

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
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**Official Report  
of Debates  
(Hansard)**

JP-29

**Journal  
des débats  
(Hansard)**

JP-29

**Standing Committee on  
Justice Policy**

Enhancing Access to Justice  
Act, 2024

1<sup>st</sup> Session  
43<sup>rd</sup> Parliament

Thursday 22 February 2024

**Comité permanent  
de la justice**

Loi de 2024 visant à améliorer  
l'accès à la justice

1<sup>re</sup> session  
43<sup>e</sup> législature

Jeudi 22 février 2024

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Chair: Goldie Ghamari  
Clerk: Thushitha Kobikrishna

Présidente : Goldie Ghamari  
Greffière : Thushitha Kobikrishna

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## CONTENTS

Thursday 22 February 2024

Enhancing Access to Justice Act, 2024, Bill 157, Mr. Downey / Loi de 2024 visant à améliorer l'accès à la justice, projet de loi 157, M. Downey .....	JP-603
Office for Victims of Crime; Council for a Secure Canada; Anishinabek Nation .....	JP-603
Ms. Sonya Jodoin	
Ms. Sarah Teich	
Grand Council Chief Reg Niganobe	
Ontario Trial Lawyers Association .....	JP-611
Ms. Barbara MacFarlane	



LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

Thursday 22 February 2024

**COMITÉ PERMANENT  
DE LA JUSTICE**

Jeudi 22 février 2024

*The committee met at 0900 in committee room 2.*

**ENHANCING ACCESS TO JUSTICE  
ACT, 2024**

**LOI DE 2024 VISANT À AMÉLIORER  
L'ACCÈS À LA JUSTICE**

Consideration of the following bill:

Bill 157, An Act to amend various Acts in relation to the courts and other justice matters / Projet de loi 157, Loi modifiant diverses lois en ce qui concerne les tribunaux et d'autres questions relatives à la justice.

**The Chair (Ms. Goldie Ghamari):** Good morning, everyone. I call this meeting of the Standing Committee on Justice Policy to order. We are meeting today to resume public hearings on Bill 157, An Act to amend various Acts in relation to the courts and other justice matters. Are there any questions before we begin?

As a reminder, our presenters today have been scheduled into groups of three for each one-hour time slot. Each presenter will have seven minutes for their presentation, and after we have heard from all three presenters, the remaining 39 minutes of the time slot will be for questions from members of the committee. The time for questions will be broken down into two rounds of seven and a half minutes for the government members, two rounds of seven and a half minutes for the official opposition and two rounds of four and a half minutes for the independent member.

Before we begin, I would like to get unanimous consent from the committee to have two presenters from the Office for Victims of Crime here today. Do I have unanimous consent? Thank you.

**OFFICE FOR VICTIMS OF CRIME  
COUNCIL FOR A SECURE CANADA  
ANISHINABEK NATION**

**The Chair (Ms. Goldie Ghamari):** At this point, I'd like to call upon the Office for Victims of Crime. Please state your name for the record, and then you may begin. You will have seven minutes.

**Ms. Sonya Jodoin:** Hi. Good morning. My name is Sonya Jodoin. Just to let you know right from the start, I'm extremely hearing-impaired, so you might say something and I might turn to Breanna, which is basically why she's

here; she's essentially my handler for the day to make sure I don't go sideways somewhere along the way.

Thank you for the opportunity to allow me to speak here today. As you can imagine, the Victims' Bill of Rights is something that we are partial to.

I am the chair of the Office for Victims of Crime, and I'm here to represent an advisory board comprised of provincial appointees from across Ontario. The board members typically have a mix of lived and professional experience as well as educational backgrounds that give them some unique opportunities and perspectives in terms of the work that we do.

As a board, our main task is to provide information, feedback and advice to the Attorney General on all things related to victims of crime. Our mandate includes ensuring that the principles in the Victims' Bill of Rights are respected. I'm pleased to report that our relationship has been extremely positive and respectful between our office and the Attorney General's office. As I mentioned, as you can imagine, any changes to the Victims' Bill of Rights are something that we are keenly interested in.

Without going too far down the rabbit hole of neurobiology and trauma and healing when it comes to being a victim of crime, or a survivor of crime, the changes proposed are positive ones and they are another step forward for victims. We describe a traumatic incident as an arbitrary event that profoundly impacts individuals emotionally, psychologically, physically, spiritually and/or financially. It's common for individuals or groups to experience feelings of helplessness, vulnerability, loss of safety and/or loss of control. The changes that are currently proposed in the Victims' Bill of Rights assist by supporting one of the key elements that can help with healing and recovery, and that is choice.

As part of our work, we spend a lot of time consulting with people to ensure that whatever we're advising is in line with what victims, survivors and service providers are experiencing and/or need. In these consultations, we receive a lot of feedback, and some of the things that we've heard from these consultations is that not everyone wishes to pursue options within the criminal justice system. In fact, I think all of us have witnessed in the media some pretty traumatic incidents that have been played out and how difficult and contrary that process can be. For many people, the process itself is actually re-traumatizing.

The changes proposed help to make choices easier or accessible. Having choices or options not only assists in-

dividuals with an avenue to regain an element of control over their lives, but it also allows them to hold the person who hurt them accountable, which may potentially assist with the healing process and work better for some victims and survivors.

Thank you again for allowing me to speak here today. These amendments are a step in the right direction in further supporting victims of crime in their ability to attain further justice.

**The Chair (Ms. Goldie Ghamari):** We'll now turn to our next presenter, the Council for a Secure Canada. Please state your name for the record, and then you may begin. You will have seven minutes.

**Ms. Sarah Teich:** My name is Sarah Teich. I'm legal adviser to Secure Canada. I've sent in written submissions to this committee, so I'm hoping that everyone has that in front of them, because I'm going to use that essentially as an outline to add certain points to it.

Essentially, we're looking to recommend two changes to schedule 18 of Bill 157, which, of course, amends the Victims' Bill of Rights, the first being that subsection 3(2) be amended to add, as a category of victim that has presumed emotional distress, victims of terrorism offences; and second, that amendments be passed to enable the Victims' Justice Fund to compensate cross-border victims of terrorism. I'm going to split my oral submissions along those lines as well.

Section 3(2), as it stands now, presumes that the following victims have suffered emotional distress: a victim of assault if the victim is or was a spouse, a victim of a sexual assault, and a victim of attempted sexual assault. Schedule 18 of Bill 157 would add three categories of victims to that list: a victim of a crime of a sexual nature if the victim was under the age of 18 or was a person with a disability, a victim of the publication or distribution of a voyeuristic recording or an intimate image without consent, or a victim of a crime respecting trafficking in persons.

From the perspective of Secure Canada, terror victims should be likewise presumed to have suffered emotional distress. Victims of terrorism have suffered egregious harm and face significant trauma, and this is extensively documented. According to an Institute of Medicine committee report, which I can send to this committee after we're done today:

"Terrorism, a subset of human-caused disasters..., can have a particularly devastating impact on psychological functioning. Terrorism carries with it a potentially greater impact than other disasters on distress responses, behavioural change, and psychiatric illness by virtue of the unique characteristics of terrorism events...."

"Terrorist attacks, and the threat of a terrorism event, may also result in more severe psychological consequences than other types of traumatic events due to a perceived lack of control." And that whole paragraph is pulled right out of this academic report.

