



House of Commons
CANADA

Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness

JUST • NUMBER 053 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Tuesday, October 18, 2005

—
Chair

Mr. John Maloney

All parliamentary publications are available on the
"Parliamentary Internet Parlementaire" at the following address:

<http://www.parl.gc.ca>

Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness

Tuesday, October 18, 2005

•(1105)

[English]

The Clerk of the Committee: Honourable members of the committee, I see a quorum.

[Translation]

We can now proceed to the election of the chair.

[English]

I am ready to accept motions for a chair.

Mr. Garry Breitkreuz (Yorkton—Melville, CPC): I would like to nominate Mr. John Maloney.

[Translation]

The Clerk: Are there any other nominations?

[English]

A voice: No, I don't think so.

The Clerk: Nominations are now closed.

Is it the pleasure of the committee to adopt this motion?

Some hon. members: Yes.

The Clerk: I declare the motion carried and Mr. John Maloney duly elected chair.

Some hon. members: Hear, hear!

The Clerk: We now have to proceed to the election of vice-chairs.

[Translation]

I am ready to proceed with the election of the vice-chair for the official opposition.

[English]

Mr. Myron Thompson (Wild Rose, CPC): I nominate Garry Breitkreuz.

[Translation]

The Clerk: Are there any other nominations?

[English]

A voice: No.

The Clerk: Nominations are now closed.

Is it the pleasure of the committee to adopt this motion?

Some hon. members: Yes.

The Clerk: I declare the motion carried and Mr. Garry Breitkreuz duly elected vice-chair.

Some hon. members: Hear, hear!

[Translation]

The Clerk: I will now proceed to the election of the vice-chair for the other opposition party.

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): I nominate Richard Marceau.

The Clerk: Are there any other nominations?

[English]

A voice: Nominations are closed.

Some hon. members: Oh, oh!

The Clerk: Nominations are closed.

Is it the pleasure of the committee to adopt this motion?

Some hon. members: Yes.

The Clerk: I declare the motion carried and Monsieur Richard Marceau duly elected vice-chair.

Some hon. members: Hear, hear!

The Clerk: I invite the chair to take the chair.

The Chair (Mr. John Maloney (Welland, Lib.)): Thank you very much for your vote of confidence.

It's time to get down to business again. With your consent, we'd like to proceed to hearing witnesses this morning.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Chair, I'd like to raise a point about scheduling future meetings at some point in the meeting.

The Chair: We're happy to accommodate you, Mr. Comartin. Why don't we wait until after the witnesses? Then we could work it out between the clerk and ourselves, and perhaps change days with other people.

Mr. Joe Comartin: The clerk and I have already taken care of it, and it's just up to the committee to agree.

The Chair: Good.

I invite our witnesses to come forward, please.

With us today are Mr. Daryl Kramp from the House of Commons, Mr. Tony Cannavino from the Canadian Professional Police Association, Mr. Rick Deering from the Royal Newfoundland Constabulary, Mr. A.J. Warr from the Toronto Police Service, and Mr. David Daubney from the Department of Justice.

I would ask our witnesses this morning to make submissions up to a maximum of ten minutes. I'll start with Mr. Kramp, then we'll follow with questions and answers of seven and five minute rounds.

Daryl, could you proceed please?

•(1110)

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): Thank you, Chair.

Welcome to the committee, and thank you very kindly for having us here today, from not only me but also from the witnesses.

I'm pleased to be appearing before you today to discuss Bill C-215, but before I begin, I would like to introduce and thank the witnesses who have come here today in support of this bill.

We have with us the Chief of the Royal Newfoundland Constabulary, Rick Deering. He's also a board member and designate of the Canadian Association of Chiefs of Police. Thank you, Rick.

We have Mr. Tony Cannavino, president of the Canadian Professional Police Association, and we have Mr. Yves Charette, deputy director for strategic affairs for the City of Montreal Police Service. As well, I am pleased to have with us Deputy Chief Tony Warr, specialized operations command for the Toronto Police Service.

Ladies and gentlemen, throughout this summer the number of firearm fatalities has increased at unacceptable levels. In Toronto alone, the number of fatalities has risen to over 40. What sheer numbers do not indicate is the total number of lives affected by each shooting. Family, friends, and neighbourhood communities are being forever altered due to this unchecked violence. How many children have been left without a parent? How many parents have been left without their child?

