and experts on the issue of sexual violence and harassment. You are going to inform us on how to shift social norms and barriers that are preventing people from coming forward to report abuses. Your advice is going to guide us as we make recommendations to the Ontario Legislature on dealing with systemic sexual violence and harassment. However, I do want to stress that we do not have the power or the authority to

investigate individual cases. That is better left to the authorities.

So I welcome you.

**STRATEGY ON SEXUAL VIOLENCE
AND HARASSMENT**

**ONTARIO COALITION
OF RAPE CRISIS CENTRES**

The Chair (Ms. Daiene Vernile): I would call on our first presenter, Nicole Pietsch. Nicole, please come forward and let me know if I'm saying your name correctly.

Ms. Nicole Pietsch: It's like "peach," the fruit.

The Chair (Ms. Daiene Vernile): Wonderful. Nicole, you're going to have 15 minutes to make your presentation, and that's going to be followed by some questions by our committee. Please state your name for the record and begin anytime.

Ms. Nicole Pietsch: Sure. My name's Nicole Pietsch. I'm with the Ontario Coalition of Rape Crisis Centres.

Thanks for having me speak today. I'm here on behalf of the Ontario Coalition of Rape Crisis Centres. I'll share a bit more about that organization in a moment. I'm sure you've heard lots of statistics and general issues, and I'd like to start by sharing a personal story and then connecting that to some of the systemic and statistical things that you'll probably hear throughout the course of this committee.

To begin, a personal story about how my work in this area began: When I was about 16, a close friend of mine was involved with a local boy who didn't tell the truth about his age and turned out to be in his 20s. Because we were young, by the time this information came to light we didn't have the wherewithal or the sense of entitlement in order to challenge it. We also had few adults in our life to counsel us about this relationship, other than to tell us that we shouldn't be spending time with boys like that, or admonishments to maintain our virginity as young women.

I would share that, in the midst of this, we were aware that the relationship with my friend and her boyfriend was abusive. He often threatened her or controlled her behaviour and who she spent her time with. Once, they

were on vacation together and he took her money and threatened to leave her behind.

This is related, because, as you can imagine, the sexual component of their relationship was also abusive. My friend didn't have a choice about whether or not she would engage in a sexual relationship, what kinds of things she would do and in what ways.

Finally, a teacher advised us and gave us permission and instruction on what to do. We ended the relationship with the boyfriend together, although there were many threats that came her way beyond that.

When we were in university, my friend came home on a break. Her ex-boyfriend spied her walking in the neighbourhood and he began to pursue her again. My friend hadn't wanted it to come to this, but she decided at that point that she ought to call the police.

This is relevant to your committee, too, to share this component of her experience.

We got an officer on the line who was a woman and fairly understanding. But when she listened to my friend's account, she had to ask for clarification: "Did you say no when he wanted to have sex?" My friend shared that she had said no. She said no again and again, but ultimately, at the end of the day, in the context of this relationship, her yes or no made no difference.

Now, it's possible and I would think right, that the police officer had every best intention. She may have known the facts, that even if my friend's guy could be charged—and he could have—simply saying so in court, he would probably just suggest that she had consented. Really, no one would ever know the truth. Even if the police and the court believed my friend, they really couldn't prove a thing. This is one of the systemic issues with the cases before us today. Perhaps this police officer even knew that, although my friend had been through what she had been, this would never proceed through the court system. So the police officer said, "We've spent many times telling people that 'No means no,' and we can't lay a charge now saying that 'maybe' or 'I'm not sure' means no, as well."

So my friend put down the phone and hung up and she said to me, "We're going into politics, man!" That's what I'm doing here today.

From that moment on, for me, the systemic issues of sexual violence were connected to victims' stories. I've spent many years working with survivors on describing to the public, yourselves included, how sexual assault is actually happening in Ontario and the barriers to reporting.

You have political leadership in Ontario, and in this, you do have an important role to play, and that is to work alongside survivors, allies and advocates to learn about where the system is working; learning about alternatives to, for example, police reporting and how you can support survivors better.

I think we need to begin, instead of just asking the question, "What would encourage women to report?"—that is the wrong question to ask. Instead, I would suggest we should be asking, "What will better support

survivors generally and what do they need most and what can we do to prevent sexual assault in the first place?"

So a little bit about us: The Ontario Coalition of Rape Crisis Centres is a network of 26 English-language sexual assault centres in Ontario. We deal mostly with systemic issues, but those individual rape crisis centres see survivors on a day-to-day basis over their crisis lines, in individual counselling, accompanying folks to the police and to court—and also public education on sexual violence and prevention, and providing information about the legal system and other strategies for coping.

As an example, in a one-year period alone, our 30 sexual assault centres—all of them in Ontario that are English-language centres—responded to over 37,000 crisis line calls in one year.

We believe that sexual violence can't be separated from a broader context, one in which the victim, the offender and sexual assault acts themselves are connected to larger expectations or larger systems of inequality.

I'll give some examples. In my friend's story, she was a lot younger than her abuser. She faced scrutiny from adults who shamed her about being sexually pursued. When sexual violence happened, we had no one to talk to about it who we felt would understand. We didn't understand the law and what would happen when we reported it.

What my friend believed had happened is that no one believed her. But, in fact, if she had reached out to an advocate or had contact with a sexual assault centre, she might have learned (1) what to expect when you report, (2) why the police officer might have said what she did—and (3) someone who could help her to advocate for more action in her case.

A few things that we would recommend as a network of sexual assault centres—is that we believe that education is probably the best way to prevent sexual violence in the first place. Public education promotes a focus on prevention as opposed to just catching offenders. Ideally, we'd like to see less sexual victimization, and that might lead to things around education.

1610

Education has the effect of the following:

- supporting people to know what their rights are so that they can say no or at least have questions in their mind and seek support if they have questions about the way someone's treating them;

- information on what sexual violence is, beyond just forcible rape;

- supporting both men and women to be exposed to sexual violence myths and give them the opportunity to challenge those myths; and

- educating bystanders and people who work in all kinds of fields to realize where they have a role to play. I think often we just talk about survivors and offenders; we don't talk enough about bystanders. People could intervene where somebody is vulnerable.

Public education also draws connections between social issues, like the normalization or minimization of

violence against women and sexual violence against anyone, and people's day-to-day experiences.

There are a lot of things that we agree with in *It's Never Okay*, the new plan from the provincial government. We really do applaud—for example, public education has been rolled into these initiatives, the social media campaign and, in addition, the new school curriculum is much needed.

For example, as Planned Parenthood Toronto had noted, we are bombarded daily with information about sexual innuendos, sexual images and expectations, but rarely do we have conversations about consent. You can't talk about sexuality or be exposed to it without knowing about consent at the same time. They can't be divided.

We agree that in learning about healthy relationships and consent at a young age through a curriculum that's mandated, you're definitely preventing sexual violence, and that sure would have helped my friend when she and I were faced with nobody except for the offender and silence on sex ed from other adults in our lives.

We also support an aboriginal-led strategy to address sexual and gender-based violence against First Nations women in Ontario. There are too many recent stories about aboriginal women and sexualized violence in Canada. Cindy Gladue; the young 15-year-old woman in Winnipeg; and Rinelle Harper are just a few examples. We know that First Nations women are more vulnerable to being targeted and face different kinds of victim-blaming and minimization when it comes to sexual violence than white women.

We know there's a strategic framework to end violence against aboriginal women in Ontario, but we think that more needs to be done, especially in engaging the community of First Nations people in that strategy.

I also want to talk a little bit about funding and stability for sexual assault and rape crisis centres in Ontario. While an estimated majority—some say 80% to 90%—of survivors of sexual violence don't even access the criminal justice system, the majority of the funds and the system efforts are talked about and directed towards a minority of survivors who do. While it's important that survivors can access the criminal justice system, we also think that sometimes survivors need alternatives, and it's centres that provide front-line services and education to our local communities all across Ontario. Centres like ours also cope with people who aren't reporting at all, like my friend who never engaged with any kind of formal systems. Also, we're connected to a lot of people who, let's say, might have been assaulted many years ago and they're just beginning to talk about it now.

When you think about it, in 2014, Justice Canada had a study that talked about the economic cost of violent crime, finding that \$4.8 billion of the total, which was the largest amount of any kind of crime, was attributed to sexual assault and other kinds of offences—more than 90% of victims were women. What they found from this is that some of the costs were associated with the criminal justice system, but many of them were on the shoulders of just the survivor as an individual for lost wages and social services outside of the criminal justice

system, like counselling agencies that ended up taking the burden of those costs.

We think it's really important that the *It's Never Okay* plan around sexual violence has considered community-based agencies and committed to offering stable and committed funding to them as well, so we're interested to see how that rolls out in communities. And we just ask your government to commit to continuing adequate funding for sexual assault centres in Ontario and ensure that the Ontario Sexual Violence Action Plan and its implementation continue to be guided by people in front-line work and survivors themselves.

Last, in order to address sexual violence, I want to talk a bit about needing to shift our conversation away from reporting issues only. Increasing sexual assault reporting won't necessarily increase support to all victims. The current system is rife with problems that don't make reporting a useful or supportive method to all sexual assault survivors. We also know that conviction rates are really low, and that can de-validate the experiences of people who actually go through those systems, as well as give the impression that sexual assault is a rare crime, which we know it isn't.