It also talks about a second review, which finds "commonly reported effects include PTSD and symptoms of PTSD, major depression, and general psychological distress as determined by various measures."

This report also looks at independent research on the Oklahoma City bombing and finds, "Research on the Oklahoma City bombing revealed PTSD in approximately one-third of survivors of the direct bomb blast six months after the bombing, and nearly three-fourths of these were individuals with no prior history." They also found that "symptoms of intrusive re-experience and hyperarousal were 'nearly universal' among survivors."

So because of all of that, we recommend that schedule 18 include victims of terrorism. Based on this research that they similarly suffer emotional distress, that should be presumed.

Second—and this is about the Victims' Justice Fund—section 5 of the Victims' Bill of Rights covers this, and the specific subsections that I want to point out to this committee are (4) and (7). Under subsection (4), money paid into the Victims' Justice Fund is used to assist victims, either by supporting programs that provide assistance or making grants. Essentially, the money goes from the justice fund into programs, and then flows from there to victims. In Ontario, there are three main programs. There's the CICB, the Criminal Injuries Compensation Board; the Financial Assistance for Families of Homicide Victims Program, the FAFHV; and the Victim Quick Response Program, the VQRP. For all of these programs, the crime must have been committed in Ontario, which effectively excludes cross-border victims of terrorism.

Federally, there is the Canadians victimized abroad fund, which provides some compensation for Canadians victimized abroad, but not sufficiently so. This is because there are several significant exclusions—most pressingly, that the victim needed to be a Canadian citizen at the time of the crime, and that it only covers crimes that occurred as of April 1, 2007. So effectively, this excludes large swaths of victims of terrorism, including Canadian victims of 9/11 and victims that were permanent residents at the time or became Canadian citizens after the fact.

This is very important for victims. For example, I want to flag Maureen Basnicki, who is a co-founder of the Canadian Coalition Against Terror, which has now rebranded as Secure Canada, the organization I'm speaking on behalf of today. She has had to pay for decades of counselling out of pocket after her husband was killed on 9/11. She was also a flight attendant, so she was no longer able to work afterwards, and she has borne many of these costs herself because she is excluded from these compensation funds.

We're recommending that while Bill 157 amends the Victims' Bill of Rights, it should also be amended to close that gap. And this can be done, for example, if you go to, again, section 5. Just as an idea: in between subsections (5) and (6), so before it goes into Lieutenant Governor in Council provisions, maybe as a subsection (5.1), that there must be criteria that are met by a program or agency to include crimes that occurred outside of Canada, before payment is made out of the Victims' Justice Fund to support the program or agency.

And I do note that subsection (7) enables the Lieutenant Governor in Council to make regulations establishing criteria—

**The Chair (Ms. Goldie Ghamari):** One minute.  
0910

**Ms. Sarah Teich:** Thank you—but no regulations have been made. The only regulation under the Victims' Bill of Rights is to prescribe crimes under section 3.

The last thing I'll say is that these suggested changes are in keeping with the preamble of the Victims' Bill of Rights, which states, "Victims of crime, who have suffered harm and whose rights and security have been violated by crime, should be treated with compassion and fairness."

**The Chair (Ms. Goldie Ghamari):** Thank you very much.

We will now turn to our third presenter, who is virtual. We have Chief Reg Niganobe. Meegwetch, Grand Council Chief. You have seven minutes. Please state your name for the record, and then you may begin.

**Grand Council Chief Reg Niganobe:** Aaniin. Boozhoo.  
*Remarks in Anishiniimowin.*

Good morning. My name is Reg Niganobe, and I am the elected Grand Council Chief of the Anishinabek Nation. We appreciate the opportunity to meet with you to discuss the Anishinabek Nation's view on Bill 157.

The Anishinabek Nation is the political territorial organization that represents 39 First Nations throughout the entire province of Ontario. Our communities stretch as far south as Sarnia and as far north as north of Thunder Bay, with a handful of semi-remote and remote communities in between. The Anishinabek Nation would like to make submissions in regard to the Cannabis Control Act, Cannabis Licence Act and Community Safety and Policing Act components of Bill 157.

The proposed amendments to the Cannabis Control Act and Cannabis Licence Act are supported by the Anishinabek Nation. These changes are welcomed by Anishinabek First Nations because they support or facilitate greater First Nation autonomy and control over cannabis-related issues in their communities.

The Anishinabek Nation has First Nations that currently use the provincial licensing system for retail recreational cannabis, that want more control and the ability to customize cannabis retail to meet the overall community interests. Also, for member First Nations that have members operating retail stores under the assertion of inherent right, this may help the retailer, the First Nation and Ontario meet their mutual interests.

Education and awareness that are not generally part of any bill that goes with legislative change are extremely important in regard to cannabis. This must take place in conjunction with implementation of the bill. This includes the fact that Anishinabek First Nations that do not want cannabis retail in their community may continue to take this position, and this bill will not interfere with that.

Enforcement is always an issue for First Nations reserves. While the bill supports greater First Nations control over cannabis retail, the support for enforcement must be there. This includes AGCO retail and police services support and training, and this is especially true in the initial stages of implementation and support of the First Nation in compliance and supporting getting the community on track in regard

to retail cannabis. Enforcement must be facilitated with the goal of compliance.

First Nations cannabis-related rule development, which will be incorporated by reference, must also be supported to be ensure that the rules coordinate with Ontario law and that AGCO is aware of them. Some Anishinabek First Nations have existing rules, and some First Nations have retail stores under inherent rights that have unwritten rules. They both need support to solidify the rules for the benefit of the community and Ontario overall.

The Cannabis Act's current framework requires revision to fully incorporate the principles outlined in UNDRIP articles 3, the right to self-determination; 18, the right to participate in decision-making; and 20, the right to economic and social development. Ensuring these articles are fundamentally considered within the act will affirm First Nations' autonomy in cannabis governance, respect their jurisdiction and provide economic benefits.

This highlights a significant oversight in acknowledging Indigenous rights and self-determination as mandated by the declaration. A recommendation to ensure equity in First Nation economic advancement is to create a framework that involves our Anishinabek Nation communities in shaping, applying and overseeing cannabis laws within their lands. In line with UNDRIP articles 3, 18 and 20, this approach would respect Indigenous sovereignty and inclusive decision-making, and ensure First Nations benefit economically from the cannabis sector in their communities.

Although UNDRIP is not directly implemented and enforced at the provincial level, there are established precedents where governments must consult with First Nations on matters that would impact them. The duty to consult First Nations is triggered when the government considers actions or decisions that may affect Indigenous rights or lands. This obligation stems from recognizing treaty rights and First Nation sovereignty, making sure that meaningful involvement in decisions is respected, enforced and upheld.

There's a call to articulate the legislation to empower First Nations to independently manage cannabis-related activities encompassing cultivation and sale within their territories. This includes the ability to license, tax and ensure the safety of cannabis products while respecting traditional uses, highlighting the broader need for policies that honour Indigenous rights and contribute to their economic and public health goals.

In regard to the Community Safety and Policing Act, policing is a huge issue for Anishinabek First Nation. The proposed amendments are minor and do not address the immediate needs of First Nations. This includes enforcement of First Nation laws as a mandatory police function, which continues to be discriminatory and provide unequal law enforcement in the province.