While the number of deaths by firearm has received much publicity, there has been an increase in other acts of violence involving firearms as well. There are victims such as Louise Russo, a 46-year-old mother of three children, including a disabled daughter, who was left paralyzed after someone in a passing stolen van sprayed a stream of bullets into the parking lot of a sandwich shop. Doctors say she'll never walk again.

Of course, just recently a bus driver in Toronto was shot in the face and has now lost his eye.

I remind my colleagues sitting here today that the comfort and safety of this committee room is not the reality of the streets. In order to make Canada a safer place, I appear before you today to discuss Bill C-215, a bill that would amend the Criminal Code of Canada by introducing mandatory minimum sentences for indictable gun offences. In brief, the additional sentence is to be served consecutive to the other sentence and is to be a further minimum punishment of five years' imprisonment if the firearm is not discharged, 10 years if

it is discharged, and 15 years if it is discharged and as a result a person, other than an accomplice, is caused bodily harm.

The offences affected are those specified in the following sections: using a firearm in the commission of the offence, or using an imitation firearm in the commission of the offence, the offences being murder, manslaughter, attempted murder, assault causing bodily harm with intent, sexual assault with a weapon, aggravated sexual assault, kidnapping, hostage taking, extortion, and robbery.

Ladies and gentlemen of the committee, the bill I'm bringing forward today is not simply about incarceration, but it is also about sending a very clear message. It is a message about protecting society by providing an effective deterrent against serious indictable offences involving guns.

I'm not suggesting that Bill C-215 is the sole solution to eliminating violent gun crime. We must also address the root causes of poverty, joblessness, availability of affordable housing, and lack of education. Attention to these and other issues certainly would help address the social and societal environments that tend to spawn violence. More resources for law enforcement officers and protective and preventative programs are crucial, but recognizing the direct correlation between drugs, gangs, and guns would certainly target a significant portion of the criminal use of firearms. However, Bill C-215, I believe, is a crucial component in this battle against violent crime. It is, colleagues, a key element of the overall solution.

Bill C-215 has already received support from a variety of interested parties. This bill has the endorsement of both the Canadian Association of Chiefs of Police and the 54,000-member strong Canadian Professional Police Association. Our police officers from coast to coast are asking us, as parliamentarians, to provide them with the tools they need to protect society from the criminal element. We cannot turn our backs, as parliamentarians, on these men and women who work so hard on our behalf.

The safety of our citizens is an issue that crosses party lines. Mandatory sentences have also been supported this summer by Liberal Ontario Attorney General Michael Bryant, Manitoba New Democrat Attorney General Gord Mackintosh, and Progressive Conservative Ontario Leader of the Opposition John Tory. Mr. Mackintosh stated, and I quote:

There has to be a much stronger deterrent sent from the criminal code for these types of crimes... On Sept. 1, Manitoba called on the federal government to increase the minimum mandatory sentence...for trafficking firearms. .

•(1115)

At second reading, support for Bill C-215 came from members of different parties in this House, and I thank you all who have listened to the growing constituents' concerns.

I would like to take a moment and address a few of the concerns that arose out of the second reading debates from opponents to this bill. Our current Minister of Justice has argued that mandatory sentencing simply does not work, that he is philosophically opposed to them even while he defends their use being in the Criminal Code of Canada. However, a judicial scholar, Elizabeth Sheehy, has noted in the *Osgoode Hall Law Journal*, and I quote:

The Canadian literature remains sparse. In particular, the literature that might advocate reliance upon mandatory and minimum sentencing is almost non-existent.

The evidence that supports mandatory sentences includes the idea that convicted criminals will not commit further crimes while serving the mandatory sentence. The practical evidence that is available suggests mandatory minimums work quite well. The effect of mandatory minimum sentencing has been well documented in combating impaired driving. Many of us will remember a number of years ago when one was stopped for an impaired driving charge and the person would receive a penalty of a three-month suspension and maybe a \$200 fine. Unfortunately, that did little to stem the abuse of impaired driving. Consequently, a minimum mandatory was established of a year's suspension and a \$1,000 fine. All of a sudden we started to achieve results. The message was a clear deterrent, and that message was do not drink and drive.