Yes, we think that women and male survivors can and ought to feel they can report, but they also need information, support and alternatives if they choose not to. These alternatives can include prevention, education and training; support on systemically helping the public and people working in all sectors to challenge sexual violence myths; and supporting professionals, laypersons, bystanders and the public at large to respond to disclosures, believe victims and offer basic support.

As you can see, to support survivors of sexual violence overall, we need any kind of awareness about victim-blaming in all kinds of sectors—that could include the criminal justice system, anyone who's a bystander and social service professionals—and any commitment to resist reproducing these myths when survivors do talk to anyone formally or informally. As you can see, when we talk about things like prevention, believing survivors and offering supports around training and education that help people who disclose, that will help a survivor, whether that person is engaging in the criminal justice system or not.

I know that it's hard to hear sometimes that it's not just one change that we need to make. We believe that systemic change is possible. In the last 30 years, sexual violence has seen many changes in terms of laws and policies—as well as the face of supportive services. For example, 20 or 30 years ago, we did not have the same safe, community-based agencies or hospital-based programs that have responded to survivors. I do believe those changes have made quite a difference. Many of them were made with recommendations from advocates and survivors in collaboration with government folks like yourselves. So I see this as part of a larger process in that.

Thank you again for your commitment to working on these issues, but also for inviting the input of folks who have expertise in these areas.

The Chair (Ms. Daiene Vernile): Thank you. The first set of questions for you are from our official opposition, from MPP Jones.

Ms. Sylvia Jones: Thank you very much for the presentation. I'm curious about your interest or your focus on how reporting is not necessarily the best route for the victims, which, based on the numbers, I can absolutely see and agree with. I guess the other part of my justice side says, but we need to stop the people who are doing this, and how do we do that if we don't go through the justice system and people don't report? Can you expand on that and give us some advice?

Ms. Nicole Pietsch: That's a good question. I think, one, when we're looking for answers, we always want to be able to, let's say, catch the offender and put an end to this. I think that's why we put a lot of effort, as well, into things like education and addressing systemic issues that make sexual violence possible in the first place. What I want to say specifically is that encouraging survivors to report alone just doesn't capture how change could actually happen in this area. There are a few different things that would need to happen before more reporting would actually result in any kind of real change.

So what we see is that although survivors might be reporting, they're not progressing through those systems. I could have presented a lot of statistics as well, but I'm sure you've heard those as well, too. From the number that's actually reported, what that actually comes down to in convictions is a really tiny number. So when we say—to encourage someone to report to the police as a means of resolution to that, often what that means is that survivor is going to progress through the system but not get the end result that she was hoping for.

The Chair (Ms. Daiene Vernile): We're a little ahead of schedule, so we do have time if you have another question.

Ms. Sylvia Jones: Just a follow-up to that: Is there an opportunity for the reporting to occur but then a restorative justice concept to be incorporated, so that—don't get me wrong, but the offender needs to stop. If the reporting doesn't occur, my concern is that it's an indication that "I got away with it once"—or 10 times or 20 times—"so I'm going to keep doing it."

Is there an opportunity as part of that system for some kind of—well, I'm calling it restorative justice; I don't know. Do you have any thoughts on that?

1620

Ms. Nicole Pietsch: I think what's connected is that the lack of reporting is actually informed, as well, by the fact that the system is not giving survivors the response they're looking for; right? They might be looking at the system and feeling like, "If I do report, I'm not going to get what I want." Then it's circuitous, because it also gives the impression that sexual violence is not an important crime.

In terms of a magic bullet solution, I don't think it's that easy. I will say that when we see sexual assault cases go through the court system, what we do see too often is that the scrutiny is on the survivor and about what she

was or wasn't doing, and even some of the same myths reproduced that had existed many years ago. The challenge needs to be on the actions of the offender, as opposed to seeing the re-production of the victim, who has to repeat over and over again these minor details that are held against her.

That scrutiny is too often on that victim, and that gives the impression to her that she did something wrong. It also gives the impression to the public that she's not telling the truth. It also gives the impression to the public in general that this is something that is not a real problem that's occurring.

I think the way the system is right now attuned to scrutiny on survivors, as opposed to looking at the actions of the offender, has really clouded the reality of what victims are experiencing.

The Chair (Ms. Daiene Vernile): Thank you. Our next question for you is from MPP Sattler.

Ms. Peggy Sattler: Thank you very much for the presentation. We have heard from other presenters that there is really no consistency across sexual assault centres in the province; that each sexual assault centre, really, is kind of its own entity. You talked about your interest in seeing what's coming down the pipe in terms of stable funding for this sector.

Do you think the way it's structured now is working well, that it is the appropriate model that each community develops its own unique support system, or do you have any recommendations about how to administer that funding for community-based agencies?

Ms. Nicole Pietsch: To be clear, I'm just speaking on behalf of the Ministry of the Attorney General sexual assault centres, the community-based. We have core funding mandated to deliver core services, so those are the same across the board. But in addition, there is some flexibility for sexual assault centres in a particular region to respond to community-based needs. For example, if I'm a rural or northern centre way off in Kenora, it might be different. I might be serving, let's say, a population of survivors where the need is a little bit different than in an urban Toronto or Kingston area. That's where some of that flexibility can occur.

I would say the majority of sexual assault centres are also community-based, being that they approach the needs of survivors by offering options, information and supportive counselling, where we start by believing the victim. There are also different community services that are more like the hospital programs or victim/witness assistance—those are different—that are attached to other institutions.

But to answer your question specifically, I think that flexibility does work because it allows regions to respond to the particular needs in their community.

The Chair (Ms. Daiene Vernile): Thank you. The final questions for you are from MPP McMahon.

Ms. Eleanor McMahon: A terrific presentation—so good that I'm having a hard time finding what question I should ask you. It was so comprehensive and well done, and, to me one, of the best articulations of some things

that we're starting to see crystallize here. My colleagues have referenced some of them.

I'm going to make an observation quickly, and then ask you a question, if I may, because our time is short, unfortunately. My observation is that the justice system, if you will, feels like it's maybe not serving victims of sexual assault terribly well. Consequently, there are barriers to reporting, so not many—I'm going to say "women," but there are men in there too—victims come forward. The justice system may not be serving our victims very well.

Further, you seemed to indicate—and I could be wrong; I may have misheard you, and I don't doubt this, by the way—that the way that these resources are allocated is towards the people who actually choose to report and go through the justice system piece, whereas most don't. It feels like a chicken and egg. Where do we begin to unpack that? The rape shield law, I thought, would have cured some of the ills in the system in terms of women feeling safe and not being scrutinized about what they wore or said.

Anyway, I've said a lot. Can you help us figure out how the justice system could serve the broader system and how the justice system can serve victims better? Because it doesn't seem to be doing what we need it to do, does it?

Ms. Nicole Pietsch: Yes, and I will add, just based on your question: Some of it is that survivors don't report because they fear it not moving forward or that just may not be where they see their recovery. Some people just choose not to because they don't want to; some choose not to because of the barriers. For example, in the anecdote I shared in the beginning—there are a lot of people who report, and it just doesn't go anywhere, not because professionals are not believing that person but because they know that the current system does not have the teeth to progress it and see a conviction.

Ms. Eleanor McMahon: How do we change that?

Ms. Nicole Pietsch: There are a number of different issues at play there, so I don't have one answer.

How can they serve better? I think that definitely hearing the complexities of these cases and unpacking how sexual violence is actually happening—and it's not just clear-cut, like one forcible rape or a stranger who comes out of the darkness. In fact, that would be an easier case to convict, because it's a stranger. I think a better understanding of how sexual assault is actually occurring in the lives of people in Ontario communities, as a start, will inform systems to have greater capacity to be able to articulate how this fits the laws, because I think that things like rape shield laws and the way it's written in policy are actually quite strong in a lot of ways. But when you apply it, all these kinds of myths and misrepresentations of what sexual assault actually looks like in people's lives—those components are not being conveyed from the actual policy into practice.

Some of the information that's going into the new action plan aims to look into training or mentoring folks in the criminal justice system to have better strength or

capacity to articulate some of those complexities, and I think that's a really good start. I think having more information about being able to articulate what sexual violence is and the complexity of that definition—it's there in the law, but in people's understanding, it's not.

The Chair (Ms. Daiene Vernile): I thank you very much for informing this committee of your important work today. We invite you to join our audience if you wish to.

Ms. Nicole Pietsch: Thank you.

MS. JENNY TANG

The Chair (Ms. Daiene Vernile): I would call on our next presenter to come forward, and that is Jenny Tang. Welcome.

Ms. Jenny Tang: Thank you.

The Chair (Ms. Daiene Vernile): Please make yourself comfortable. You will have 15 minutes to address our committee and then they will ask you some questions. Begin by stating your name and begin any time.

Ms. Jenny Tang: Before I start, just to let you know some information: For 10 years at work I never even talked in section meetings, so it's kind of scary for me.

Ms. Eleanor McMahon: You're among friends.

Ms. Jenny Tang: Thank you.

Ms. Eleanor McMahon: Take a deep breath.