Whereas the act provides a framework for policing and public safety, which includes interactions with municipal bylaws such as loitering and trespassing, it appears there may be inconsistencies in how provincial regulations, including those related to cannabis and community policing, align with the principles of self-determination outlined in UNDRIP.

There's a perceived double standard where provincial laws are enforced in ways that are limiting our Anishinabek Nation communities' inherent rights of self-determination, decision-making and right to economic development. It also includes impacting and limiting our First Nations policing services by restricting enforcement of traditional cultural approaches and laws.

That leaves them having to be creative in implementing culturally appropriate policing services, challenges in addressing substance abuse and mental health issues effectively, and difficulties in executing community-led safety initiatives. These impacts stem from the misalignment between the act and the specific needs and governance structures of First Nation communities.

The Ipperwash inquiry report was released to the public on May 31, 2007, with a total of 98 recommendations. It is unfortunate that in the year 2024, the relevance of this report remains prominent. We see how the neglect in fully implementing the recommendations, particularly—

**The Chair (Ms. Goldie Ghamari):** One minute left.

**Grand Council Chief Reg Niganobe:** —in the areas of systemic changes in policing, enhanced community engagement and an acknowledgement of First Nation sovereignty and justice systems have created continuous challenges for First Nations.

The Ipperwash inquiry made several recommendations regarding law enforcement practice, focusing on improving relations between police and Indigenous communities and enhancing police training on Indigenous rights in a culturally sensitive manner accounting for the involvement of Indigenous peoples in the decision-making processes related to public safety [*inaudible*]. These recommendations aim to build trust, respect and understanding between law enforcement and Indigenous communities. Meegwetch.

**The Chair (Ms. Goldie Ghamari):** Thank you very much. Meegwetch.

We'll now turn to our first round of questions, beginning with the official opposition. Who would like to begin? MPP Wong-Tam.

**MPP Kristyn Wong-Tam:** It's wonderful to see everyone here today. I want to thank you for your presentations. My first question will be going to the Office for Victims of Crime. Thank you for all the wonderful work that you do. I recognize that your work involves holding an incredible amount of stories shared by those who have been on the receiving end of violence. I know that that is not easy work, and it's deeply emotional work. So thank you for being here again to advocate on their behalf.

I want to ask you whether or not you had a chance to listen to or perhaps watch the deliberations from yesterday. There were some comments provided from a top legal firm who specializes in representing victims and survivors of sexual violence. Did you happen to catch their deputa-

**Ms. Sonya Jodoin:** No, I did not. I was travelling yesterday.

**MPP Kristyn Wong-Tam:** Okay, not a problem. I'm going to try to summarize it, because they were good enough

to give us the written submission. They specifically—and I just want to cite the firm. The firm is Jellinek Ellis Gluckstein. They were specifically identifying some gaps and provided what I believe are a couple of eloquent suggestions on amending this bill to further strengthen the support for survivors.

One is that they wanted to ensure that victims of a crime related to a misconduct of a sexual nature not be limited to those under the age of 18. They specifically want to make sure that victims who had been—they specifically said that the provision failed to capture an inappropriate sexual misconduct between a vulnerable student who happened to be the age of majority and a teacher, as an example, who is in a position of power, who could harm and manipulate them. Their suggestion was to make sure all victims of crimes related to sexual misconduct who are deemed vulnerable deserve the same protection. Would you agree with that assessment?

**0920**

**The Chair (Ms. Goldie Ghamari):** Just a quick note for committee members: When the translation is happening, we will pause the clock. That's for everyone.

**Ms. Sonya Jodoin:** Thank you for the question. Prior to this role, I was the director of a victim services unit for probably, I don't know, 17 years. Prior to that, I was a counsellor with teenagers, and I did that for, I don't know, probably 15 years, whatever. So I appreciate their input on this, as there are a tremendous number of incidents of sexual exploitation and violence that involve people under the age of 18, and some of the most high-risk times are when you're between the ages of 12 and 24.

Your options as an adult are limited. Your options as anybody under the age of 18 are almost non-existent. So, if there was an amendment to adjust the age to allow individuals under 18—if I understood correctly what you've said, then I think that that is something that could potentially be perceived as positive from the individuals that would be looking at that as an option to do that.

**MPP Kristyn Wong-Tam:** Thank you very much. My follow-up question is that there was some reference to compensation, and obviously, the adjustment to schedule 18, the Victims' Bill of Rights, is really to ensure that those victims, as defined by the schedule, will have easier access to the civil courts through some kind of compensation to allow them to lay some claim. But before that, there's obviously an opportunity to try to get some funds through the Victim Quick Response Program+, which you are aware of.

In 2019, the Conservative government ended the Criminal Injuries Compensation Board and replaced it with the Victim Quick Response Program+. The problem I see is that it's not available to all victims, especially those who can access publicly available programs, despite the fact that it may have a months-and-months-long wait-list. Should this committee consider provisions and amendments to strengthen and invest in that fund, so therefore, victims have quicker, easier access to money, which they deserve?

**Ms. Sonya Jodoin:** I think that is an excellent question, actually. There are definitely some challenges with the



VQRP+ in terms of wait-lists, in terms of access, in terms of availability. I think one of the challenges for VQRP+ is equitable access to it sometimes. If, adjusting the changes to kind of bump up VQRP+, you're still creating an environment where maybe some groups aren't going to be able to access that—because there are rules around it. The rules have to, obviously, exist for a reason, but the rules can make it difficult for some of our most vulnerable populations to actually access it sometimes. So, it may not provide the opportunities that people might be needing at that point in time. I'm thinking in particular with—we've done a lot of work with groups that were victimized as children but are adults now, and they don't qualify for anything in regard to VQRP+ because of the time span, right? And it wasn't safe to come forward for help as a younger person. It wasn't safe. They would have been homeless. They would have been picked up in child protection. There would have been various other things, whatever the case. And so, their options—

**The Chair (Ms. Goldie Ghamari):** One minute.

**Ms. Sonya Jodoin:** —become problematic.

**MPP Kristyn Wong-Tam:** Thank you. How long is that wait-list; do you know?

**Ms. Sonya Jodoin:** How long is the wait?

**MPP Kristyn Wong-Tam:** The wait-list to access the services of VQRP+.

**Ms. Sonya Jodoin:** It's dependent on the region—100% dependent on the region. Some regions, you can flip it around quickly and get somebody into services right away; in a lot of regions, it can be months.

**MPP Kristyn Wong-Tam:** Months. And is there any other option for those victims and survivors who are waiting for service, beyond the wait for months?

**Ms. Sonya Jodoin:** No, usually not. I can't say no 100%, but typically no.

**MPP Kristyn Wong-Tam:** So it would help immensely if we actually put more money into the Victim Quick Response Program.

**Ms. Sonya Jodoin:** It would absolutely help if they put more money in that, yes.

**MPP Kristyn Wong-Tam:** Thank you very much.

**The Chair (Ms. Goldie Ghamari):** Thank you.

We will turn to the independent member.

**Mrs. Karen McCrimmon:** My first question is for Chief Niganobe. You talked about enforcement with the help of the AGCO. Can you tell me how that works now? How is it coordinated between the First Nations and the AGCO? Is that coordination piece working?