Some opponents to Bill C-215 argued that judicial discretion would be sacrificed if minimum mandatory sentencing is imposed. Unfortunately, inconsistent judicial discretion is the exact reason why criminals are not afraid of the four-year sentence currently in the Criminal Code. Judicially, there are glaring inconsistencies of sentencing, and the ubiquitous ritual of plea bargaining does not send the right message to the criminal element in society. If sentences for gun crimes continue to be arbitrarily decided without consistency, then criminals will continue to behave without fear of consequence.

In a further statement and comment from Elizabeth Sheehy, she states that mandatory minimum sentencing would reduce the disparity in sentencing, "thereby controlling the discriminatory effects of judicial discretion".

Some have argued that mandatory sentences violate the Charter of Rights and Freedoms, but just last week the Supreme Court's Court of Appeal ruled mandatory firearms prohibition constitutional in the case of Philip Neil Wiles v. Her Majesty the Queen. The court ruled that mandatory sentences do not violate the Charter of Rights and Freedoms, a ruling that should clear the way for long-needed improvements to our Criminal Code.

Another position taken in the House debate is that statistically crime rates are going down, and have been for some time. Colleagues, these are both misleading and false. On July 28, 2004, Statistics Canada released its annual report on robberies, which stated:

The rate of robberies rose 5%, the first gain since 1996. This included a 10% increase in robberies committed with a firearm. Of the more than 28,000 robberies in 2003, 14% involved a firearm, 38% were committed with a weapon other than a firearm, and nearly half were committed without a weapon.

Over 2,300 robberies that took place in 2003 were committed with a firearm. Of the 161 firearm homicides in 2003, 109 were committed with handguns. Other violent crimes are increasing as well. Attempted murder and aggravated assault were both up 4%, and assault with a weapon was up 1% in 2003.

Despite criticisms of mandatory minimum sentences, many debates about their role and appropriateness continue, including whether mandatory sentencing laws serve important symbolic functions to protect the interests of vulnerable groups or condemn the crimes of the powerful, and whether discretionary sentencing laws can be rendered accountable to equality principles.

There's been much discussion and suggestion from the government that adding five, ten, and fifteen years to an existing one-to-four-year sentence would offend the codified principles of proportionality and totality, that it would possibly amount to cruel and unusual punishment. In response, I ask this committee to listen very carefully to the witnesses here today, to the front-line police officers who deal daily with both criminals and victims. Listen to the real experiences of legal and legislative frustration, listen to their concerns of lack of support from lawmakers, but more importantly, listen to their pleas for adequate legislation that would assist them in protecting our citizens. In your questions today, I am sure our law enforcement representatives would clarify these deadly realities.

● (1120)

This bill deals only with lengths of sentences. There are, I believe, effective arguments and decisions reached that would support this committee looking very carefully into the lengths of sentences and parole eligibility. I refer to the case of R. v. Danvers in the Ontario Court of Appeal on August 25, 2005, in which it's stated in paragraph 77:

It is my view that the circumstances of this murder and this offender bring into play the principles of deterrence, both general and, more especially, individual, the principles of denunciation and the protection of society. Death by firearms in public places in Toronto plague this city and must be deterred, denounced and stopped. Only the imposition of exemplary sentences will serve to deter criminals from arming themselves with handguns. In particular, the use of handguns in public places cries out for lengthy increased periods of parole eligibility. Society must be protected from criminals armed with deadly handguns. There is no question that our courts have to address the principles of denunciation and deterrence for gun related crimes in the strongest possible terms.

I would also like to point out to this committee that just a little over one hour ago, due to a lack of government support across the board, the Ontario Chiefs of Police held a news conference at Queen's Park in Toronto to announce the creation of a blue ribbon panel of senior police leaders to do a complete review of the inadequacies of our criminal justice system. Improved legislation for indictable offences involving firearms would demonstrate our willingness to be part of the solution.

In closing, let me be absolutely clear. This proposed bill is about sending a message. We need to send this message not only to those who commit the crimes—they will be punished—but we also have to send this message to those who have experienced these crimes as victims—that we take their protection seriously and we will take all measures necessary to ensure their rights and their safety are respected. We as parliamentarians have a moral, a legal, and a constitutional responsibility to act now in defence of the right of the individual to live in a safe and just society.

Thank you, Mr. Chair.

The Chair: Mr. Cannavino.

[Translation]

Mr. Tony Cannavino (President, Canadian Police Association): Thank you, Mr. Chair.