Interjection: Take your time.

Ms. Jenny Tang: Thank you very much. My name is Jenny Tang, and I'm an IT professional. I would like to thank you for the privilege to speak at this hearing. The action plan showed that it's a widespread problem that victims do not report. In fact, it's a worldwide problem.

Last month, Australia surgeon Gabrielle McMullin said that women in medicine would progress further if they complied with unwanted sexual advances instead of reporting them. Her comment was to stress that reporting sexual harassment was fraught with difficulty.

On April 4, I read a story in Business Standard news. The title was "Tell and Suffer." Tell and suffer is also my own experience since 2008, but this presentation is not about me; it's about my research in the last five years on why victims of sexual harassment at work do not report and what happens after a complaint is made. I will show you that there are nine possible steps to take, but none of them really work.

My research focused on unionized workplaces. In a unionized workplace, the reporting and complaints have their own set of unique complications. Here are the steps available:

Step 1: The victim complains to a manager or HR. I did not understand in 2010 why company authorities ignored my complaint and intensified harassment. Two years later, union lawyers told me it was common that companies do not investigate when a complainant is on sick leave. Making victims sick enough to go on leave is the easiest way to avoid investigation.

1630

My personal experience: After my complaint, my manager forced me to increase contact with the harasser

by transferring him to my worksite so we could work one-on-one and in person. No one responded to my complaint or plea, but watched me be crushed, hospitalized, and take sick leave.

Suggested changes:

- close the sick leave loophole. Make it criminal if intentionally causing bodily harm;

- define “institutional sexual harassment,” if participated in by HR management and the union;

- HR-independent investigation and training on victim protection.

Step 2: Victim complains to union if HR and management show a lack of action. Union policy is not to get involved in member-against-member harassment, period.

Personal experience: The union ignored my complaint in 2010 for member-against-member and watched me become disabled. Two years later, I kept on fighting. It was intimidating that the same union head repeatedly sent emails of sexual cartoons and video clippings to me. Cartoon captions included:

- “I have PMS and GPS ... which means I’m a bitch and I will find you”;

- “... a new bra for middle-aged women. They’ve called it ‘The sheepdog,’ as it rounds them up and points them in the right direction”;

- “She’s old, but not dead!” A scantily dressed woman went to a Holiday Inn when she met a nude young prince.

I complained about these emails to both the union and HR. No one responded.

Suggested changes:

- sweeping changes to this discriminatory policy;

- sexual harassment is twice more frequent by co-workers than by a manager. The union’s member-against-member policy tolerates the majority of sexual harassment cases.

Step 3: Union grievance. If the union can’t get a quick resolution with the employer, then a grievance likely will be filed. Unmanageable workloads prevent quality assurance. My union local of 300 members had 295 active grievances in 2012.

If a grievance leads to arbitration, it’s a settlement between the employer and the union. There is no guarantee that the victim will be heard. Harassers are not in the process, thus transgression behaviour is not dealt with. The union’s transgression cannot be arbitrated because the union doesn’t fight with the union themselves. Victims lose their jobs. Harassers keep their jobs. A gag order silences the victim.

Personal experience: The union’s conflict of interest is devastating. Victims have nowhere to go, especially if they missed the one-year limitation for the Human Rights Tribunal.

Suggested changes:

- a labour arbitrator to allow the victim’s voice to be heard;

- the company must redress sexual harassment to deter repeating. Monetary settlement is not a licence for future transgressions;

- a gag order in exchange for settlement is not legally required; labour arbitrators should discourage it.

Step 4: Victim complains to company’s joint health and safety committee, as OHSA indicated. JHSC has two parts of representation, for the employer and the labour. Both sides are employees who have conflicts of interest to protect their own careers.

Personal experience: HR assigned my manager, involved in sexual harassment, to represent the employer. The union director, who sent me sexual harassment emails, had been representing the labour side all along. Their conflict of interest failed to reach an earlier resolution for years.

Step 5: Victims call the Minister of Labour to escalate. OHSA enforcement diminishes over the years. In 2011, I called the Minister of Labour. They dispatched an inspector for “ineffective procedure” when the employer failed to follow.

In 2013, they dispatched an inspector only for “incomplete procedure” and if the procedure was not posted on the wall.

In early 2014, the Minister of Labour no longer dealt with “incomplete procedure.”

Step 6: Civil litigation when Minister of Labour is not involved. Civil litigation is not available to union members, who can only grieve. Ontario has 24 labour-specialist lawyers. Most of them work only for employers, and the union hires some of them. None of the specialists will take individuals for labour cases, even for consultation. The vast majority of non-specialist lawyers will not take a unionized employee as a client, because there is very little they could do.

Step 7: Victims file human rights complaints when everything else fails. If the one-year limitation is missed, then there is no case. The process is complicated for self-representation, to master the 35 pages of rules.

Personal experience: I missed the one-year limitation after I was hospitalized twice in 2010. But I went to the tribunal in 2014, after the union sent the sexual harassment emails and the employer failed again to investigate.

Suggested change:

- Workplace sexual harassment is foremost a workplace problem. The Minister of Labour encourages company internal resolution. By the same token, the Minister of Labour should first handle it in its own jurisdiction before passing it to the Human Rights Tribunal.

Step 8: Victim complaint to the Ontario Labour Relations Board. The OLRB does not deal with sexual harassment. The OLRB deals with retaliation against those who reported OHSA violations. The service is not well known and should be promoted at workplaces.

Step 9: Injured victims make claims to WSIB. Sexual harassment risks workplace health and safety, but sexual harassment injuries are not covered by WSIB.

Personal experience: The Ontario Human Rights Commission says employers “violate the code if they authorize, condone, adopt or ratify behaviour that is contrary to the code.”

The WSIB trivialized the employer's violation as "lack of support from management," and the injuries caused by sexual harassment as being "upsetting."

Lack of understanding and lack of insight by government agencies humiliates victims. It discourages victims from coming forward.

Suggested change:

—Training on human rights violations and victim sensitivity.

—Change WSIB coverage policy of occupational injury due to sexual harassment, especially institutional sexual harassment.

Summary: Coin the term "institutional sexual harassment" participated in by corporate management, HR and the union. Legal consequence of institutional sexual harassment ensures complainant safety.

The role of business and business associations: Dealing with complaints might impact the bottom line in the short term, but the complainant is not a troublemaker to be punished and eliminated. This is especially true when the culprit is company-powerful or a star performer. The Ghomeshi case illustrates this.

Attachment 6 shows how CAMH promotes mental health to business. A marketing approach might help in our case.

Businesses are not taking sexual harassment seriously. I did a comparison of awareness of disability issues versus sexual harassment by searching on two business association websites. In both cases, I searched on "disability" and got higher returns than a search on "harass." On the Canadian Council of Chief Executives website, a search for "harass" had no return.

Role of brain medicine for policy change: The Minister of Labour defines that occupational hazards are "safety hazards that cause accidents that physically injure workers, and health hazards which result in the development of disease."

Prominent scientists have established that the brain is the organ of the mind; thus, sexual harassment that causes mental injuries damages the physical brain, and "all disorders of mental functioning are biological diseases."

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Six month ago, Sunnybrook hospital's psychiatry department became part of its brain medicine centre. The chief of psychiatry expressed the same view as above, that sexual harassment as a source of brain injuries and brain disease are occupational hazards.

The role of the Minister of Labour: Currently, the Minister of Labour can deal with a sprained wrist effectively but not deal with sexual harassment. A robust, expeditious and cost-effective mechanism exists for workplace hazards. Once institutional sexual harassment is added to the list of occupational hazards, the Minister of Labour can deter many cases of sexual harassment.

The role of legal cost for going to the Human Rights Tribunal: Self-representation at a human rights tribunal is impossible for brain-injured victims, but the cost of legal representation is prohibitive when income is reduced. In

addition, the victim, the applicant, pays legal costs out of pocket; while the corporation covers the legal cost for the harassers, the respondents. It is also a business expense for employers; therefore, it's tax-deductible.

The role of union policy: Unions believe that it's their legal duty to protect a member from an employer's discipline while it's only a moral duty to protect victims. Recently, an encouraging sign emerged: A handful of Canadian unions posted their policies on the Internet including that a union's legal duty is to ensure an employer provides a harassment-free environment.

The Chair (Ms. Daiene Vernile): Ms. Tang, you have one minute left.

Ms. Jenny Tang: Okay. The US is ahead of us on changing the member-to-member harassment policy. Training workshops on this came out over a year ago.

The role of training: Training for employers and employees has had five years to happen since Bill 168. The grace period is longer than what's needed for getting a bachelor's degree. It's time to hold corporate perpetrators accountable. The action plan pointed out to train first-line staff, which should include staff in the Ministry of Labour, its labour arbitrators, the Ontario Labour Relations Board, the WSIB and the union's policy-makers. Also, train high school and university students by extending workplace sexual harassment training to students through a sex education curriculum.

As a mother of a young employee, I know how vulnerable student employees are. They are inexperienced and new to employment relations. Their chances to be picked on are high, as a casual employee poses the least threat of fighting back.

Lastly, a plea to this committee: Do not back down from protecting and supporting those who report sexual harassment. Five years ago, Bill 168 encouraged reporting, so many did. I was one of them.

