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Speaker: The Honourable Andrew Scheer

PRIVATE MEMBERS' BUSINESS

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(1105)

Criminal Code

Mr. David Wilks (Kootenay—Columbia, CPC)

moved that Bill C-299, *An Act to amend the Criminal Code (kidnapping of young person)*, be read the second time and referred to a committee.

He said: Mr. Speaker, it is with great pride that I stand today for the protection of all children and speak to Bill C-299 and to recognize the severity of kidnapping a child under the age of 16 by a stranger, by attaching a minimum sentence of five years to anyone convicted of this crime.

A child is the most valued treasure of a parent, a gift and is bequeathed with the honour of carrying the legacy of that family forward. When that is taken from a family there are no words to describe what the family is going through except sheer terror. For the child taken by a stranger without consent, I can only imagine the fear and the anxiety the child would go through.

In its simplest terms, kidnapping came from the term "kid-napping", slang for child stealing. Unfortunately, the act of kidnapping is the forgotten crime under normal circumstances. Stranger kidnappings in Canada are a rare occurrence; however, each incident tends to shock the nation. When child kidnapping is portrayed by the media it is usually a report of the most severe kind. A child is taken from his or her home, yard or bed, kept for ransom, for sexual exploitation and sometimes murdered.

A kidnapper is normally classified under one of four categories. The first is pedophiles, individuals who seem to identify with children better than with adults which is the reason they are able to lure children easily. The second is profiteers, individuals who are crime exploiters, who sell children to pornographers or adoption rings. The third is serial killers, methodical and ritualized, with power, dominance and control as the most frequent motivators. The fourth is childless psychotics, individuals who tend to kidnap children when they are unable to have children of their own or have lost a child and seek another in its place.

Child kidnappers are characteristically habitual offenders and carry out their assaults in a highly stereotypical modus operandi. They are some of the scariest offenders because in the terms of kidnapping they have planned what they are going to do and to whom, with no regard for those they are about to affect. Their sole desire is self-gratification. Once the kidnapping has occurred, their attention turns to not being apprehended by the authorities and the victim is drawn deeper into the desperation of the kidnapper.

Kidnappers must ensure that the victim conforms to each and every demand and normally that will involve physical violence. The younger the victim, the more traumatic the experience.

For the most part, if a person has resorted to this type of criminal behaviour, his or her ability for rehabilitation is remote. Why do I say that? Because these people have no regard for the care or well-being of a fellow human being. As I said before, this is about self-gratification or financial gain and nothing more.

Kidnappers seldom stalk their victims. They are usually very skilled at manipulating and luring children. In the most recent case in Sparwood, B.C., the

accused entered the home of the victim and removed him while the family slept. Most kidnappers target younger children because they cannot match the strength of an adult and consequently they are quite easy to restrain.

There is one more point about why this law must be changed to better reflect the severity of the crime.

In a 2000-01 study of stranger-kidnapping cases, five cases were studied. In three of those cases, the accused was convicted of murder. In another case, the accused was before the courts and charged with murder. However, the most disturbing to me was the last case. A babysitter kidnapped a child and later returned the child unharmed. The accused was sentenced to open custody and probation. Just because a child is returned unharmed does not justify a leaner sentence. The child was taken without consent and that is just wrong.

I would like to focus for a few moments on two children from British Columbia who were kidnapped during my tenure as a police officer and another, while I was a member of Parliament.

Michael Dunahee was born on May 12, 1986 and disappeared from the Blanshard Street playground in Victoria, B.C. on March 24, 1991. He was four years old. He has never been found. His parents were mere metres away when Michael was taken. His mother, Crystal, was instrumental in getting the AMBER alert program implemented in British Columbia. She also serves as the president of Child Find for British Columbia. Police officers across Canada were kept on alert for years after Michael's disappearance and many people across Canada volunteered their time to search for Michael. It has been over 20 years since Michael Dunahee's disappearance and we hope that he is still alive and he will be found some day.