Good morning. The Canadian Professional Police Association welcomes the opportunity to present our submission to the House of Commons Standing Committee on Justice and Human Rights with respect to Bill C-215, An Act to amend the Criminal Code (consecutive sentence for use of firearm in commission of offence).

The CPPA was created in 2003, with the merger of the Canadian Police Association and the National Association of Professional Police. The CPPA is the national voice for 54,000 police personnel across Canada. Through our 225 affiliates, membership includes police personnel serving in police services from Canada's smallest towns and villages as well as those working in our largest municipal and provincial police services, the RCMP members' associations, and first nations police associations.

Urban violence has been a significant concern for our association. For over a decade police associations have been advocating reforms to our justice system in Canada, and in particular we have called for changes to bolster the sentencing, detention and parole of violent offenders.

At our 2004 annual general meeting, CPPA delegates unanimously adopted a resolution which called upon the federal government to provide additional funding to: increase border security to prevent the illegal importation of firearms into Canada; properly monitor retailers, wholesalers and manufacturers of firearms and ammunition; and fund additional front-line police officers across Canada to help stem the tide of firearms violence. In addition, the resolution called for federal legislation to be introduced to ensure tougher and more adequate mandatory prison sentences for individuals involved in firearms-related crime.

Our goal is to work with elected officials, from all parties, to bring about meaningful reforms to enhance the safety and security of all Canadians, including those sworn to protect our communities. For example, on September 21, Toronto Police Association president Dave Wilson and I attended the federal Greater Toronto Area Forum on Urban Violence in Toronto. On October 7, I participated in a public meeting with the Conservative Party's taskforce on safe streets and healthy communities. In addition, I regularly meet with individual members of Parliament and members of this committee to share our concerns. Next month we plan to attend the federal, provincial and territorial justice ministers' conference in Whitehorse to address these concerns informally with the nation's ministers responsible for policing, justice, safety and security.

Regrettably, we still find ourselves pleading for change; to instill meaningful and proportionate consequences for crimes of violence. It's time to stop talking about the problem of urban violence in Canadian cities and start making meaningful changes. Stopping the gang violence in Canada's major cities is a concern for police officers across this country, and the solution begins with bringing an end to Canada's revolving-door justice system.

Canada's police officers have lost confidence in a system that sees violent offenders regularly returned to the streets. We need to restore meaningful consequences and deterrents in our justice system, which begins with stiffer sentences, real jail time, and tougher parole eligibility policies for violent offenders. We need stiffer minimum sentences for offenders who commit crimes with guns, or any type of weapon.

• (1125)

[English]

We would like to commend Mr. Kramp for his initiative in bringing forward this legislation.

As a former police officer with the Ontario Provincial Police, Mr. Kramp clearly understands the trauma victims experience when they have a gun pointed at them or, worse yet, fired at them during the course of a crime. He also understands the frustrations felt by victims and police officers when these crimes do not receive appropriate sentences in our courts.

We contend that Bill C-215 provides a positive first step in addressing current shortfalls, specifically pertaining to the concern with gun violence. We believe that it can provide an effective deterrent against violent gun crimes and we fully endorse the principle of creating tougher mandatory minimum penalties for the commissions of serious offences when they are supplemented with the use of a firearm. We also contend that similar provisions to those contained in Bill C-215 should also apply to serious offences that involve the use of any other type of weapon.

Gang violence is a major problem in many of our cities, as we have seen in recent months in the city of Toronto. Make no mistake about it, urban violence is not only a Toronto problem. Recent statistics released by Statistics Canada confirmed that the cities of Regina, Winnipeg, Abbotsford, Edmonton, Saskatoon, and Vancouver have had consistently higher homicide rates than Toronto for the past decade. Regina had the highest rate, at five homicides per 100,000 people. The homicide rate in Winnipeg nearly doubled over the previous year. In 85% of homicide cases the killer is known to the victim. Two-thirds of homicide victims in 2004 were male. We need more than lip service and finger-pointing from provincial authorities.

Current penalties and mandatory amendment sentences for firearms-related offences are often the first thing dealt away by provincial crown attorneys in their efforts to obtain a plea bargain and thereby reduce trial costs and caseloads. If provincial attorneys general are serious about getting tough on gun crime, they must do their part by directing a no-plea-bargain approach to mandatory minimum sentences for violent crimes involving firearms.