Later, the Minister of Labour posted on a website that, "Inspectors cannot ... order an employer to deal with an individual case of workplace harassment." This left complainants out in the cold to fend for themselves. On January 3, 2014, I objected to the Web contents and emailed: "By doing so" they "effectively made the workplace less safe ... because whoever ... stood up to harassment ... brought" themselves serious consequence to "their health and livelihood."

Please do not allow this to happen again—for our confidence to continue coming forward.

Thank you to all committee members for leading this life-saving change to happen. Also, a special thank you to Premier Wynne and the Chairs of this committee, MPP Vernile and MPP Scott, for their great courage. Thank you.

The Chair (Ms. Daiene Vernile): Thank you very much. We have time for one question from each caucus. We begin with MPP Sattler.

Ms. Peggy Sattler: Thank you so much. I hope that something positive does come out of this horrific experience for you. You've obviously done a great deal of research, which should help us move forward so that

other women don't go through the same kind of experiences you've had.

I had a question about your very first recommendation, about creating a category of "institutional sexual harassment." Why do you feel that those particular words—why that label?

Ms. Jenny Tang: Okay. I think it came out—I find it's so much worse when you are grabbed or are being rubbed on your back when HR doesn't support you, and they ignore your complaint and won't support it; and the management, who's so actively involved in sexual harassment, kept on doing it—it's devastating. It's so much more serious not only to us, the victims, but it also demonstrates to the people there, "Don't come out."

Ms. Peggy Sattler: So the only thing you're currently able to report is harassment? What are you currently—what category of—

Ms. Jenny Tang: Sexual harassment.

Ms. Peggy Sattler: Sexual harassment. But you would like it to be specifically institutional sexual harassment.

Ms. Jenny Tang: It's institutional because there is a level, there is a degree higher and more devastating than just sexual harassment.

Ms. Peggy Sattler: I see. Okay.

The Chair (Ms. Daiene Vernile): Thank you very much. Our next question for you is from MPP McMahon.

Ms. Eleanor McMahon: Thank you for coming here today. You did very well. I'm very proud of you.

Ms. Jenny Tang: Thank you.

Ms. Eleanor McMahon: Congratulations for coming forward. It must have taken a great deal of courage.

I'd like to echo my colleague and say how comprehensive your recommendations are. I had a quick question about one of them, if I may? I think it was number 3:

"Suggested changes:

"—a labour arbitrator to allow the victim's voice to be heard." Can you expand on that a bit?

Ms. Jenny Tang: Okay. Labour arbitration is a process between the employer and the union. They write legal a document, exchange and see the descriptions, and the arbitrator arbitrates. The victim actually is not allowed to talk in that case. You can always request, but whether you are allowed or not is not certain. It's not certain.

My union already told me, "We don't arbitrate the union's affairs." So they can put anything in, but my say doesn't matter.

Ms. Eleanor McMahon: Thank you.

The Chair (Ms. Daiene Vernile): Thank you very much. Our final question for you is from MPP Scott.

Ms. Laurie Scott: Thank you very much for coming forward today. You did an enormous amount of work and you were extremely thorough in your recommendations.

Can I just ask, in your case, where did you end up going? Did you get any help from either outside an organization or something resolved anywhere?

Ms. Jenny Tang: I tried to go to human rights, and it's one year past, so there's no case.

Ms. Laurie Scott: I see.

Ms. Jenny Tang: And then it just happened that the union sent me the fourth-last email, and then I said, "Ha ha, I've got it." So I went to human rights, which was good. But then there's no progress on the arbitration side. Human rights informed them that we have a case here, then the union comes and says, "We have an active arbitration, so defer that human rights case," which is fine. Now I'm at the arbitration level and the union said, "We never deal with union problems so we don't arbitrate on that."

I'm trying to go back to human rights on that portion, but I might not have a chance, number one. Number two, the arbitration date is set so far away, it's almost one and a half years from when I filed. By then, the union perpetrator is going to retire. He is, "Ha ha, no case. I'm gone."

It's extremely manipulative. They're playing games all the time. But they never met anyone as crazy as I am, who just kept going after them. But I don't know if human rights will take me because I already had a deferral.

The Chair (Ms. Daiene Vernile): Ms. Tang, we want to thank you very much for coming and sharing your experiences with us.

Ms. Jenny Tang: Thank you very much.

The Chair (Ms. Daiene Vernile): We invite you to join our audience, if you wish to, for the following proceedings.

MS. ELAINE FLIS

The Chair (Ms. Daiene Vernile): I would call on our next witness, and that is Elaine Flis. Please come forward. Ms. Flis, you will have 15 minutes to address this committee. That will be followed by questions. Begin by stating your name and continue after that.

Ms. Elaine Flis: Well, thank you very much. My name is Elaine Flis and it's my pleasure to be here today. I'm a little bit nervous, so we'll see how this goes. I'm going to tell you a little bit about my personal story and then some recommendations that I have; then hopefully, we'll be able to discuss some in the Q&A.

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I'd like to begin by thanking all parties of the Legislature for striking this important committee, and to thank you for inviting me to speak today.

The recent government ads asking "Who will you help?" really struck a chord with me, in particular the first vignette, where a girl is virtually passed out but the guys are poised to make an unwanted sexual move on her.

That happened to me. In early 2000, I was at a gathering, and we were all having a great time. The night was coming to an end, and I was left with one other person—this is where it's going to get hard. He took me home and, before I knew it, forced himself on me. He is a man of great wealth and is a public figure. Who was I but a dumb girl who had too much to drink and let him into my place?

I realize now, many years later, that what happened was wrong and I wasn't a dumb girl. It wasn't sex. It wasn't sexual assault. It was rape. It didn't matter what I was wearing or what I was drinking, who he was or that I let him into my place; there was no consent.

This changed the course of my life forever. In my mind I had two choices to make: (1) Call a friend for help, or (2) forget the incident ever happened. I had a flight in three hours to DC for business, and if I cancelled everybody would know what happened. It was, after all, my fault, and the man in question was very powerful, or so I thought. He even had the audacity to take a shower afterwards so his wife wouldn't notice, while I sat paralyzed on my couch.

I decided to leave on that plane to DC and forget what happened. About three years later, I went into a severe depression and I couldn't stop crying. For two weeks I lay on my couch remembering what happened to me that evening. I wanted to kill myself. I had nowhere to turn and I didn't know what to do. The awareness wasn't there at the time, and shows like *Law and Order: Special Victims Unit* didn't even exist—because I would have picked up on that one.

I eventually told a friend, and then, what felt like my never-ending quest for help began. I phoned Women's College Hospital's rape crisis line. Apparently I wasn't in crisis, though, so there was a one-and-a-half-year wait to see someone. Everywhere I called, there was a waiting period.

My friend directed me to his therapist, who took me on as a favour to him, and I started to get counselling at a cost of approximately \$80 per session. I used to see her once a week for a number of years, and I estimate that my total bill was approximately \$40,000. After six months, I also got in to see a psychiatrist who diagnosed me with post-traumatic stress disorder as a result of the rape. I see her once a month for medication management.

There was a period where I couldn't really work, and I experienced first-hand what it might be like for someone with no family or no close friends to rely on. My family supported me so I wouldn't lose my housing, and my psychotherapist saw me for almost three years, deferring my fees to be paid at a later date.

A couple of years ago, after coming to terms with what happened and feeling stronger and more confident about myself, I wanted to seek remedy through our justice system. That, however, was not an option. The statute of limitations had passed and, in the event of civil proceedings, the man in question is a multi-millionaire and would eat me alive in a court of law. I also learned he could turn around and sue me for defamation of character. I was strongly advised against taking legal action for these reasons, and some other reasons as well.

In a nutshell, this is my story. As a result of my experience, I have a myriad of recommendations I'd like to make, but I humbly put forward four recommendations for your consideration.

One of them—and I'm not sure where this lies, because I do believe some recent changes may have been

made—is to eliminate all statutes of limitations on rape cases. It can take someone years to come to terms with what happened to them, or to even have it reach the surface if they bury it deep in their psyche and are suffering from post-traumatic stress disorder. There must be an opportunity to seek justice. Just because 15 or 20 years pass, it doesn't make the event less real or less impactful. It may just mean that that person needed the time to get the medical help, the psychotherapy and the tools in place to actually be strong enough to talk about what I'm talking about today.

I understand that our province is under great financial constraint, but I do put this one forward for your consideration, and that is, to add psychotherapy to the list of services covered under OHIP. How that would work, I unfortunately don't know exactly, because I'm not sure if there is a college of psychotherapists, or how that would work in practice. Many people cannot afford psychotherapy, but it's critical to one's recovery from a traumatic incident. I can realistically say that it saved not only my life but also my relations with my friends and family, because they were really being torn apart when I didn't know what was going on and I was in the height of my PTSD. If it weren't for psychotherapy, for me, suicide was a legitimate option, and I in fact did try to commit suicide but, thankfully, was unsuccessful.

