SPVM

Speaking Notes
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Mr. Chair,
Ladies and Gentlemen, members of the Committee,
Distinguished colleagues,

Greetings to everyone.

First of all, I would like to express my sincere thanks to the Standing Senate Committee on Legal and Constitutional Affairs for giving the Police Service of the City of Montreal (SPVM) the opportunity to share its views on an issue as important as delays in the criminal justice system.

From a policing point of view, this is a key issue, not only as regards access to justice, but also as regards the future of the criminal justice system itself.

Before continuing further, let me first provide a brief introduction of our organization.

The SPVM is the largest municipal police service in Quebec and the second largest municipal police service in Canada.

Our jurisdiction encompasses the greater Montreal area, which covers 500 km^2 and includes the City of Montreal and 15 suburban cities.

We offer basic police services and Level 5 specialized services to the 1,934,000 residents of the greater Montreal area, who represent nearly a quarter of the population of Quebec.

An additional 500,000 people travel into Montreal each day for work or school.

The SPVM carries out more than a **million interventions per year**, and its workforce includes 4,600 police officers and 1,500 civilian employees.

Our community policing approach places citizens at the heart of our organization, in an effort to encourage closer ties with the general public and to resolve local public safety issues.

Fighting crime, arresting suspects and having them appear in a court of law all share a common purpose that everyone here also shares: to ensure the safety of citizens.

From this perspective, the issue of delays in the justice system goes beyond the public interest and the administration of justice.

It directly affects citizens' access to justice and makes some victims feel like they are being left adrift.

Canadians are concerned, and the underlying reason is quite simply the level of trust they have in our democratic institutions.

In short, a review of the delays in the criminal justice system is a barometer of the state of our democracy.

We are aware that these problems are due to a variety of factors, that all of these factors taken together form a complex reality, and that all of these realities have to be taken into account in order to be able to implement the proposed measures.

In addition, the SPVM firmly believes it is necessary to analyze the delays in the criminal justice system with due respect for the rights of all the parties.

We believe nonetheless that innovative solutions exist and that they constitute, in whole or in part, possible courses of action that are in

the best interests of those whom we must serve and protect: **the victims of crime**.

For the purposes of the presentation, we have grouped our proposals into **four** major themes that I will talk about next.

The first of these themes is maximizing the use of courtrooms.

We know that when people talk about delays in the justice system, often what they mean is that it is not possible to obtain a hearing in a reasonable amount of time.

There are three fundamental factors in play:

1 – the number of cases
2 – the number of judges
3 – the number of courtrooms

It's kind of like the health care system.
If there are waiting lists for surgeries, it means that there are more patients than there are surgeons and operating rooms available.

We use this simple analogy to illustrate our point because the legal system is a more complex issue.

But in our case, we know that some of the courtrooms available could be better organized.

This is the case, in particular, for how courtrooms are used over the summer, which we believe is not the best approach.

Our suggestion is to reorganize when judicial staff take their vacations and also to increase the number of judges.

The combination of these two factors could help maximize courtroom use, in particular over the summer months.

I will be making additional proposals on how to improve case management a little later on.

The second theme is updating criminal and penal procedure.

It is important to ensure that we use the tools and means at our disposal to carry out justice in the 21st century.

Here are some examples:

- Using the *Contraventions Act*

The *Contraventions Act* already gives an offender the opportunity to acknowledge guilt by paying a fine, without this acknowledgement of guilt resulting in a criminal record.

We propose that the contents of this statute be revised so that contraventions may also be used in summary conviction cases.

By doing this, we would be able to reduce the number of cases brought before the courts by eliminating the formalities of criminal procedure, namely:

- laying the charge
- appearance in court
- conviction or acquittal
- sentencing, etc.

As a result, delays could be eliminated, judges would be available to deal with major cases, and courtrooms would be freed up.

Is it not said that nearly two thirds of criminal cases brought before the courts end with a guilty verdict?

- Increasing the use and powers of case management

Others before us, including former Chief Justice of the Superior Court of Quebec, the Honourable François Rolland, have stressed the importance of giving the courts the power to truly manage proceedings by eliminating pointless postponements or the burden of having to demonstrate lengthy evidence that is obvious to all.

We agree with this view.

Allow us to go back to the courtroom example we were talking about earlier.

When resources are scarce, if a trial scheduled to last seven days is resolved at the outset with an admission of guilt, does it make sense to leave that courtroom empty for the following days?

We acknowledge that, while the question is simple, the answer is complex.

- Using new information technologies

Criminal and penal procedure involves appearing before a judge.

The defendant is charged with an offence and must plead "guilty" or "not guilty".

The judge must reassign the accused "pro forma" to maintain jurisdiction.

Would it not be better to use new information technologies so the appearance and the disclosure of the evidence can be carried out by electronic means?

Would it not also be possible to set trial dates electronically within a fixed timeframe, as suggested by the Supreme Court in the ***Jordan*** case, as long as the judge, the accused, the witnesses, the counsel and the courtroom are available?