Justice department officials and other armchair academics are often prone to argue against minimum sentences. They advocate greater discretion for the judiciary alternatives to incarceration and an emphasis on rehabilitation. Violent offenders are not deterred by our current sentencing, correction, and parole policies. Chronic offenders understand the system and work it to their advantage. Criminal gangs have taken over prisons and have taken over some neighbourhoods. We need stronger intervention that combines general deterrents, specific deterrents, denunciation, and reform.

Canada's experience with impaired driving legislation over the past three decades demonstrates that mandatory minimum sentences have had a deterrent effect, both in general terms with respect to potential impaired drivers and in a specific respect with regard to repeat offenders.

• (1130)

[Translation]

As we have previously stated, Bill C-215 is a positive first step. We contend that the time is long overdue to reform our criminal justice system.

At the August 2004 annual general meeting of the Canadian Professional Police Association, Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, Ms. Anne McLellan, undertook to launch a review of our current system. The Canadian Professional Police Association welcomes this review and we look forward to working with the minister and Parliament to address these concerns.

Stopping the gang violence in Canada's cities is a concern for Canadian police officers, and the solution begins with bringing an end to Canada's revolving-door justice system. We need to restore meaningful consequences and deterrents in our justice system, which begins with stiffer sentences, real jail time, and tougher parole eligibility policies for violent offenders. We need stiffer minimum sentences for offenders who commit crimes with guns, or any type of weapon.

The Canadian Professional Police Association recommends that Parliament quickly adopt Bill C-215 in order to give force to the changes contained therein.

Thank you for your attention; I would now be pleased to answer any questions you may have.

[English]

The Chair: Thank you.

Chief Deering.

Chief Rick Deering (Royal Newfoundland Constabulary): Thank you, Mr. Chair, for the opportunity to appear before you today to speak to Bill C-215, an act to amend the Criminal Code and to introduce mandatory consecutive sentencing for the use of firearms in the commission of specific criminal offences.

In a few weeks I will commence year 36 of service in this venerable profession of policing. During this time I have witnessed and experienced many societal changes, most of which have contributed to the police officers' perspective that I will share with you today.

After more than 30 years of service with the Ontario Provincial Police, I took on the responsibilities as the chief of police of the Royal Newfoundland Constabulary, where I have served for the past five years. As a result, I can share with you both an Ontario and a Newfoundland and Labrador perspective on this issue. As well, I have canvassed many of my brothers and sisters from the Canadian Association of Chiefs of Police and can share their views on this proposed situation.

The legislation as proposed seems to make good sense to us. Although crimes of violence appear to be diminishing in some constituencies across our great nation, there appears to be a proliferation of the use of firearms during the commission of specific serious criminal offences. The offences articulated in Bill C-215, in my view, capture those that have the biggest impact on the rights, freedoms, and safety of Canadians from coast to coast.

In my area of responsibility, the escalation in the use of firearms is more specific to the commission of the offence of robbery than to any other of the specified offences. Chief Blair of Toronto will probably identify the use of firearms and gang violence as a major concern for his police service. My contemporaries in cities such as Winnipeg, Vancouver, and Halifax may be more concerned about the prevalence of firearms in other offences. The common denominator is that we are all concerned and are continuously searching for solutions to address this serious, ongoing problem.

Although Newfoundland and Labrador is still the safest place to live in Canada from a statistical perspective, we are experiencing an alarming trend in the increase of violent crime. In calendar year 2004 we saw an increase in the commission of armed robberies of 105% over 2003. Year to date for 2005, we have experienced an increase of 35% in the commission of armed robberies over the staggering numbers of 2004.

Until recently, Newfoundland and Labrador has enjoyed many of the benefits of being insulated from the rest of the world. Globalization has changed that and has brought many opportunities for growth and development to the province. Unfortunately, prosperity is often accompanied by crime. In our case, the advent of the drug culture has caused our spike in armed robberies. We estimate that about 90% of the property crime we investigate is directly linked to illicit drugs. In many of the armed robberies we investigate, firearms are used or threatened. Not only is this a significant threat to the community at large, but also to the victims of the violent crimes and to the police officers who respond to these in their effort to serve and protect.

An important component of the drug culture appears to be firearms. Guns and drugs just seem to go together. The demographic of the modern-day drug dealer is getting younger and younger. From our point of view, this is not a positive combination.