The third recommendation I have is to eliminate the pre-existing condition exemption for insurance companies. This one comes out of left field a little bit. When I wasn't able to work, I wanted to get supplemental health insurance to cover the medications that I was on. Because I was diagnosed with post-traumatic stress disorder, a pre-existing mental illness, I was denied coverage. I went to three of the major providers, who actually advertise now and say that they don't take your medication into consideration, but they still do. I had to pay cash for my medication, sometimes as high as \$2,000 a month, but thanks to my parents, I was able to do that.

Finally—this is a pie in the sky—improve upon the wait times to see a psychiatrist and/or psychotherapist. While people are waiting to seek help, they may be contemplating suicide. With nowhere to turn, one feels ashamed, feels guilty, has intense anger and can't sleep. I felt it was my fault for the longest time. The list goes on.

I'd like to conclude by thanking the committee for your time and for listening to my story, and for your consideration of my recommendations. I realize the financial constraints the government is under, but I feel that the recommendations I've put forward would save money in the long term and, most importantly, would save and transform lives.

Thank you very much.

The Chair (Ms. Daiene Vernile): Thank you very much, Ms. Flis. Our first question for you is from MPP McGarry.

Mrs. Kathryn McGarry: Thank you. I can't tell you how helpful your story and your very well-thought-out and eloquent recommendations are to this committee. We need folks like yourself to come forward with these stories so that we know where the gaps are in the system.

You've made some great recommendations. The one I think I'm going to focus on today is the legal system.

Ms. Elaine Flis: Yes.

Mrs. Kathryn McGarry: Can you expand a little bit more, from your experience, about recommendations we can do in our legal system? That's from first reporting, right through to conviction. I'm trying to get a handle on what we need to do.

Ms. Elaine Flis: Sure, I'd be happy to. I can just tell you about my experience, which was going to a lawyer who was recommended to me. I sat down with them and told them my story. Then he went back and did some research, and then called me in about a week later. The person in question is someone with profile. He has experience dealing with these types of cases, so he wanted to look at all of the options.

One of the options was my mental state. One of the barriers that I faced—he did say that there was a statute of limitations at the time that I went to him. I don't recall offhand what the amount of years was. He said that there's an exception to the statute, and the exception is if you have a mental health disorder or if you suffer from a mental illness.

He said, "Oh. Well, maybe we can actually make this work, because you have a certified mental illness. But then you face the backlash within the justice system that, because you have a mental illness, you were more vulnerable to the attack."

They can actually use the mental illness against you, even though you're functioning, you're going through life normally, and you're seeing the proper supports and all that kind of stuff. That was, in essence, the gist of my experience with the justice system.

They then said I could go straight to the police, but because I didn't go to the police right away, there was no DNA evidence. There was no evidence. I had already moved, so there was nothing. I got rid of the couch. I got rid of everything that I could have, so there was no evidence. It would have been his word against mine.

1700

Then I also was interested in seeking civil remedy for psychotherapy bills. I kept all my bills and just wanted to get back, basically, what I had put in. That point is where I was told that this person would have the finances to hire high-powered lawyers and that they could then turn it around on me—defamation of character—but also tear me apart. They said, "With your mental health—we know it's pretty good, and you're functioning, and you're working and everything—but are you ready to go through something like that?" It's something that probably would be in the newspapers, so I thought it's probably not something that I'd want to go through. So it's a bit different in my experience.

Mrs. Kathryn McGarry: Thank you so much.

The Chair (Ms. Daiene Vernile): Our next question for you is from MPP Jones.

Ms. Sylvia Jones: Thank you for your presentation, Elaine. I have a couple of questions. You mentioned,

which is horrendous, that at Women's College, you were told there was a one-and-a-half-year wait.

Ms. Elaine Flis: A one-and-a-half-year wait, yes.

Ms. Sylvia Jones: And then, understandably, you didn't want to wait a year and a half. So you had a friend who referred you?

Ms. Elaine Flis: Yes. I had a friend who I just confided in. It turned out that he had seen a psychotherapist.

Ms. Sylvia Jones: So that was going to be my question: The professional was a psychotherapist?

Ms. Elaine Flis: Yes. He said, "Hey, do you want to see mine?" That's right.

Ms. Sylvia Jones: Okay, so first thing, I think that that recommendation to deal with those wait-lists is absolutely critical, because no one should have to wait a year and a half for that kind of service.

This question is probably more to research. To your recommendation about eliminating the statute of limitation on rape, I'm not an expert, but I'm fairly confident that there is no statute of limitation for child abuse, for example. So if we could get where there is no statute of limitation, just so we have an idea, as a committee, where it's already in place.

Ms. Elaine Flis: It would be interesting.

Ms. Sylvia Jones: Thank you for your recommendations.

The Chair (Ms. Daiene Vernile): Thank you. Our final questions for you today are from MPP Sattler.

Ms. Peggy Sattler: Thank you so much for having the courage to share your story. It really helps us understand when we hear a first-person experience like you have shared with us.

One of the things that the research says and that we've heard from other people is about not being believed. The different professionals that you came into contact with—health care professionals, legal professionals—was that your experience? Did you encounter people who doubted your story and made you feel like they did not believe you?

Ms. Elaine Flis: No. I was very fortunate when it came to the medical profession and to the different experts that I sought advice from, even the legal experts and others. They never even questioned me. They just said, "You're telling us this happened. This happened." So we were starting from there.

But I always did have a concern that perhaps friends and family and just people in the general vicinity of my circle wouldn't believe me, because I was drinking—I admit it—and I invited someone into my place. So how could that have happened?

So it's more that there was a stigma around that that I was quite concerned about. But the medical profession and legal profession, they were great.

Ms. Peggy Sattler: Okay, thank you.

The Chair (Ms. Daiene Vernile): Ms. Flis, thank you very much for coming and sharing your personal experiences with this committee. If you would like, I invite you to sit in our audience now.

Ms. Elaine Flis: Thank you.

SEXUAL ASSAULT CENTRE
(HAMILTON AND AREA)

The Chair (Ms. Daiene Vernile): I would call on our next presenters, the Sexual Assault Centre (Hamilton and Area), to come forward.

I want to warn you in advance that we've just been told that we may be facing a vote in about 15 to 20 minutes, but we want you to give your presentation. We're going to play it by ear. If you suddenly see us scrambling, if we hear bells, we're just going to recess, and then we will come back after doing that. Okay?

Ms. Lenore Lukasik-Foss: Absolutely.

The Chair (Ms. Daiene Vernile): Please begin by stating your name. You will have 15 minutes to address our committee, and then they will ask you questions, provided we're not interrupted. Begin any time.

Ms. Lenore Lukasik-Foss: Wonderful. My name is Lenore Lukasik-Foss and I'm the director of the Sexual Assault Centre. I was bringing with me someone to co-present, Amelia Herman—I was going to say “unfortunately”; a family has gone into labour, which is lovely, but it means that Amelia, who is a survivor who was going to share her story, isn't able to be here. She has written her story for me to share, so I will deliver that as well as part of the 15 minutes, and you have it in front of you. I'll make it clear when I'm delivering Amelia's presentation.

I feel absolutely honoured to be here this afternoon and to come after some amazing presentations. It was really exciting and sad to hear what the presentations were before me, so thank you so much for creating this moment to allow folks to give input.

I'd like to start by sharing some information about the organization I work with, which is the Sexual Assault Centre. It's our 40th anniversary this year. We provide support to women and men 16 and over who have experienced sexual assault at any point in their lives—and harassment, rape, incest, child sexual abuse etc.

Last year we served about 1,300 folks through our crisis line. We offered immediate information, referrals, accompaniment to hospitals and police, and were just there—supportive listening. Some 300 survivors received individual and group trauma counselling; 4,100 people received prevention education and professional development through our public education program; and about 1,900 women from diverse racial and cultural communities accessed unique services through our Diverse Communities Outreach Program.

The issue of sexual violence, including harassment, is extremely complex—and I know you've had many presentations. Today I thought I would just focus on three key points:

(1) Ensuring that survivors have quick access to high-quality, specialized trauma supports. A year-and-a-half wait is not okay. Any wait, in my opinion, is not okay, but we know that the quicker, the better;

(2) Recognizing the importance of advocacy and system navigation in supporting survivors and ending victim blaming; and

(3) Shifting the focus away from reporting issues and a criminal process to ensuring that victims are appropriately supported and sexual violence is ultimately prevented.

To begin, we are thrilled with the Ontario-wide Sexual Violence Action Plan, and we're happy that community-based sexual assault centres are acknowledged. As I mentioned in my brief introduction, the sexual assault centre that I work for is a community specialist, and we support any and all adult survivors. Working with victims of sexual violence and offering prevention education is our only focus. It's what we do 24 hours a day, seven days a week.

We absolutely need to ensure that all professionals can provide support for victims, but sexual assault and rape crisis centres house tremendous expertise. To use a medical analogy, we are the surgeons or specialists working with general practitioners in our communities. We have the experience and expertise that comes from journeying with survivors in their healing, and in offering trauma counselling, prevention education and outreach services. Community-based sexual assault centres place the voices of survivors front and centre in our work, work that must be recognized and supported.

Secondly, it's also essential that this committee understands the importance of advocacy and system navigation in supporting survivors. Our staff and volunteers spend a great deal of time helping survivors navigate very complex systems and services—for example: hospitals; family, criminal and immigration court systems; police services; housing services; social welfare supports etc. Folks come for counselling, and then we're ending up doing a lot of work navigating systems. You can see that we end up doing a lot of case management involved in our therapeutic work.