- Disclosing evidence electronically

We live in an increasingly digital society, and it is easy to picture a system where a citizen could receive a digital ticket, contravention, summons or any other document pertaining to the offence.

These documents would assign the person a file number and a Personal Identification Number (PIN), allowing them to access the **electronic version** of the evidence available against them.

With this information in hand, they would be able to consult a lawyer or make an informed decision about how to proceed and whether or not to acknowledge guilt.

The Department of Justice of Canada was looking into electronic disclosure of evidence ... 12 years ago!

- Managing the presence of police officers and witnesses in court

New information technologies could be used more effectively to minimize the unnecessary travel of police officers and witnesses to the court.

Currently, situations may arise where trials are postponed so many times that some witnesses become discouraged and no longer appear in court.

With the aim of humanizing the process and facilitating access to the justice system for witnesses and victims, we propose changing the hearing planning process by setting court dates on the basis of the availability of the parties, not simply on the basis of the availability of the court.

Another option could be to review how witnesses are summoned to appear so that it includes the use of technological means, such as sending subpoenas by email—with electronic notification—in order to speed up the process of subpoenaing witnesses and to save money on the costs of the service.

- Presumption of truthfulness for documents

The *Evidence Act* already provides for the filing of electronic documents.

There should be a correlation between the electronic disclosure of evidence, the non-contestation of its truthfulness and its acceptance by the court as regards its contents, with some exceptions.

That would avoid parading hordes of police officers and witnesses to confirm the existence of the evidence, which is already known in any case.

That would reduce the length of trials.

The third theme concerns the necessity of having a preliminary inquiry.

Let us agree at the outset that this is a stage that defendants consider to be important.

At one time, preliminary inquiries played a role of "disclosing the evidence" but, in our opinion, once the Crown was required to disclose its evidence, there was no longer any reason for the preliminary inquiry to play this role.

Already in 1974, the Law Reform Commission recommended replacing the preliminary inquiry with a mandatory evidence-sharing system.

Furthermore, New Brunswick, Quebec and British Columbia all have pre-charge programs in place, and these provinces had higher proportions of guilty verdicts compared to the national average in 2013-2014.

In light of the above, and in a context where maximizing court time has become a necessity, it seems clear to us that we must continue to explore alternatives to holding preliminary inquiries.

I want to be clear.

Our position would in no way affect the right of the accused to a full answer and defence at the trial stage.

The time that may be gained is before the trial begins.

The fourth theme deals with the federal Victims' Bill of Rights.

The Victims' Bill of Rights, which came into force on July 23, 2015, gives victims four rights:

1. the right to information
2. the right to protection
3. the right to participation
4. the right to compensation.

However, in July of last year, Ms. Sue O'Sullivan, the Federal Ombudsman of Victims of Crime, pointed out the following:

"Although the Bill takes a critical step forward by acknowledging the importance of including and considering victims, there is still important work to be done to ensure that the rights of victims are both respected and enforced."

This statement shows that our justice system, despite the adoption of a victims' bill of rights, must continue to work to ensure greater openness to the needs of victims.

This was a brief summary of what the SPVM is proposing in order to

- simplify and streamline the operation of our criminal justice system

- make it compatible with the technological advances that are available to us

- humanize the system so that **the victims and the witnesses** both find their place.

As I said in my introduction, we are aware that the issue at hand is quite complex.

However, we believe that a solution must be found.

The interim report tabled by this Senate Committee last August, entitled **"Delaying Justice is Denying Justice,"** outlines how the witnesses who had appeared before the committee had pointed out the negative effect on victims and witnesses in the current system.

We share the observations made by the Committee on page 2 of that report, which says that the Committee is concerned about the effect of lengthy trials on the people involved, and especially the additional stress and worry they cause to the victims, the accused and the witnesses.

Further on, the Committee writes that the stay of proceedings, even with the aim of protecting the constitutional right to be judged in a reasonable amount of time, means that the system is neither fair nor effective.

We wholeheartedly agree with this point of view.

We see here a disturbing situation that leads us to pose a question that may be formulated as follows:

Fundamentally, does Canada's criminal justice system exist to serve citizens, or to serve itself?

We ask this question because the obvious dysfunctionality of Canada's criminal justice system has gradually led the system to withdraw into itself, unfortunately making it sealed off and inaccessible to the very people it is meant to serve.

In asking this question, we are lending our support to past and future witnesses appearing before this committee who are in favour of humanizing the system.

Solutions do exist, as the work of this committee has clearly shown.

Today, the SPVM is making its own small contribution to this debate.

In our opinion, it is past time to adopt the long list of measures proposed by witnesses—including ourselves—who have appeared before the Committee.

We owe it to the victims, the accused and the witnesses.

We owe it to the police officers who, every day, go looking for criminals across the country in order to make our streets, our parks and our cities safe.

We owe it to Canadians.

Thank you for your attention.