I possess no expertise in the area of sentencing, and I'm not here to criticize those in the criminal justice system tasked with that onerous responsibility. It is my observation, however, that there is little consistency in how criminals convicted of the crimes specified in Bill C-215 are sentenced from region to region. It is also my observation that the dangers inherent in the commission of the crimes articulated here are as real in Port Moody, British Columbia, as they are in Toronto, Ontario; Montreal, Quebec; or New Glasgow, Nova Scotia.

Bill C-215 presents an opportunity to address in a meaningful way a problem that has been with us for many years and increases in severity on an annual basis. If community safety is an important part of being Canadian, and if deterrence is an important factor in the continuum of sentencing, I urge you to seriously consider Bill C-215 and put it into law.

• (1135)

Historically, the police community at large has supported legislation that has the potential of making our streets safer. Although we number just over 50,000, we are the ones who are the practitioners and deal with gun violence on a daily basis. We see it where the rubber hits the road. We see, first-hand, the impact that guns have on society. We know it is real, and we are concerned about it. Despite one of the most elaborate gun control systems in the world, despite the creation of specialized investigative units like the national weapons enforcement support teams and the provincial weapons enforcement units in Ontario, we are losing the battle.

I have personally consulted with Chief Edgar MacLeod of the Cape Breton Regional Police Service, past president of the CACP, and with Chief Jack Ewatski of the Winnipeg Police Service, the current president of the CACP; both support this legislation. The CACP, as an organization, supports the legislation. I am certain that the 50,000-plus serving police officers in our country support this legislation, and I believe in my heart that the vast majority of law-abiding Canadians would support this legislation if they were asked.

All too often, I have witnessed career criminals roll the dice when it comes to sentencing. All too often I have witnessed them come out the other end almost unscathed. We believe it's time for change.

Just this morning, two top stories on *Global News* focused on gun violence. The incident in Winnipeg, where a law-abiding, innocent student was the victim of random firearms violence—and, I'm led to believe, perhaps made Winnipeg the homicide capital of Canada—and an incident in Toronto where a transit driver was permanently disabled by random firearms violence bring this into focus. Unfortunately, stories like this are becoming the accepted norm. We need to do something about it, and we believe you folks have the power to do so.

Thank you for taking the time to hear my views.

The Chair: Thank you.

Deputy Chief Warr, please.

Deputy Chief A. Warr (Specialized Operations Command, Toronto Police Service): Thank you, Mr. Chair.

Before becoming deputy chief of Specialized Operations Command in the Toronto Police Service, I was the commander of 42

Division, which is a policing division with responsibility for the north and east portions of Scarborough, which included Malvern. While there I had firsthand experience of the terrible impact gun violence can have on an otherwise peaceful community. Citizens were afraid to venture from their homes after they arrived home from work or were afraid to let their children go out to play for fear they would become innocent victims of gun violence.

While I realize that gun violence is a symptom of a much deeper societal problem, we cannot continue to ignore this symptom while we search for an overall cure. We must treat this symptom while working towards the cure. I believe there is a need to offer young people an alternative to guns, gangs, and drugs. We need to ensure they have hope in the future and can become worthwhile contributors to our society. We, as a society, need to remove the negative role models and glorification of gangster-like behaviour dominating the modern entertainment scene. I believe that by taking those who now seem to be untouchable out of the picture, fewer young people will aspire to imitate them.

I'm supporting the need for strong, meaningful sentences for illegal use of firearms, especially handguns. Minimum sentences for offences committed while armed with or while using a firearm will ensure that those prone to this type of violence are taken off our streets for long periods of time.

The measures proposed in this bill are a good start. However, I respectfully request that certain amendments be made before this bill becomes law. I request that the offences in the Criminal Code under sections 94, 95, and 96, which cover possession of a firearm, be amended to include minimum sentences of five years in prison upon conviction, and that the provision for a summary conviction on those offences be removed. I'm also respectfully recommending that persons who, while armed with a firearm, are involved in the trafficking of substances listed in the Controlled Drugs and Substances Act also be subject to a minimum sentence, using the same formulae as outlined in this bill.

Our research shows definite links between guns, gangs, and drugs. Many of the murders of young men this year in Toronto have occurred during a drug deal that, for some reason or other, went awry. The presence of the gun made it a convenient and easy way to settle whatever dispute arose. Drug dealers are carrying guns to protect themselves from rip-offs—robberies of their product or their proceeds. Most home invasion robberies that occur in our city are for drugs or their proceeds. The proliferation of guns and the seemingly innocuous consequences for possession and use of illegal guns cause many young people to obtain them to heighten their status within their peer group or to mimic their gangster role models. Unfortunately, the fact that a gun is readily available is a reason so many disputes that were once solved with fists now result in gunfire. We are witnessing the results.