We also spend countless hours advocating and fighting for improvements to the broader system, to ensure it responds to all survivors. For example, we might lobby for systemic policy changes or improvements to the criminal court system, including police response. We speak out against victim blaming and the pervasiveness of rape culture in our communities; we know that these attitudes silence survivors and keep sexual violence really hidden.

We also work with universities and colleges to ensure that they address and prevent sexual violence on campus. And I know our centre worked with our local city planners, so we were ensuring that in disaster planning they were responding to and anticipating the spike in domestic and sexual violence that happens after things such as hurricanes etc. These are just a few examples of the kinds of change work that we're involved in.

1710

What's really important to note is that sexual assault centres and other community-based organizations are not a part of the systems that we are critiquing. This is really important. We hear from our community partners; they'll phone me up quietly. They work in large institutions, and they're unable to speak out or take action. The independ-

ence of community-based organizations really ensures that the voices of survivors and the many struggles they face within really well-meaning systems are heard and that action is taken to correct unjust practices.

Finally, in order to really address sexual violence, we must shift the focus away from reporting and criminal responses. I'm not going to go through the statistics; my colleagues have mentioned that.

There's a fabulous infographic that I've included in your presentation, from YWCA Canada. It's amazing because it points out that out of every 1,000 sexual assaults, 33 are reported, 29 are recorded as a crime, only 12 times would charges be laid, and three lead to conviction. That's shocking.

As a society, we are overwhelmingly fixated on increasing sexual assault reporting, and we use a survivor's willingness or lack thereof to report as a means to measure the truth of her claim. But a criminal court response won't necessarily increase support to victims. Our current system is rife with problems that don't make reporting an automatically useful or supportive method for dealing with sexual violence.

In addition, prevention education and public education on sexual violence must be prioritized. Public education promotes a focus on prevention as opposed to catching and imprisoning offenders. We believe that education on sexual violence goes a long way towards the prevention of this serious social issue. It offers innovative ways to challenge sexual violence myths and victim blaming. It creates skill-building opportunities for professionals so that they can appropriately respond to survivors. It delivers programs for bystanders to assist them in recognizing and responding to sexual violence. Today, many organizations—sexual assault centres, the centre for research on violence, and the Learning Network—are doing innovative work on training professionals and the public.

I'd now like to turn things over to Amelia Herman's submission. Amelia is a graduate of small business and entrepreneurship, with experience as a community advocate in both voluntary and professional settings. She is a survivor of sexual violence with roots in both Oxford county and Hamilton. Amelia has been a service user at SACHA, as well as a volunteer since 2011. Amelia has written to share her story though she could not be present with us today.

"I would like to first thank members of the committee and all others in attendance today for your interest and participation, as well as your devotion to ending sexual violence and harassment, and gender-based violence in general. Please know that I understand my experiences to be my own, and though these experiences are certainly reflective of the sexual violence and harassment that others have faced, my perspective is that of a person with certain 'unearned privileges': My light-coloured skin tone, the fact that I do not identify as transgender, and that I am currently physically able-bodied has certainly had defining and lasting positive impacts throughout my journey as a survivor within a society that demonstrates

strong preferences for individuals who exhibit these characteristics. I encourage the committee, and attendees and listeners, to consider in their approaches the needs of survivors from all demographics.

"During my second year of high school, I was sexually assaulted by another student within school walls. After a couple weeks' hesitation, and with the encouragement of a friend, I made a choice to disclose my experience to a trusted teacher. It was unclear to me at the time that from the exact moment I made my disclosure, the power to choose what I would go through would not be my own. Instead, the power of choice in the matter would reside in protocol beyond what was accessible to me.

"Existing school board policy dictated the next step. My teacher was careful and informed me very gently that, unfortunately, she would have to bring this to her superiors right away. Immediately from this point, her superiors not-so-gently informed me that they would be compelled to report what they called an 'incident' to police services. Because the sexual assault took place on school property, charges would have to be laid against the offender.

"Experiencing trauma and attempting at a young age to cope, largely unsupported, with sexual assault, it was not long before my troubles were exacerbated by stressful legal meetings in uncomfortable settings. Alone, I would meet with a detective with whom I had never previously built trust, interact with officers whose names I was not given, and finally end up in a courtroom where a trial, led by men I did not know, would somehow bring about what society often refers to as justice. My experiences were not driven by my needs for support, but, rather, by the needs of systems that sought to prioritize punishing lawbreakers.

"Based on the excellent encouragement I received many years later from SACHA, I have been able to look back on my high school experience and see a mirror opposite of the healthful, empowering support I received as an adult.

"Questioning posed to me in the courtroom included the trope inquisition regarding the misguided belief that sexual assault may have been warranted as a result of any provocation of the offender. I was asked for a description of my clothing at the time of my assault. Had I dressed or behaved in ways that were presumed to be provocative—a highly ambiguous concept in itself—the court may have seen it reasonable to blame me, the victim of assault, for the offender's choices.

"Volunteers and staff of sexual assault/rape crisis centres and community organizations have dedicated countless hours to correcting this perception. Today, as a result of this work, we are well aware that the notion of a victim being to blame for an offender's behaviour is mythical and erroneous.

"Throughout the early stages of my experiences with education professionals within my high school, communication and support were feeble and insubstantial. My feelings were not validated; options were not available or respected; and praise for the courage it took me at this age to come forward was scarce.

“Today, community specialists know that the skills to truly and adequately support survivors are not innate, nor do they materialize out of good intentions. Sexual assault centre experts must themselves be supported and empowered so that skill-building opportunities can be shared more widely, and more professionals and workers alike can become increasingly enabled to respond appropriately and supportively for survivors in need.

“A key element of the negativity I lived through in high school was the resultant tension that grew between my best friend and I, following my assault—we soon stopped speaking entirely. My best friend was a bystander and witness of my assault, and had to be subpoenaed into the courtroom proceedings. With little education, and no training or support, he too lacked the empowerment and resources to recognize and respond to assault in ways that may have prevented the trauma I experienced.

“Present-day innovative bystander programming and training developed and delivered by sexual assault centres can provide much-needed resources and information for countless individuals who will certainly, within their lifetimes, witness harmful attitudes, endangering behaviours, and ultimately sexual violence. Proactive learning techniques and prevention education will encourage Ontarians to assist in ending the prevalence of sexual violence and harassment.

“Without appropriate, adequate and secure funding for organizations like SACHA, few of today’s outstanding support services for survivors would be possible. Over a decade after my assault, SACHA allowed me the opportunity to become accountable to myself and to take power in making my own choices in healing from the trauma of assault and abuse. Sexual assault centres take the courageous and demanding roles of being both the beacons of survivor empowerment as well projectors of survivor voices. To advocate on behalf of the myriad survivor needs and experiences throughout the province, centres must continue to operate with the independence that allows for the continual improvement and correction of policies, practices and laws across Ontario.

“Community experts working and volunteering throughout Ontario’s 41 anglophone and francophone sexual assault centres lead the way in empowering survivors’ voices and livelihoods through the recognition, support and funding granted by the province. It is imperative to the well-being of survivors and for the termination of sexual assault and harassment that these resources become permanently integrated into our understandings.”

Thank you.

The Chair (Ms. Daiene Vernile): Thank you very much. The first question for you comes from our PC caucus.

Just a reminder to our committee that we are shortly facing a bell—so very concise questions.

Ms. Laurie Scott: Thank you very much—a very eloquent presentation, both people speaking. You did a great job.

Ms. Lenore Lukasik-Foss: Thank you.

Ms. Laurie Scott: It has been brought up a lot throughout our committees that the court system isn’t—my colleague’s earlier phrase “restorative justice”—we just throw that out there as to say that the perpetrators do have to be penalized at some point. The survivors, the victims, have to be dealt with in an appropriate fashion, too. Do you have any guidance just in that narrow field, because we don’t have much time for questions?

Ms. Lenore Lukasik-Foss: Yes. I’ve worked in this field for about 25 years, domestic and sexual violence. What I would really say is that the criminal court system is not going to end this problem. We need to spend an appropriate amount of time, energy and resources to fix the system, but survivors mostly don’t want to enter it. What I would see, even if we had a stellar, gold-star system, is survivors are going to choose not to enter it because your private life is laid bare publicly in a most sensitive and intimate way, dealing with sexual violence and trauma.

I think we need to fix the system, absolutely, looking at alternative ways, but restorative justice means that a perpetrator has to acknowledge that he was a perpetrator, which we know doesn’t happen, and the convictions and the idea of someone coming forward and saying, “Yes, I raped that person,” doesn’t happen.

So I think, culturally, what I’d like to see is a focus on prevention education and bystanders because I think that’s where we can get traction. We can prevent sexual violence, end it and send messages to young men and women to be able to intervene, if they see something happening, to prevent it.

For me, my energies are going there. I think the criminal system has lots of work to do, but I think survivors are asking us to have alternatives.

The Chair (Ms. Daiene Vernile): Thank you very much. A question now from MPP Sattler.