**Grand Council Chief Reg Niganobe:** For independent businesses on the First Nations, there is none of that. There is no coordination.

But for the First Nations who are within the Ontario process, the ACGO is excellent with them. They have no issues with them whatsoever and it works very well. It is running very smoothly. For those First Nations that are interested in that process, it works excellently for them.

**Mrs. Karen McCrimmon:** That's excellent. That's great to hear.

How about coordinations between individual First Nations? You have a large territory to cover and some of your neighbours also must have the same concerns that you do. Do you have the opportunities to work together to find the solutions you need?

**Grand Council Chief Reg Niganobe:** Yes, our 39 First Nations have been working together from the start. Not only is our organization helping coordinate some of that and finding best practices, but also bringing those First Nations together to share their ideas on how things are working for them currently—from the ones that have none at all to the ones that have entered the process with Ontario, with the ACGO, and then the other ones who are operating independently—and how that is working for each First Nation. The leadership is able to describe the situation from there.

**Mrs. Karen McCrimmon:** All right. Thank you. How about relationships with other First Nations, let's say in Quebec? Is there an opportunity—

**Grand Council Chief Reg Niganobe:** As far as I know, there is none of that opportunity right now or any of it taking place—not within our territory, only because we are a little bit away from the border. In terms of crossing the border, of course, that doesn't happen, so at this time it's just between the First Nations. Each First Nation is separated and far enough part where they are not impacting each other's economies in that scale, but they are sharing information.

**Mrs. Karen McCrimmon:** All right. Thank you very much, Chief, I appreciate that.

My next question—actually, both of our witnesses here could probably talk about re-traumatization. Having come from a military background, I know what happened to a lot of women inside the military. Can you explain to us the damages that re-traumatization actually does? I see there is some in this bill that I think attempts to address that issue, but how do we make it even stronger?

**Ms. Sonya Jodoin:** Well, there could be potentially a lot of suggestions in regard to that. Re-traumatization happens when somebody has to tell their story over and over again, which is typical in an investigation and then a court process. But it also happens when—

**The Chair (Ms. Goldie Ghamari):** One minute.

**Ms. Sonya Jodoin:** —there is a lot of judgment as a result of that.

And so I think that changes might need to be looked at in terms of ensuring that victims and survivors have opportunities for somebody to assist them through that process in a way that maybe can help to mitigate some of the challenges—that, and a heck of a lot of training for everybody, so that the myths surrounding trauma and abuse can be spoken to in a way that helps people understand why people act the way they do, because that's essentially what neurobiology in trauma is.

0930

**Ms. Sarah Teich:** Do I have any time to give a long answer?

**The Chair (Ms. Goldie Ghamari):** Ten seconds.

**Ms. Sarah Teich:** Ten seconds? Okay. In footnote 3 of our written submissions, I cite a paper where I actually talk about this quite a lot. This was a report that I did for the Federal Ombudsperson for Victims of Crime, and we looked at best practices from other jurisdictions—

**The Chair (Ms. Goldie Ghamari):** Thank you. That's all the time that we have.

We'll turn to the government. MPP Saunderson.

**Mr. Brian Saunderson:** Thank you to all our presenters this morning for taking time to provide us with your valuable input.

My questions are for Grand Council Chief Niganobe. I'm wondering if you can just talk to us about the—I understand there was a fairly extensive consultation process with the Ministry of the Attorney General in drafting this, and I'm just wondering if you can tell us a bit about that and if you found it to be a positive engagement.

**Grand Council Chief Reg Niganobe:** It was a positive engagement in regard to this. Of course, there are certain things that we would like to see done within this—a lot of it, especially around the policing area and the enforcement area, is lacking—but there is progress on it. I'm looking forward to seeing more progress coming after this bill is further discussed and passed through.

So yes, it is a start, but we are looking for more engagement after this.

**Mr. Brian Saunderson:** Taking you at that point about further engagement and it being a good start: I understand that as a result of negotiations particularly with Darlene Solomon from your council, we've come to an agreement, and in January of this year we signed an agreement for a transfer payment of approximately \$100,000 to help with this program moving forward and to allow you opportunities to engage in terms of education and policy analysis. How do you think that should move forward?

**Grand Council Chief Reg Niganobe:** The Anishinabek Nation will have a look at that and see where our communities are at. We have a good idea, mostly, of what our communities want and need, but it does tie hand in hand with the enforcement portion, being able to control the cannabis on our First Nations, and also the things that come along with it sometimes. Sometimes there are issues where we have the criminal element leading that process on the First Nations, so we'd like to be able to address those issues.

There will be further engagement on that issue, plus we'll also be discussing the possibility of taxation of cannabis and the retail taxation revenue returning back to the First Nations.

**Mr. Brian Saunderson:** Just on this enforcement issue, Grand Chief: Is a lot of the issue with the regulation around the cannabis dealing with local retailers or cannabis coming onto your lands on the black market and being sold by others?

**Grand Council Chief Reg Niganobe:** Yes. It's generally with, I would say, the black market coming onto the First Nations lands and causing issues there.

**Mr. Brian Saunderson:** Okay.

All right. Those are my questions. Thank you very much.

**The Chair (Ms. Goldie Ghamari):** Thank you.

MPP Dixon.

**Ms. Jess Dixon:** My question is for our chair of the Office for Victims of Crime. I was a crown attorney before this, so I had a lot of experience with having to explain to victims why justice is not always what they get, and frequently not what they get.

I would love two things: If you could explain a little bit about what you've seen as far as victims perhaps feeling that they have had more justice through this system—we'll start there.

**Ms. Sonya Jodoin:** Can you repeat that question?

**Ms. Jess Dixon:** I'm looking for your thoughts—and I know that you worked in victims' services before. Do you feel that victims are feeling more seen or feeling that they've had justice through this process?

**Ms. Sonya Jodoin:** Oh, versus a criminal justice system—some; not everybody. For some people, the criminal justice system is the process that works for them, and if everything goes wonderfully right and the ending is what they were hoping for, then that works. But that doesn't happen very often. Some of the folks that we've spoken to have found what they were looking for in terms of justice through a civil process instead.

Part of it, I think, is in terms of being able to tell their story in an environment that is less likely to hurt them through trying to prove that they're wrong or making it up or whatever it is. But also, the other part is, there's a level of validation for some people that happens when somebody in a position of authority says, "I believe you. This did happen to you, and you're right, this wasn't okay. It shouldn't have happened, and here is the result of what's happened."

I've never, ever once in my experience, in 34 years now, heard of anybody ever going through a process like that because they want money, ever. It's really about the ability for somebody—part of the healing process sometimes is you need to be seen, you need to be heard and you need to be believed. And sometimes, the civil process or the criminal process is what does that for you, but neither works for everyone, right?

**Ms. Jess Dixon:** And another question—this is technically a little bit out of scope, but I'm curious. Of course, when I finished the process, the victim moves on. What do you think about these, sort of, transfers or hand-offs? If a conviction has been registered, do you feel that victims are led to this or supported in knowing it exists?

**Ms. Sonya Jodoin:** Sometimes. It depends. Again—I'm not being really definitive, yes or no, just because of the size of Ontario and the differences and how circumstances—

**The Chair (Ms. Goldie Ghamari):** One minute.

**Ms. Sonya Jodoin:** —are put together and how they happen. That could use some work, partly because a lot of the services that provide that portion, their wait-lists are excessively long and they're not necessarily available in every community.

