

Standing Senate Committee on Legal and Constitutional Affairs

March 27, 2013; 4:15pm-5:00pm

Remarks: Sue O' Sullivan -

Federal Ombudsman for Victims of Crime

INTRODUCTION

- Bonjour, Monsieur le président et chers membres du Comité.
- Thank you for inviting me here today to discuss Bill C-37 which seeks to amend the Federal Victim Surcharge provisions in the Criminal Code. I am very encouraged by the introduction of this legislation as it responds directly to recommendations that our Office has made to better meet the needs of victims of Crime in Canada.

MANDATE

- First, I would like to take the opportunity to discuss my role as Federal Ombudsman for Victims of Crime.
- As you may know, the Office of the Federal Ombudsman for Victims of Crime was created to provide a voice for victims at the federal level.
- We do this through our mandate by:
 - receiving and reviewing complaints from victims;

- promoting and facilitating access to federal programs and services for victims of crime by providing information and referrals;
 - by promoting the Basic Principles of Justice for Victims of Crime;
 - by raising awareness among criminal justice personnel and policy makers about the needs and concerns of victims, and
 - by identifying systemic and emerging issues that negatively impact on victims of crime.
- The Office helps victims in two main ways: individually, and collectively.
 - We help victims individually by speaking with victims everyday, answering their questions, and addressing their complaints.
 - We help victims collectively by reviewing important issues and making recommendations to the Federal Government on how to improve its laws, policies or programs, to better support victims of crime.

Provisions of Bill C-37

- I would like to begin by stating that our Office is very encouraged by the proposed amendments to the victim surcharge provisions in the Criminal Code being examined today.

- Specifically, there are three changes proposed in C-37 that would act as positive steps forward in addressing the needs of victims of crime.
 - The first amendment would ensure that the surcharge is imposed in all cases without exception by removing a judge's option to waive the surcharge.
 - Second, the offenders who are unable to pay the surcharge would be able to participate in the provincial-territorial Fine option programs to discharge the amount owing.
 - Third, the amount of the surcharge that an offender must pay would double under this legislation.
- In terms of implementation, this would translate into a surcharge of
 - 30% when a fine is imposed; or when no fine is imposed:
 - \$100 in the case of an offence punishable by summary conviction;
 - \$200 in the case of an offence punishable by indictment
- In effect, these changes would ensure consistent application of the surcharge provisions across Canada and holding offenders more accountable to the victims whose lives they have affected.

Position

- Due to the benefits of these proposed amendments from the perspective of victims of crime, I would like to express our full support for the passage of Bill C-37.

Rationale

- The changes to the victim surcharge provisions have been a priority for our office due to the fact that we hear from victims on a daily basis about their difficulty in accessing the services they need after a crime.
- Victims also express their frustration when offenders are not held accountable for paying their court ordered debts, including restitution and the Federal Victim Surcharge.
- Victims also face many difficulties as a result of the psychological and socio-economic impacts of victimization.
- A recent study from the Department of Justice estimates that almost 83% of the costs associated with crime are borne by victims. These costs include lost productivity and wages, costs of medical and psychological care, and time away from work to attend criminal proceedings.
- We also hear from victims about not being able to afford counselling sessions or about the lack of criminal injuries compensation available in their province or territory.

- A contributing factor to these obstacles faced by victims could be the shortfall of funds the surcharge was expected to generate for victim services and programs.
- The surcharge is intended to be applied automatically; however, it is routinely waived during sentencing, often without documentation of undue hardship to the offender.
- Data from a review of the operations of the Federal Victim Surcharge in New Brunswick from 2006 revealed that the surcharge was being waived in 66.5% of the cases reviewed. Further, in 99% of the cases where the surcharge was waived, there was no documentation on file for the reasons of the waiver.
- As a result of the routine waiving of the surcharge, the revenues for provincial and territorial victim services fall short of what was anticipated. This is a signal that the surcharge is not meeting its intended objectives, and needs to be improved.
- There are concerns that the mandatory payment of the surcharge will result in undue hardship for offenders. This focus does not allow for the consideration of undue hardship faced by victims in the aftermath of a crime.
- Bill C-37 allows for a more balanced approach which ensures that the victim surcharge is consistently applied in all cases, while also providing for offender participation in Fine option programs or alternative mechanisms to secure payment.

- The changes proposed in Bill C-37 to double the surcharge, and ensure that it is automatically applied in all cases, will contribute to more effective funding for victim services. These changes will also give offenders the opportunity to provide reparation by paying into services that help victims cope and move forward following a crime.

CONCLUSION

- In conclusion, the changes proposed to the Federal Victim Surcharge provisions are a significant step forward. They will provide a more meaningful mechanism through which offenders can demonstrate reparation for harm done to victims and/or to the larger community, while also demonstrating responsibility and accountability for their actions.
- The efficient functioning of the victim surcharge, through the passage and implementation of Bill C-37 would send a strong signal to victims that the criminal justice system recognizes the long-lasting impacts of victimization and the corresponding necessity to hold offenders accountable and ensure that provincial and territorial victim services are adequately funded.
- Accordingly, I encourage this committee and Parliament to ensure the passage of this Bill, as it will serve to better address the needs of victims of crime in Canada.

- As Federal Ombudsman for Victims of Crime, I am grateful to the committee for providing me with the opportunity to highlight the needs of victims of crime in relation to this important piece of legislation.
- Thank you. I am happy to answer any questions you may have.
- Merci. Je serai heureuse de répondre à vos questions.