Ms. Peggy Sattler: Thank you so much for coming and delivering that two-part presentation. I was really struck by Amelia’s experience in the school system. I was a school board trustee myself for 13 years, and I see all of the great work that’s done. We had the Fourth R, about healthy relationships and all that curriculum focus, but I didn’t think about the education that’s needed for teachers. Is this a focus of your work? I know you talked about 4,100 people who have received education and professional development. Are teachers a focus of the PD that you provide?

Ms. Lenore Lukasik-Foss: Unfortunately, our public education program is a four-day-a-week program—a four-day-a-week staff member—and it’s simply reactive. We don’t advertise; she can’t keep up with the requests. So we will, if teachers ask us for their professional development. We spend a lot of time in grade 9 health class with boys, talking about consent and other things, which is fabulous. So, please, keep prevention education funded.

But know there’s so much work that needs to be done to support teachers. Amelia would like to see that policy change so that young people in schools, if they disclose

to teachers, don't have to have police involved if they don't want to. She didn't want to go through the court system, and it was traumatic.

Ms. Peggy Sattler: Yes, because a teacher would be an automatic, trusted adult that a young woman or man might want to disclose to.

Ms. Lenore Lukasik-Foss: Yes, and in Amelia's case, that's what happened. She didn't realize that it was out of her hands then.

Ms. Peggy Sattler: Right. Okay.

The Chair (Ms. Daiene Vernile): We have a final question for you from MPP Malhi.

Ms. Harinder Malhi: Hi, how are you? I understand that you have membership to the minister's round table, which is an initiative of the action plan. Would you be able to comment on how you feel about the round table and the action plan?

Ms. Lenore Lukasik-Foss: I'm there in a different hat. I'm there through the Ontario Coalition of Rape Crisis Centres and not as my sexual assault centre, but it obviously intersects. I'm really excited about the round table. I'm hopeful. For me, we'll see—the details is always where things are truly what we'll see what's happening. But I have never seen this happen in all my career, this kind of attention to sexual violence. It feels like a moment in time and I really hope we can seize it.

The Chair (Ms. Daiene Vernile): Thank you very much. You may have noticed that the lights are flashing and we can hear the bells. Members, we stand adjourned. Please come back when we're done. We're in recess. Thank you.

The committee recessed from 1724 to 1743.

The Chair (Ms. Daiene Vernile): The Select Committee on Sexual Violence and Harassment will now continue. Welcome back, everyone.

MS. MARYANN BRADSHAW

The Chair (Ms. Daiene Vernile): I would like to call forward our final presenter for this afternoon, MaryAnn Bradshaw. Please have a seat. Make yourself comfortable. You will have 15 minutes to address our committee, and following that, we will put some questions to you.

Begin by stating your name, and begin your presentation any time after that.

Ms. MaryAnn Bradshaw: Thank you for having me. My name is MaryAnn Bradshaw. My presentation is more anecdotal than factual, simply because I am the mother of two disabled children. I was originally going to present three anecdotes, but this is on sexual harassment, not just harassment and abuse. This is based on my own experience with attempting to obtain appropriate and adequate health care for my children.

The third story was told to me by my neighbour, who has cancer, and his experience with the police. I don't know if that's appropriate for this committee, but we can discuss that after the other two.

I am the mother of two children. Both have disabilities. My older child was born with high-end Asperger's

and other mental health problems. The younger one contracted a virus that compromised his immune system, his CNS, and his pancreas when he was only 10.

My older son acted out and was difficult to influence or sway. It was difficult to sway his impulses, which were destructive to property and to others. The so-called experts—a teacher, a social worker and a police officer—strongly suggested that I make my older son responsible for his actions by having him charged with damages and put in jail. I firmly believe that an emotionally or mentally impaired child will not learn any lesson in jail, except how to better damage society, an action that can begin revolving-door actions that will land him back in jail.

It is my experience that an angry child will act out in ways that will get him into more trouble. I spent two years going through the system here, only to find that there was nothing adequate or appropriate for my son's needs. I could not afford private care for him, and OHIP does not cover private care within Ontario. I was forced to find a placement that was suitable outside of the province.

While my son was being treated at London Psychiatric Hospital, now St. Joseph's mental health care, on a locked ward for youth, the hospital had a four-month program that was failing him. The hospital wanted to discharge him to a schizophrenic community. He's not schizophrenic. He would have been lost. Because he was over 16, the system would have abandoned him. It's my contention that he would have ended up in jail. The hospital kept him at my insistence but set him up to be charged with fourth-degree sexual assault.

The ward had a practice of what they called "hugs." Before bed, the staff would have the patients hug each other. This is not a good idea for any institution dealing with raging hormones mixed with dubious behaviour.

My son liked one of the female patients and chose to hug her and to dip her at the encouragement of hospital staff. I was informed by the police officer that she would cry, get angry and beg him to stop, but the staff kept encouraging him. For weeks, they laughed about the ordeal. I was told that the staff did not like the girl and they were attempting to get my son out their charge.

The young woman, who, unknown to my son, had been violently raped before being locked on the juvenile ward in London, informed the staff that if they did not stop my son's advances, she would have them charged. No one informed me of any of this until a police officer called to let me know that my son was being charged with fourth-degree sexual assault and that he would be going to court.

I had visited the hospital on several occasions before this and was always present at family therapy. No one mentioned any of this to me. The hospital gave the excuse that my son was 16 and that didn't require me knowing about this, even though he had signed two form 14s to allow me to remain informed of his actions or of any problems that might be encountered.

The police officer wanted to know why my son was allowed such freedom in such a place. I informed him

that neither the hospital nor my son had kept me informed of any of the behaviour problems. We—my son and myself—went to court three times. The last time, I was allowed to speak. My question to the court was that since my son's actions took place with the sanction, encouragement and approval of the staff, and that the staff had made certain that the girl would be harassed and that my son would be charged, and that all of this took place in public on a locked ward, then why was the hospital not being charged with negligence and encouraging a minor to commit a crime? The lawyers went into a scum. They decided to reduce the charge from fourth-degree sexual assault to common assault and had my son put on 12 months' probation.

It was only after all of this that I was told by the hospital's patient advocacy office that four of the staff members on my son's ward were charged with physical and sexual abuse of their charges. Two went to jail and two had to find other employment. One of the nurses, a man who went to jail, was my son's primary, who also had military training.

My son was getting worse while under the care of this provincial institution, and I had no way of knowing why unless he told me. Whether it was shame or fear that kept him silent, I believe that my son was sexually abused by the psychiatric hospital staff in London, and his primary nurse and the hospital did nothing to stop the abuse.

While addressing this mess at London Psychiatric Hospital, I had been attempting to find my son adequate and appropriate help through the Ontario government. It took eight months of speaking to anyone who would listen to find the provincial children's advocate. He gave me the number of a woman whose younger child was the first child from Ontario to be treated at Yale psychiatric hospital on a ward for what was referred to as treatment-resistant children. These children have experienced so much that they're usually smarter than the therapists, or at least more clever.

1750

In 1989, Ontario funded Ontario children's mental health programs to the tune of about \$4,200 per annum per child, and blamed the parents when the therapies failed. This information came from a parent support group for children with emotional and mental health problems here in Toronto. While the funding has improved considerably in the last 25 years, Yale funded their programs \$200,000 to \$250,000 per annum per child and had a 96% success rate. My son experienced this quality of programming at Yale for two years before going to aftercare in Vermont. He improved without the drugs that the Ontario hospitals and medical practitioners were forcing on him. Yale's program only used drugs in extreme cases; otherwise, their therapies were behavioural and cognitive. CBT and DBT are relatively new to Ontario centres.

The other mother and I managed to get 11 other children to Yale before the government attempted to close the doors legislatively. We cost the government of Ontario approximately \$30 million in total. The Ontario

government then decided to allow the creation of the Offord Centre at McMaster University in Hamilton and the Aisling centre in Scarborough for children like ours and their families. Why does it take forcing the government to do its job before people are given the adequate and appropriate care that is prescribed in the mandates put out by the province?

I asked the director of the juvenile wing of London Psychiatric Hospital what he would do with \$200,000 for programming per patient. Without missing a beat, he immediately answered, "Get new staff."

Our family therapist in London was a graduate of Fanshawe College. She had to rush to keep up with us in group, and attempted to hold us to her agenda. The family therapist at Yale was a psychiatric nurse who attended Columbia University to upgrade her skills, which were already impressive. We did family therapy sessions with Yale on conference calls when we weren't there.

While much of this has little to do with personal harassment, after reading the hospital reports, the intake nurse at Yale said to bring a suitcase for my son, that the intake interview was just a formality and that I was being abused by London Psychiatric Hospital. I knew this to be true through their lack of co-operation, the attempts at intimidation by the family therapist, and the unwillingness to create a program of recovery that would allow my son to improve. This was all part of our abuse. Yale saw the truth of our family situation, even in the redacted forms that they were sent.

According to the patients' advocate whom I spoke to this past week, institutional abuse and harassment of patients in mental health hospitals throughout Ontario is still of prime concern, and that includes sexual abuse. I would think that the provincial government would have done something to protect the civil rights of the people they are supposed to be caring for. The waste of tax dollars in useless forms of treatment and overpriced pharmaceutical drugs that do more damage than good has got to stop, especially after 26 years.