**Ms. Jess Dixon:** Would VWAP flag this in some offices, or—

**Ms. Sonya Jodoin:** So, when the court process is finished, VWAP is done. Typically if you're in a region where VWAP and the other community services work well together, they

usually are working with the client at the same time. So the client is then, in that case left with—they're not left with nothing, right? They have another support system that's community-based. But that doesn't happen everywhere. If it does, then that helps to provide the supports that the person might need, the care after the fact.

**Ms. Jess Dixon:** Okay. Thank you.

**Ms. Sonya Jodoin:** You're welcome.

**The Chair (Ms. Goldie Ghamari):** We'll now turn to the official opposition. MPP Mamakwa?

**Mr. Sol Mamakwa:** Meegwetch. Thank you for your presentations, Sonya, Sarah and Grand Chief Niganobe. I want to start with Grand Chief Niganobe.

I know that you specifically talked about a schedule. One of the questions that I have is what supports Anishinabek Nation, the 39 First Nations you represent—what are they needing from the province to implement your goals when we talk about self-determination, when we talk about economic self-determination, especially around policing and education?

**Grand Council Chief Reg Niganobe:** Around policing and education, I would say, for policing, we do need the ability to have our First Nation laws enforced as our councils create them. Perhaps, you know, a while back, First Nations didn't have the capacity to be able to create laws, bylaws and all sort of different things on our First Nations. But times have changed, and we've come quite a long way. We are very capable now of creating our laws, enforcing our traditional laws, and we just need support and financial backing to our police and enforcement officers to be able to do that.

0940

**Mr. Sol Mamakwa:** Thank you for that. Also, going back to the Grand Chief: Could you speak or further elaborate on the 98 recommendations that you mentioned and perhaps even repeat the date? I think you said May, but I couldn't—could you repeat that year?

**Grand Council Chief Reg Niganobe:** The Ipperwash report, on May 31, 2007.

**Mr. Sol Mamakwa:** Oh wow, yes, that's quite some time.

**Grand Council Chief Reg Niganobe:** Exactly, yes.

**Mr. Sol Mamakwa:** Almost 20 years.

Also, I want to go back to Sonya. I know that when we talk about schedule 18, when I think of some of the dialogue I have been hearing yesterday and also today, and some of the recommendations that are being brought forward, it's important that it is supportable.

I come from far northern Ontario. I have 24 fly-in First Nations. We don't have the sexual assault centres that we should have. We have to address how, if there is a sexual assault that happens on a fly-in reserve, you have to use Ornge to get them out. When the weather is out, there is no way. There are so many times that things get just thrown out because of that time frame.

Beyond this bill, beyond this schedule, do you think that there is so much more that could be done, that this government could support the victims?

**Ms. Sonya Jodoin:** There is absolutely more people can do, and there is always more, especially in the north. I'm not Indigenous, so I get hesitant to speak in terms of services

for Indigenous, because I feel like that should come from people who have some experiences, as well. But what I do know is that I did a lot of work in the human trafficking world, and the volume of victims and survivors who identify as Indigenous is far beyond folks that don't identify. Some of our board members, as well, have talked about this, and that there definitely need to be more services in the north and with those communities.

In general, there is no finish line, really. It's not like, "Okay, if we put all this money in this, then we're going to hit the finish line and everyone lives happily ever after with a white picket fence," right? But every time we can move that bar forward, it allows us to see the things we couldn't see before and helps us to move towards a better system that's more equitable and meets the needs of the people that actually need it, which is probably a long-winded way of saying that, yes, we do need more.

**Mr. Sol Mamakwa:** Thank you for that. I think basically what I'm saying is that the biggest room in the world is the room for improvement, and I think 157 does not do that.

But I'm going to pass it off to MPP Stevens.

**The Chair (Ms. Goldie Ghamari):** MPP Stevens.

**Mrs. Jennifer (Jennie) Stevens:** My question is going to kind of elaborate on MPP Mamakwa's question to Grand Chief Niganobe. I'd like to elaborate on the 98 recommendations. That is quite some time that the two governments have not really recognized or addressed all of the 98 recommendations. I think that's not acceptable. Can you recommend the key, or some of the top, recommendations, other than 98, that would be very important for you to see, or could highlight within Bill 157, that would improve?

**The Chair (Ms. Goldie Ghamari):** One minute.

**Grand Council Chief Reg Niganobe:** I think it's just important to highlight that all 98 recommendations should be completed. The Anishinabek Nation did a lot of expensive work on this. It helped form the Ipperwash report. We'd be happy to help continue the implementation. We just need the co-operation and assistance to be able to do so.

**Mrs. Jennifer (Jennie) Stevens:** That's very good. Thank you for that answer. I think it's key that it should be highlighted and all those recommendations should be addressed. You know, 2007—it's inexcusable that it hasn't been.

MPP?

**MPP Kristyn Wong-Tam:** Thank you very much. I think there's only 16 seconds left on the clock. Is that correct?

**Mrs. Jennifer (Jennie) Stevens:** Oh, sorry.

**Ms. Goldie Ghamari:** Twenty.

**MPP Kristyn Wong-Tam:** Oh, 20 seconds. Okay. Here's a quick question. Civil courts: It takes about five years to obtain a court date. Many survivors will not be able to wait that long. Is it a great way for us to achieve justice for survivors in Ontario?

**Ms. Sonya Jodoin:** I think that the criminal justice system unfortunately doesn't move much quicker than the civil justice system either. What I hear and what I see and what I know from the work that I have done is that it really shouldn't be an either/or, that for some people—

**The Chair (Ms. Goldie Ghamari):** I apologize. That's all the time that we have for this round. Sorry.

We'll go to the independent member.

**Mrs. Karen McCrimmon:** I'll start, actually, with Sarah, if we could. I'd like to talk about moral injury. I'm going to have the same question because it's something—I want to know how you protect not only your clients and the people you work with but you and your team. How do you try to take care to make sure that your team doesn't suffer from this as well?

**Ms. Sarah Teich:** It's a great question. I think it almost ties back to your earlier question about the importance of training; specifically, training for counselling, therapy. These are all really important pieces of the puzzle and one reason—if I may go back to my submissions—why compensation is so important is because counselling costs money. This is really critical, not just for victims but for those serving them.

**Mrs. Karen McCrimmon:** Okay. Thank you.

**Ms. Sonya Jodoin:** In any kind of work in this, you need to go into it with some clear policies, procedures, structures, everything in place so that you recognize if someone's struggling, and you have things in place to take care of them if they are. So some of the work that we do: We have limits on what people do and sometimes or see, hear, read. Some of them, we kind of adjust things accordingly just so that—we don't want to traumatize people from the exposure to the content. So we're very mindful of that, and you really do need to be when you work in this sector.

**Mrs. Karen McCrimmon:** Good. Actually, thank you. That's what I wanted to know, whether that recognition of that issue and—because in some places it's not there, and I know we can actually end up harming more people than we're actually helping. So, thank you. That makes me happy to know.

If I can go back to Sarah now, I understand why compensation for victims is so important. Can you talk a little bit more about that?