Mindy Tran was kidnapped and murdered in Kelowna, British Columbia in 1994. As a member of the RCMP stationed in Penticton at the time, I was part of an enormous team assembled to search for her. The fear that gripped the city of Kelowna was very noticeable. For a young child of eight years old to be riding her bike on her street and vanish without a trace is something that no parent should be subjected to. Mindy was found about six weeks later, not far from her home, in a shallow grave.

The third and final child I would like to speak about is Kienan Hebert. Kienan was taken from his home in Sparwood, B.C. this past September. Kienan is three years old. It was the middle of the night and he was taken from his bedroom while the rest of his family slept. For four days, the people of Elk Valley, Canada and the international community were focused on the safe return of Kienan to his family.

Through the efforts of so many, and some very good police work, Kienan was returned and his kidnapper arrested.

I have presented three kidnappings with three different results. The families of these children will never be the same. A child was taken from them without consent and those responsible for the abductions did not care in any way about the effects that they would have on so many. They only cared about their own gratification.

I now focus on the most important part of this bill: standing up for the victims of kidnapping and for some of the most vulnerable in our society, our children.

As a police officer for 20 years, I worked with victims of crime in the gravest of circumstances. Those who were subjected to traumatic events such as sexual assault or kidnapping will in most circumstances always be faced with that question: Why me? Most of the time there is no answer and, as such, the victims continue to relive the event and are subject to years of mental torture. There is also fear that the crime will reoccur.

I cannot say how many times I have had to convince victims that their giving a statement and providing evidence in court was the only way for the accused to receive justice. Most victims of crime are so fearful of the accused that facing them in a secure courtroom is a very tough challenge.

(1110)

Subsection 279(1.1) of the Criminal Code of Canada provides for minimum sentencing when a firearm is used in the commission of kidnapping. In fact, the sentencing is most severe if, "the offence is committed for the benefit of, at the direction of, or in association with, a criminal organization".

Most kidnappings involving children do not involve a firearm. The child is either lured or physically manhandled.

Our children are more important than any criminal organization. As politicians, we have an obligation to ensure that we protect them at all costs. Children are fragile. They are to be nurtured and loved. They should not be subject to intimidation or fear. They should know all of society will protect them and stand up for their well-being.

In closing, I have received questions regarding the intention of the bill and whether it focuses on the kidnapping of children by strangers. My intention is to have the mandatory prison sentence apply only in cases where a stranger commits

the crime of kidnapping a child under the age of 16. I am open to considering an amendment to my bill that would clarify that intention. I call on every member of this House to stand and support the bill.

Ms. Kerry-Lynne D. Findlay (Parliamentary Secretary to the Minister of Justice, CPC):

Mr. Speaker, I am pleased to have the opportunity to voice my support for private member's Bill C-299, *An Act to amend the Criminal Code (kidnapping of young person)*, which was introduced on September 29 by the member for Kootenay—Columbia.

The bill proposes to impose a mandatory minimum penalty of five years on those convicted of kidnapping a child. Its objective is, without doubt, compelling in its simplicity. We must ensure a strong criminal justice response to those who would harm our children. I would like to be able to stand in this place and say that surely we can all agree that such offenders must be held to fully account for their crimes.

However, after listening to the purported history lesson on the law by the Liberal member for Charlottetown, I proffer more recent history. Before this government took office in 2006, there were already 40 mandatory minimum penalties to be found in the Criminal Code of Canada, either introduced by his party or never repealed by that party.

I understand that a recent British Columbia case, which took place in September of this year in the sponsoring member's riding, has brought this issue once again to the fore. A young child was taken from the safety of his home. That child was three years of age. The authorities mobilized quickly to ensure his safe return and, thankfully, the child was returned safely to his home. However, too often this is not the case.

Such cases remind us that we must remain vigilant in ensuring that we have in place a comprehensive response to these types of cases. We have heard about our tool box of offences that apply when these crimes are committed and comprehensive laws are important, but they are not enough. Significantly, we also have in place initiatives aimed at preventing these crimes from happening in the first place, as well as achieving effective enforcement of these laws. When such offences are committed, it is of extreme concern to the whole community.