Was my son sexually assaulted? I have no way of knowing for certain unless he tells me, and he's a grown man now. All medical practitioners, social workers and any people who worked with children and/or youth would ask me if I knew by who or when my son was raped, because his acting out was textbook. His Asperger's, ADHD, and OCD became the central focus of our lives, and we got pretty much no support.

At my university graduation two years ago—I went back to school—my son informed the director of my program that I was there because of him. He was not wrong. While improvements have been made, the spaces for children are still insufficient and still lacking educationally qualified help who are stable and not pedophiles. We, the parents, should not have to fight to get our children the help they need, nor should we fear the type of care our children are receiving. It's my understanding from fellow students at Ryerson that these problems still exist because children with Asperger's, children with any

of these mental health issues still do not receive the appropriate, adequate support they need, nor are the parents given the appropriate or adequate support they need in dealing with these kinds of behavioural problems.

Now, I could go on to my younger son, but I don't believe he was sexually abused in any way, shape or form. We were abused by the system and by the medical practitioners, but not in a sexual way.

The third anecdote is about one of my neighbours who was arrested because he resembled somebody who was a drug dealer in our neighbourhood, which has nothing to do with what this committee is doing here.

I am so glad this committee is here because, according to the Health Law Journal, volume 12, "In 1991, the College of Physicians and Surgeons of Ontario ... established a task force..." Their recommendations were "a policy of zero tolerance toward sexual abuse and the development of policies, procedures and educational programmes to support that position."

Unfortunately, today, we are at this committee meeting trying to do just that. From 1991 to today? I mean, that's a travesty.

The Chair (Ms. Daiene Vernile): Ms. Bradshaw, you have one minute left.

Ms. MaryAnn Bradshaw: Thank you. In conclusion, there's no enforcement, there are no statistics on patient abuse or rape from any health institution in Ontario, not at the federal level, not at the provincial level and certainly not at the hospital level. They do not keep stats on these things. We need to know—not necessarily the entire populace—but we certainly need to be able to access information that will allow this committee to do its job, to know how many children are being sexually and physically abused at the hands of health care professionals. Thank you.

The Chair (Ms. Daiene Vernile): Thank you. The first question for you is from our NDP member, Ms. Sattler.

Ms. Peggy Sattler: Thank you very much for taking the time to come to the committee and share your family's story. It would be helpful to the members of the committee if you—based on your personal experience, do you have some specific recommendations that you think would help prevent other families from going through a similar kind of experience?

Ms. MaryAnn Bradshaw: Well, statistical standings would help. I believe that if people knew the quality of care that was available on a locked ward for children, they would never put their children there, because this kind of abuse, as I said, according to the patient advocate, is systemic. There needs to be some way of weeding out people who will do this kind of heinous act towards a child, any child. This is something that I hold very dear. I believe that children should never, ever, ever be interfered with in any way. Their rights should be primary to a committee like this and to parents in general.

Solutions? Make things transparent. Educate the public as to what is available. Other than that, I'm sorry, I'm at a loss, even today.

Ms. Peggy Sattler: Okay, thank you.

The Chair (Ms. Daiene Vernile): Thank you. Our next question for you is from MPP Lalonde.

Mrs. Marie-France Lalonde: Thank you very much for being here today and sharing, I guess, from a mother to a mother, your story about the health care system that, in your view, has failed you. I'm very sorry about that.

Ms. MaryAnn Bradshaw: Thank you.

1800

Mrs. Marie-France Lalonde: Actually, I'm a social worker; I used to be. I worked at the children's hospital and children's aid society. It brings a little bit of, you know—it comes to see me, you know?

Ms. MaryAnn Bradshaw: It's personal.

Mrs. Marie-France Lalonde: But one aspect of what you shared with us—I wanted to know, and I'm a little bit curious—is the program that you refer to as Yale—

Ms. MaryAnn Bradshaw: Yale University psychiatric hospital.

Mrs. Marie-France Lalonde: Can you tell me a little bit about what your experience was while there, and, you know, maybe share with this committee why it was positively received and the difference that you felt?

Ms. MaryAnn Bradshaw: Okay. At London Psychiatric Hospital, we would show up for family therapy. We would be asked questions and asked to explain ourselves and what we thought my son would need. I thought that was for the experts. I was much less adamant than I am today.

At Yale, he was on a ward for what they call treatment-resistant children. These are children who have gone through the system and have learned. Children are very resilient, and they learn very quickly. What happened was, he would listen intently and then focus on weakness and exaggerate the weakness of the person who was talking to him, and he would actually cause them to react. That's what he considered his win.

What Yale did was, if you acted out behaviourally, you had time out. You had to earn your privileges. You had to build on those privileges to the point where you got on a board—a committee like this—where you established the rules and regulations that ran the ward. Everything had to be voted on. They taught them responsibility and what it meant to be responsible, something that I had tried to do with my son but, because of his mental illness, he wasn't amenable to me teaching him anything at that point in time.

They taught him that he had abilities that even he didn't know he had, and that he could curb those abilities for the greater good. I was very pleased to see that, because when he was at home, regardless of how I reacted to him, positively or negatively, everything was a struggle. I think that's simply because I was his mother.

The Chair (Ms. Daiene Vernile): Thank you very much. Our final question for you today is from MPP Scott—oh, I'm sorry. MPP Jones.

Ms. Sylvia Jones: Thank you, MaryAnn. I'm quite interested in your comment about the fact that there are no stats that are kept regarding children who are in our

provincial institutions and who have been abused—by staff, I’m assuming, or just generally?

Ms. MaryAnn Bradshaw: Yes, by staff.

Ms. Sylvia Jones: Okay. My question is—and this may be unfair, because it looks like you went through the legal system fairly quickly—was there an opportunity, or was there a point in your situation, where you were able to, for lack of a better word, file that formal complaint against the institution on behalf of your son?

Ms. MaryAnn Bradshaw: I was more concerned with getting my son the help he needed. I don’t know what the time frame for that is. So, no, really, I didn’t.

We ended up in court three times. Like I said, the last time, when I got an opportunity to speak, I wanted to know why the hospital wasn’t being charged. Of course, the lawyers went into their little scrum and made the decision to reduce the charge to common assault.

When I took my son out of the province to Yale, I called his probation officer in London. You see, my son had been moved from Toronto to Kitchener and from Kitchener to London because CAS did not want to have to deal with him here. They didn’t want to have to deal with me here.

Getting appropriate and adequate care is part of the CAS mandate. Because I did not have the funding to afford that kind of care, I was forced to sign my son over to CAS in order to get that care. They assured me that that care would be forthcoming at a place called Amity in Kitchener. Amity is a group home for young criminals. My son had never been involved with anything illegal prior to this, and what he learned there was how to do that.

I moved from Toronto to Kitchener to be near him, and then from Kitchener we took him to London, because that’s their catchment zone. That’s how we ended up in London. And London was completely non-co-operative.

Ms. Sylvia Jones: So after your court proceedings, is that when you were able to tap into out-of-province assistance through Yale?

Ms. MaryAnn Bradshaw: Yes and no. While my son was in London, I was, as I said, on the phone every day, from 8:30 in the morning until 5 at night, talking to anybody who would listen. Finally, I found the children’s mental health advocate for the province—or the children’s advocate for the province; the mental health

advocate was a complete disaster. She was making way too much money and had no care for the children, in my opinion. But the children’s advocate for the province was a lovely gentleman who, while reluctant to help—I finally said, “If you’re not going to help these kids, who is? Isn’t that part of your job?” That’s when he gave me the telephone number of the other mother, the first mother from Ontario whose child had been treated at Yale. My son was the second.

The Chair (Ms. Daiene Vernile): Ms. Bradshaw, I want to thank you very much for coming and talking to this committee today and sharing your information with us.

To our committee members, I have some house-keeping to take care of with you, so please mark your calendars. We are going to be meeting on Monday, May 11, from 2 till 6 in the afternoon, depending on the number of witnesses that we get.

That concludes our meeting today. Our next meeting is going to take place next Wednesday, April 29, at 9 a.m., and then we meet again in the afternoon at 3:30 p.m. until 6.

Yes, Ms. Jones.

Ms. Sylvia Jones: Can I ask a research question?

The Chair (Ms. Daiene Vernile): Absolutely.

Ms. Sylvia Jones: There were a couple of presentations today that talked about how the justice system, the justice route, is not ideal. What I’m interested in is what is the recidivism—

Ms. Eleanor McMahon: Recidivism. It’s a hard word to say.

Ms. Sylvia Jones: Yes, that one. Do we have any stats on that? If we do, can we provide them? Because I’m a little concerned that if we don’t stop the offenders, we’re actually making the problem worse.

Ms. Erin Fowler: Is this just for Ontario, or—

Ms. Sylvia Jones: Ontario if we have it, and if it isn’t available in Ontario, I’m sure that we could extrapolate using Canadian numbers.

Ms. Erin Fowler: Okay.

Ms. Sylvia Jones: Thank you.

The Chair (Ms. Daiene Vernile): We’ll get that information for you.

This committee stands adjourned until next week.

The committee adjourned at 1809.

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