Currently, there's no truth in sentencing of persons caught with or using guns. Judges are not handing down the sentences that are already on the books; therefore, increasing maximum sentences is meaningless. A minimum sentence after due process is a way of ensuring that dangerous criminals are taken out of society without the opportunity to reoffend. There are many recent examples of how the judicial system, as far as sentences go for gun crime, is becoming a revolving door; offenders are no sooner convicted of crimes involving guns than they are back in society reoffending.

There are also many examples of dangerous offenders who, granted bail with conditions, go on committing serious crimes with no regard for the conditions imposed upon them when they were released. I have brought with me eight glaring examples that I will be willing to share during question period; time does not permit me to go into them all right now. I'm speaking of some of the most noteworthy cases, but they are not isolated instances. They are commonplace, everyday occurrences. These are not unique to Toronto. Due to our volume, we seem to have more instances.

There's another very real and tragic consequence to this preponderance of guns and the seemingly cavalier attitude towards their use. That is the innocent victims who, through no fault of their own, become victims of gunfire. As has been mentioned today by Mr. Kramp and by the previous speaker, just this past Saturday evening, a Toronto Transit Commission bus driver was flagged down by a group of youths. Two of them were apparently trying to flee from three others. Their altercation made its way onto the bus, and at some point one of the attackers pulled out a gun and fired. A bullet entered one side of the driver's face and exited the other, causing very serious damage. He will, at the very least, lose the sight of one of his eyes. He was a totally innocent victim in this matter, a family man earning an honest living, who, if he ever recovers, will not be able to go back to his job and the life he, up until Saturday evening, enjoyed with his family.

● (1140)

There are other examples. Mr. Kramp has alluded to Mrs. Russo, who, in April of 2004, while in a sandwich shop to purchase food for herself and her disabled daughter, was hit by gunfire intended for others within the shop. She will spend the rest of her days in a wheelchair.

Mr. Derek Wah Yan was not as fortunate as Ms. Russo. In November of 2003 he was at home in his bedroom watching television with his child when a stray bullet entered his house, struck him, and killed him.

In November of 2004 Tamara Carter, a nine-year-old girl, was riding on a bus when a fight broke out. Someone fired a handgun; she was struck in the head. She did not die, but suffers serious permanent injury.

In August of this year Shaquan Cadougan, four years of age, was playing in the vicinity of his house when gunfire erupted; he was hit several times by gunfire and suffers serious permanent injury.

The physical injuries are devastating, but you can be sure the mental trauma experienced by the children will last for the rest of their lifetimes.

As you no doubt are aware, Toronto is also experiencing an unprecedented number of murders involving firearms this year. We've had a total of 61 murders so far this year. For the past many years, our average has been 59 for the whole year. Of those 61 murders, 41 have been committed with firearms. When they committed the murders, several of the murderers were already on sentences that included firearms prohibitions or on judicial release conditions for firearms-related offences. All were committed with illegal guns.

Again, I have several examples here; I will share them during question period if time allows.

As you can see, the system does not seem to be working; all these murders would not have occurred at the time they did if the killers had been serving meaningful sentences for their previous gun crimes. It's time for us to pull our heads out of the sand, to take notice of the death and carnage that are being caused in our streets, and to acknowledge that our current system of light sentences, meaningless firearms prohibitions, and judicial release conditions is not working.

Those who choose to commit crimes with illegal guns must suffer the consequences. It's time for society to send the strong message to those who are contemplating gun crime that it will not be tolerated; if they choose to step over that line, they will receive lengthy minimum jail sentences.

To sum up, I would like to say that we, the Toronto Police Service, support this bill, and respectfully request that the amendments suggested be made—namely, the inclusion of sections 94, 95, and 96 in the bill with minimum sentences attached; the removal of the summary conviction provisions; and, for offences involving trafficking or possession for the purpose of trafficking of controlled substances listed in the Controlled Drugs and Substances Act while armed with a firearm, the attachment of minimum sentences as well, similar to those proposed in the bill.

Thank you.

● (1145)

The Chair: Thank you, Deputy Chief Warr.