**Ms. Sarah Teich:** Right. Counselling is just one part of it, but it is an important part. This is getting maybe slightly off topic from what I was saying earlier, but the Canadians victimized abroad fund, which does cover counselling for—not for certain cross-border victims of crime but for at least Canadian citizens who are victimized abroad after a certain date. But even that has limits. It's capped at, I believe, \$10,000. If a session with a specialist runs at least a couple of hundred dollars, let's say, for a good one for an hour, and you want to do that every week because you've been traumatized, that will quickly run out.

**Mrs. Karen McCrimmon:** All right. Thank you.

Can you either—I think we'll start with Sarah, then. How do we make people that have not experienced this understand? What do we share so that people actually understand more of what the victims are going through?

**Ms. Sarah Teich:** In my prior role, I spent a lot of time doing various forms of public education that talked about not necessarily the stories that are going to hurt people, to

hear them or to have someone's stories told, but talked about the—

**The Chair (Ms. Goldie Ghamari):** One minute.

**Ms. Sarah Teich:** It's really about education, about understanding what happens to your brain when you've been traumatized, what happens to your body and what that looks like in terms of making decisions and how you live your life, and the impact on your relationships, your schooling, your work—if you can do those things. We've found that that's been the most positive approach in terms of helping people that haven't experienced it understand the impact and why the behaviour of other people might seem so—what they think they wouldn't do, right? Because everybody has an idea in their head: “Oh, I would never do that,” and then something happens to you, and maybe you do. Helping people understand that piece has been very helpful.

0950

**Mrs. Karen McCrimmon:** All right. Thank you.

Thank you, Chair.

**The Chair (Ms. Goldie Ghamari):** We'll now turn to the government. MPP Hogarth.

**Ms. Christine Hogarth:** Thank you to everyone who came here today. We certainly appreciate hearing from you, your personal stories and your comments. They certainly add a lot to what we're learning about the justice system and how we can improve it moving forward.

My first question is actually going to be for Grand Chief Reg Niganobe. My question is with regard to the bill. Can you please explain how this bill will support First Nations in developing your own cannabis framework?

**Grand Council Chief Reg Niganobe:** The portion of the bill which describes where the minister is going to be able to enter into agreements with the First Nations, that portion will be able to help the First Nations develop their own regulations and rules, hopefully. That will be along this axis into that area.

**Ms. Christine Hogarth:** I'm assuming when you're talking about police issues, would it be with the cannabis that is illegally brought into your land?

**Grand Council Chief Reg Niganobe:** Yes, that's generally due to, I would say, like was mentioned earlier, the black market control of it, being able to bring it in through gangs or any other kind of activity along those lines, organized crime, infringing into our First Nations because it's an easier access area, and victimizing our people further.

**Ms. Christine Hogarth:** Earlier this—I guess it was last year, I had the opportunity with the Solicitor General to travel up north. We were in Lac Seul, talking with the chief up in that area. They were describing some issues about back roads and how people come from possibly Dryden and other areas and bring in drugs or other illegal tobacco to their communities, and how they work together as a team to try to arrest these people. Is that a similar story in your area, on your land?

**Grand Council Chief Reg Niganobe:** Absolutely. Over the past few years, if you take a quick look back in the news, you'll see that in Manitoulin Island, we've had

gang activity, and we've actually had firearms discharged and utilized on people by gang members and a few deaths within certain communities there.

**Ms. Christine Hogarth:** What is the missing piece between the police forces that, in your opinion, needs to be changed?

**Grand Council Chief Reg Niganobe:** We do have Anishinabek police forces or other First Nations policing agreements. They are underutilized and underfunded, as they currently sit right now. They are understaffed. They do not have the full supports that are needed. They don't have access to certain things that, say, the OPP or other major crime units might have, which is training on gangs, training on drugs and then kind of watching out for those sorts of things. They don't have all of that access to all those services to some degree, and some of it is due to location and these other sorts of issues that come with First Nations and being isolated. But those are some of the issues, and then, of course, the ability to create laws on the First Nation. We can't enforce our own laws, which are meant to protect our people on the First Nation. It leaves us open to susceptibility to these sorts of individuals from gangs and other places that come in, organized crime.

**Ms. Christine Hogarth:** Well, what we're trying to do and what we have been working on is making sure we have more boots on the ground to help combat some of these crimes. One thing our government did is we removed the tuition for police college, and we also have expanded our classes so we can train more police officers. I'm actually going to a graduation this evening of officers here in Toronto Police College. So, if there is a number that you need, please let us know, how many officers. I think it's important that we make sure that we address these concerns, and I will certainly take this back to the Solicitor General. So I thank you, and let's continue with that dialogue, okay? Thank you very much. Meegwetch.

**Grand Council Chief Reg Niganobe:** Thank you.

**Ms. Christine Hogarth:** My other question, actually, is for—I guess it would be for Sonya. Sonya, you've talked about the victims of crime and the changes to the victims of crime bill. Do you see some positive changes besides the one piece? Can you explain or just elaborate a little bit on some of the changes and what that will mean to victims?

**Ms. Sonya Jodoin:** The changes to the Victims' Bill of Rights, based on what I've read, is looking to provide an opportunity for some victims and survivors to pursue civil justice opportunities when they are a victim of crime. However, the way it's worded, it becomes a presumptive document in terms of not having to prove that you've been harmed. That is actually quite significant for victims and survivors, because that's what you spend a lot of time doing sometimes, proving to people that, "Yes, this person who did all these things to me—yes, I have actually experienced an emotional harm." That is significant for individuals who are trying to work through some recovery or healing process afterwards.

**Ms. Christine Hogarth:** Great. Thank you.

Sarah, would you want to expand on some of the changes in the bill today, the Victims' Bill of Rights, some of the positive changes that you find in this legislation?

**Ms. Sarah Teich:** Certainly. In terms of positive changes, I agree with Sonya. I think the presumed emotional distress is significant and a really wonderful change.

**The Chair (Ms. Goldie Ghamari):** One minute.

**Ms. Sarah Teich:** Beyond that, I'm not sure I actually have that much else to say.

**Ms. Christine Hogarth:** Okay, then that's it. Thank you all for being here today. No further questions.

**The Chair (Ms. Goldie Ghamari):** That concludes this round of questions. I'd like to thank the panel for being here.

The committee will now recess until 1 p.m.

*The committee recessed from 0958 to 1300.*

#### ONTARIO TRIAL LAWYERS ASSOCIATION

**The Chair (Ms. Goldie Ghamari):** Good afternoon, everyone. We are resuming public hearings on Bill 157, An Act to amend various Acts in relation to the courts and other justice matters.

I will now call upon the Ontario Trial Lawyers Association. Please state your name for the record, and you may begin. You will have seven minutes.

**Ms. Barbara MacFarlane:** Yes, good afternoon. My name is Barbara MacFarlane, and I am currently the vice-president of the Ontario Trial Lawyers Association. We go by OTLA. Our members represent some of the most vulnerable Ontarians. Thank you for inviting me here today to speak. I'm really grateful to be here.

Our association welcomes the government's efforts to modernize the justice system. We encourage this government to continue to explore ways to ensure that enhancing access to justice is a priority. We believe that there is an opportunity for this government to do more with the proposed Bill 157, and I'd like to highlight for you two sections of that bill that can be strengthened to support timely access to justice for Ontarians.