Bill C-299 is an important piece of our broader response to this complex issue. This broader response includes the RCMP's Canadian Police Centre for

Missing and Exploited Children, which is home to the National Child Exploitation Coordination Centre and the National Missing Children Services. The National Missing Children Services, which has been in operation since 1986, oversees the our missing children program, a program that is integral to the successful search for, recovery and return of a missing child to parents. It is an investigative and collaborative mechanism designed to coordinate missing children investigations. Such investigations are often complex and can span multiple police agencies and jurisdictions.

Reflecting this complexity, five government departments and agencies work closely together on this program: the RCMP, the Canada Border Services Agency, Citizenship and Immigration Canada, Foreign Affairs Canada and Justice Canada. Specifically, the National Missing Children Services assists law enforcement agencies in the investigation, location and return of a missing child by collaborating on cases with municipal, regional, provincial and national law enforcement agencies. It also provides a number of services, such as computer age progression service; posting missing children photographs on the Our Missing Children website; distributing posters of missing children to partners, such as Walmart Canada, the Canada Border Services Agency and Passport Canada; managing a transportation reunification program for parents with financial needs to pick up their children; and liaising with the National Child Exploitation Coordination Centre investigators on Internet luring cases.

Also, research conducted by this unit contributes to policy development, the advancement of investigative processes and helps to better understand the nature and scope of the problem of missing children in Canada.

(1145)

Another significant initiative is AMBER Alert. In 2004, AMBER Alert was implemented in every Canadian province. This alert is a voluntary national co-operation effort between police and local broadcasters to rapidly disseminate information about a child who is believed to have been abducted and whose life is believed to be in grave danger. The National Missing Children Services provides information to law enforcement agencies by coordinating and monitoring the implementation of this alert system.

In addition, supported in part by the Government of Canada, as well as private sector organizations, the Canadian Centre for Child Protection is a non-profit, charitable organization dedicated to the personal safety of all children. The centre's new MissingKids.ca website provides a link and an information portal for parents, particularly of missing children, and an in-depth resource of law enforcement agencies across Canada. It is designed to

assist in the location of missing children, provide educational materials to help prevent children from going missing, be an information resource centre on missing children and coordinate efforts and assist stakeholders in the delivery of missing children's services.

I am very pleased to have the opportunity to review these comprehensive initiatives that both implement preventive measures and seek to achieve effective enforcement of our criminal laws on this issue. However, I agree that we can always do more and Bill C-299 provides us with an opportunity to do just that.

Obviously, it would be better to prevent these crimes altogether from happening in the first place. However, sadly, despite our best prevention efforts, we know they do happen. It is not a matter that they do not happen very often. One is too many and one is too many for any family who has been put in this position. We need to be able to respond effectively and appropriately when they do.

There are many Criminal Code offences that may apply to cases involving kidnapping of children, depending on the facts of a given case. These include: kidnapping, subsection 279(1); forceable confinement, subsection 279.1(2); child abduction, sections 280 and 281; and a number of other offences, including child sexual offences, sections 151 to 153; general sexual offences, sections 271 to 272; and even the luring a child offence, section 172.1(1), which criminalizes communicating with a child by means of a computer system, such as the Internet, for the purposes of facilitating the commission of any of the listed child sexual and abduction offences.

Our laws are comprehensive and I am pleased to have the opportunity to support a legislative initiative that would further strengthen these laws. Bill C-299 would ensure that a stronger, more appropriate penalty is imposed upon those who kidnap children. This is not only a praiseworthy objective but also a significant enhancement of our current criminal justice response to this very serious issue.

I understand that the sponsor of the bill has expressed openness to considering an amendment that would clarify the intention of the bill. It is now clear that the hon. member's intention was always to capture the kidnapping of children under 16 by strangers, not parents or those who would stand in loco parentis. Having practised family law for many years before becoming a member of Parliament, this distinction I know to be very important. I am happy that the hon. member is willing to clarify this and I am sure it is something we can consider if and when the bill is studied by the Standing Committee on Justice and Human Rights.

I support Bill C-299 and I encourage others to join me in my support. I thank the member for Kootenay—Columbia for giving us the opportunity to discuss these issues. They are, undeniably, of national importance. We all need to do everything we can to keep our communities and our children safe.

(1150)