The first issue relates to taking a critical look at the use of civil juries. The bill proposes to amend, through schedules 6 and 11, the Courts of Justice Act and the Juries Act, respectively. We strongly recommend that the committee expand the proposed amendments to these acts to include restricting civil juries in Ontario, certainly in cases beyond those already listed in the Courts of Justice Act.

Today, I'd like to highlight the main issues for why we say restricting the use of civil juries will access justice for Ontarians. You'll find additional details included in the materials that we've provided. OTLA strongly suggests that the use of civil juries be restricted to only those cases that trigger a public interest and engage community values or a person's character, such as defamation, medical negligence or institutional sexual abuse cases.

By eliminating a substantial number of jury trials, it will have a great impact in reducing the backlog we see in cases in Ontario. And while we understand that the recommendation is not in the current bill, we believe that now is the time to add this important critical amendment to allow for timely access to justice in our civil system.

It's quite apparent that these cases are taking years to resolve. As we've heard time and again, justice delayed is

justice denied, and this could not be truer today. Restricting civil juries in Ontario will build on the modernizing of the courts that the government expedited during the pandemic. It will bring us in line with other provinces and other common law jurisdictions. Importantly, it will improve timely access to justice, all while saving litigants and this province substantial costs.

The time has come, and we urge this government and this committee to take this important step. Ontario should be leading the way, and not lagging behind. With this legislation, the opportunity is now.

The second issue we want to address is the amendments to expand the scope in schedule 18 of this bill, which is the Victims' Bill of Rights. As the committee heard yesterday, there are a few small but powerful amendments that could be made to protect the most vulnerable in Ontario.

The first amendment we propose relates to section 3, subsection 2(4), and our submissions outline this in more detail. But the current language of this section only includes victim under the age of 18 or persons with a disability at the time of the crime. We're recommending that the section be amended to include all victims of a crime related to misconduct of a sexual nature. It would include adults, not just children and people who were incapable at the time it happened, because that will exclude a number of very vulnerable people who were particularly vulnerable given the nature of the abuse that occurs.

Our second recommendation is to add a new subsection to section 3 which would read that a victim of assault—so just assault; we're talking physical assault, not just sexual assault, if it relates to a child. The amendment would be, "a victim of an assault if the victim was under the age of 18 or was a person with a disability at the time of the crime." That would ensure that the bill captures cases where children are physically abused and would require the courts to appropriately compensate them for the blatantly obvious harm that they suffer at the hands of the abuser.

Those are, short and sweet, essentially our submissions. Our written submissions obviously detail this a lot more. I didn't want to take up too much of this committee's time. I know that you may have some questions and I'm happy to answer those. But I do thank you for allowing me to present to this committee and I do encourage you to read our submissions in more detail.

**The Chair (Ms. Goldie Ghamari):** Thank you very much.

Since there is no independent member here, this round will begin with the government. MPP Dixon.

**Ms. Jess Dixon:** Thank you so much. Your written submissions are, of course, excellent. We had two counsel from Jellinek Ellis Gluckstein here yesterday, and they proposed something very similar to your proposed amendment of section 4.

One of the things that they had explained to me—I was a crown before, but I was not involved in the civil side of things, so it's completely foreign to me. What Ms. Ellis had explained to me was that by using the term "misconduct" instead, it was also more in line with the Limitations Act. Is that similar reasoning for you, or are you coming

at it from a different angle, as well? That was one of the reasons she gave.

**Ms. Barbara MacFarlane:** That is correct. We think that the word "misconduct" should be included because the Limitations Act does—in section 16(h.1), I think it is, if my memory serves me—specifically use that wording, and so it would make the legislation consistent.

**Ms. Jess Dixon:** And so the idea is that when you are essentially making this argument, bringing this argument, by having the consistent language, it is easier to make it clear that we are, in fact, talking about the same thing here.

**Ms. Barbara MacFarlane:** Exactly right.

**Ms. Jess Dixon:** And again, just to confirm: Ms. Ellis had said that part of that is because of—this part, I'm familiar with—the prevalence of plea bargains, where we will have a plea down to a simple assault for something that is clearly a sexual assault; however, we would accept a plea to a simple that does not indicate sexual involvement.

**Ms. Barbara MacFarlane:** Yes, that's exactly right. To be quite frank, the members who spoke yesterday are members of our association, and so we did, to some degree, collaborate on that and we certainly accept and adopt what they say. I would say that their submissions are probably duplicative of what we are saying, as well. You'll likely see that in the written submissions, as well.

**Ms. Jess Dixon:** Thank you so much.

Chair, I'll turn it over. I believe it's MPP Saunderson.

**The Chair (Ms. Goldie Ghamari):** MPP Saunderson.

**Mr. Brian Saunderson:** I'm happy to let MPP Coe go first, if he'd prefer.

**Mr. Lorne Coe:** Yes, I just have a quick question. Thank you so much for your presentation. It was very succinct and to the point.

It's related to the new subsection, and I'm referring to page 1 of your presentation, section 3(2)(7), to protect children and persons with disabilities who are physically assaulted. You spoke a little bit about the basis for that. When I read that, I wondered who you might have consulted with in the construct of this addition. I ask because I do and have done a fair amount of work in this area over the years as my son has multiple disabilities.

One of the groups that we've done a lot of work with over the years is the Grandview children's treatment centre. They have a variety of staff there who would have an interest in this particular proposed amendment, so I wonder about the extent to which you might have engaged with groups like that or anticipate that you might in the course of being informed by their opinion, as well.

**Ms. Barbara MacFarlane:** To start, I can answer the question in terms of who we consulted. I can tell you that we largely consulted with our members, who are plaintiff-side personal injury lawyers who do represent the actual victims of these crimes who have suffered abuse—not even through a crime, necessarily, or not a conviction, if I could put it that way. And so that's largely the group that we have consulted with. We have not, for example, consulted with that particular home or facility. We have not gone out into the community to seek feedback. What we want to give is a voice for those that we have represented through

the years. Our members are almost 1,500 lawyers and paralegals, and law clerks, even. So we have a breath of various victims of abuse.

1310

**Mr. Lorne Coe:** I think, going forward—if I could suggest through you, Chair—there might be some benefit in engaging in that conversation. There are perspectives not only from the staff but from the parents as well on the effects of what you are suggesting in terms of this amendment.

Chair, my question has been put and answered, and I will pass it along to MPP Saunderson, please.

**Mr. Brian Saunderson:** Thank you very much for your presentation today and your thorough comments. I am the PA to the Ministry of the Attorney General, so your comments about juries, while really not part of this piece of legislation, are also very helpful because it has been a topic for discussion, and in your materials, it goes right back to the law reform report of 1973. So this is not a new issue, and we've been looking at initiatives through expanding the Small Claims Court jurisdiction to \$35,000, upping the rule 76 jurisdiction to try to expedite trials and have some proportionality to the length of the trial and the actual issues at hand.

I certainly agree with your five areas in which you think juries would be important, but you must be aware that within the bar there are strong opinions. Certainly our defence bar, who rely heavily on juries in motor vehicle accidents and personal injury accidents, are committed to trying to keep those around.

As we evolve, the discussion about jury trials and how to be a gatekeeper is very much top of mind, I think, as we struggle with our backlog, and also making the judicial system more accessible, more efficient and more timely, period.

**The Chair (Ms. Goldie Ghamari):** One minute.

**Mr. Brian Saunderson:** So without asking you to summarize all your comments, if you can just use the last minute of our conversation to tell me a bit about why you think it would be helpful to limit jury trials.

**Ms. Barbara MacFarlane:** Because the answer is not, I would suggest, in just simply increasing monetary values on small claims or in simplified rules—which is rule 76—because it does not address the fact that it would eliminate, for example, juries in civil and medical malpractice, the community standards, the character issues, the ones that we have identified as core to our jury system. It would eliminate those, which would be an unfairness, I would suggest, that was not intended by simply increasing.

The second thing is that the monetary issue does not factor in the complicated nature of rule 76 trials and the evidentiary burden that is required for that, which could prohibit things like medical malpractice which require multiple experts and—

**The Chair (Ms. Goldie Ghamari):** Thank you. That's all the time we have.

We will turn to the official opposition. MPP Wong-Tam.

**MPP Kristyn Wong-Tam:** Thank you for your presentation, Ms. MacFarlane. In Ontario, it can take up to five years for a civil case to reach trial. We have the worst track

record right now in Canada, right across the country. It has the worst wait times for civil cases. Your suggestion and the suggestion on behalf of the Trial Lawyers Association to restrict the type of jury trials will probably go a long way in addressing that backlog, but I also believe that there's probably a moment in time where we can save quite a bit of money on behalf of the Ontario taxpayers. Can you elaborate on that?

**Ms. Barbara MacFarlane:** Well, I think that ultimately, if you have shorter trials, you have less court staff, less judges potentially—although we've got an issue separate from that I can't address. Certainly, it's about getting things done sooner and quicker. That's what it's about, because jury trials, by their nature, are long. In a jury trial, you have to pick a jury, you have to empanel a jury; when you have objections, the jury has to go and then they come back—it's a very long process. You have openings that are longer. You have closings that are longer. It's just a much longer process.

**MPP Kristyn Wong-Tam:** Although the process is described, I think, very clearly in law, jury trials are not constitutionally protected as a right, are they?

**Ms. Barbara MacFarlane:** Not in the civil context.

**MPP Kristyn Wong-Tam:** Not in the civil context. And so your proposal to ensure that we can restrict and prohibit the jury trials limited to some very specific cases would probably go a distance in clearing the backlog. I see that the backlog in Ontario is significantly high, as I've noted before. Can you speak and explain to us, educate us at this committee, on the impact of forcing a jury trial on a civil case with respect to insurance companies—because many of these are motor accident disputes. How does that advantage the very large insurance companies that keep using the request for jury trials to delay the trial date?

**Ms. Barbara MacFarlane:** I'm not sure that I can really speak specifically to that issue. Certainly, OTLA can provide more information on this. Sort of anecdotal from my own perspective is that you have insurance companies that are permitted to invest their funds, without paying the accident victims, through a delay, and while there are some requirements under our rules that require some interest, I would suggest it's potentially not the same as what the insurers are reaping in terms of benefit while the delay happens. It may be an indirect benefit that insurers are getting. I'm not sure, but we can certainly give you more submissions on that if you would like.

**MPP Kristyn Wong-Tam:** That would be incredibly helpful, because my understanding is that injured Ontario citizens who are waiting for trial dates and whose cases are delayed for years because the insurance companies will continue to reap the profits, that the delay itself is a tactic and a windfall for insurance companies under the current Insurance Act, and it limits the past income loss to a portion of what it actually is. So for the victims who are actually the Ontarians who have been involved in motor vehicle accidents, the ones who are not able to work because they've now been rendered unable to work, how will reducing and eliminating jury trials in civil cases for them actually help Ontarians who have been harmed in motor vehicle accidents?

**Ms. Barbara MacFarlane:** The short answer is, if we reduce the backlog in our court system, people will get to trial quicker, and so accident victims will be compensated quicker. So the 70%, 30% loss, so to speak, that you—and we write about it in our submissions, that, rather than five years—10 years, I’ve seen trials that have been 10 years out—that portion is paid so much sooner to the accident victim.

**MPP Kristyn Wong-Tam:** And is it fair that insurers oftentimes invoke civil injuries as a tactical advantage to create uncertainty and delays for vulnerable plaintiffs?

**Ms. Barbara MacFarlane:** I’m not sure that I could really speak to that, but again, I think if you would like more submissions on that, we can certainly take that back.

**MPP Kristyn Wong-Tam:** Thank you. Despite the record-high backlog in the tribunal systems in Ontario—and we know it’s absolutely in crisis because Tribunal Watch Ontario, which is Ontario’s independent, non-partisan watchdog, has used that language, that it is absolutely in crisis. So despite the fact that the tribunal system is in crisis, will it help to expand the scope of tribunals to alleviate some of the historic high backlogs that we’re now seeing in the civil court side?

**Ms. Barbara MacFarlane:** I think the civil court system is very different than the tribunal system. I think that the tribunal system addresses the accident benefits that are payable to people who have been injured in car accidents, and so that’s regardless of fault. So it could be your own insurer, it can be the defendant’s insurer, potentially. It really is peripheral to the court system versus together. I’m not, at this moment, capable of giving you an answer to how we could use tribunal to do that—

**MPP Kristyn Wong-Tam:** Anything and everything will help.

**Ms. Barbara MacFarlane:** I suppose that’s correct. If we can help eliminate the backlog, that would certainly be something we could give more submissions on.

**MPP Kristyn Wong-Tam:** Thank you.

I want to concede my time to my colleague.

**The Chair (Ms. Goldie Ghamari):** MPP Mamakwa.

**Mr. Sol Mamakwa:** Meegwetch. Thank you, Barbara. I want to focus on the recommendation of the wording, “victim of a crime related to misconduct of a sexual nature.” Up where I come from, in the riding of Kiiwetinoong, we have remote fly-in First Nations, and there’s this thing coming out; it’s been there for a long time. There was a prolific pedophile that abused over 500 boys in north-western Ontario. His name is Ralph Rowe.

**The Chair (Ms. Goldie Ghamari):** One minute.

**Mr. Sol Mamakwa:** Ralph Rowe was an Anglican minister. He was a Boy Scout leader. He’s a former OPP officer. People are starting to come out today and starting to speak about it.

Would this type of change, that wording that you have—how would that support the people who are still alive today?

**Ms. Barbara MacFarlane:** I think the reason the misconduct was put in there is, as I alluded to earlier, so that it’s consistent with the Limitations Act, and it would fit with what the legislative intent was in terms of capturing the conduct of a sexual nature. So I would submit that that is an important feature to add in to ensure that it captures things. I might add that it’s also important to add that it’s not just for children; it could be young leaders in the Scout troop; it could be kids who just turned 18. And—

**The Chair (Ms. Goldie Ghamari):** Thank you very much. That’s all the time that we have.

At this point, this concludes our public hearings on Bill 157.

As a reminder, the deadline for written submissions to Bill 157 is Thursday, February 22, at 6 p.m., and the deadline for filing amendments to the bill is Friday, February 23, at 12 p.m.

There being no other business, the committee is now adjourned until 9 a.m. on Wednesday, February 28, 2024. And may the force be with you.

*The committee adjourned at 1322.*









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