Next, from the Department of Justice, is Mr. David Daubney.

Mr. David Daubney (General Counsel, Sentencing Reform Team, Department of Justice): Thank you very much, Mr. Chair.

It's the view of the department that Bill C-215 raises serious constitutional and policy concerns. Section 12 of the Canadian Charter of Rights and Freedoms provides that everyone has the right not to be subjected to any cruel and unusual treatment or punishment. The basic test under section 12 is whether the treatment or punishment is grossly disproportionate, and whether it is so excessive that it outrages our society's sense of decency or that Canadians would find the punishment abhorrent or intolerable. This language is all from the jurisprudence.

The bulk of the case law under section 12 has involved the assessment of the constitutionality of mandatory minimum sentences, and in doing so has established two tests, two discrete tasks, for a court. First, the reviewing court must consider whether the imposed sentence is grossly disproportionate for the individual offender before the court, having regard to the principles of sentencing, the purpose of the legislation, and the actual circumstances of the offender.

Assuming this analysis reveals no charter violation—and in the case of this bill, I think that would be, with respect, an unwarranted assumption—the court must then go on to the second step of considering whether the sentencing scheme would have unconstitutional effect in relation to reasonable hypothetical scenarios—scenarios that could reasonably arise and that are not extreme or far-fetched.

Generally speaking, the mandatory minimum provisions that have been upheld normally have a low minimum penalty that is unlikely to rise to the level of gross disproportionality for any reasonable hypothetical scenario, or the mandatory minimum scheme is sufficiently tailored so that the offences cover a relatively narrow scope of conduct and, ideally, are sufficiently serious to warrant treating with a mandatory penalty.

My recollection is that the predecessor bill to Bill C-215, introduced in the last Parliament by Mr. Pankiw, would have imposed escalating minima of 15, 20, and 25 years. With respect, the tailoring that the sponsor of Bill C-215 has done in this bill has not been sufficient to save the bill from a serious charter challenge.

While mandatory minimum penalties are not the norm in Canada, they've been recognized as a departure from established sentencing principles. The courts have accepted that strong measures can be used to combat crimes involving firearms. In its 2000 decision in *Morrissey*, the Supreme Court of Canada stated that "Parliament is entitled to take appropriate measures to address the pressing problem of firearm-related deaths, especially given that it has been consistently a serious problem for over 20 years". However, the courts will nevertheless expect that these strong measures be consistent with the charter and the guarantee in section 12.

Mr. Chair, there are other serious defects in Bill C-215. They include the fact that it contravenes what Parliament decided in 1995 was the fundamental principle of sentencing: that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. It also infringes the totality principle that Parliament codified in paragraph 718.2(c) of the code—that "where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh". Finally, it purports to add to a life sentence for murder—which is just that, a minimum sentence that an offender will be under for the rest of his or her natural life—a further minimum sentence.

In our view, it is almost certain that were these amendments to come into force, they would face an early and successful charter challenge. There are more effective ways to respond to the serious problem of gun crimes. Some of these have been discussed at the recent Toronto forum on gun violence. Next month our minister will be meeting with his provincial and territorial counterparts in

Whitehorse to discuss a range of responses that will likely include possible legislative changes.

• (1150)

The government is committed to taking all reasonable and practical steps to curtail gun crime in Canada, but with respect to the well-intentioned initiative of the sponsor of this legislation, it is not our view that passage of this bill would be among those reasonable and practical steps.

I want to say a word about some of the evidence of prior witnesses, if I have a couple of minutes left, Mr. Chair.

The research is clear—and it's both Canadian and American—that longer and harsher sentences have no deterrent effect on reoffending. On the contrary, longer sentences are associated with greater recidivism rates. I quote in this regard a 2002 Solicitor General of Canada examination of 111 studies involving over 442,000 offenders in both the United States and Canada—probably the largest meta-analysis done anywhere in the world—that shows sentences of more than two years led to an average increase in reoffending of 7%.

Criminologists agree that the likelihood of apprehension and conviction can deter offenders, but not the severity of the penalty they might face. Most offenders have no idea what penalty they might face. That is why the police community, so well represented here today, needs more resources in the detection and apprehension of those who would use guns in serious crime.

We know that the U.S. uses mandatory minimum sentences more than all other western democracies combined. If mandatory sentencing worked, America would be the safest society in the world. We know it is not, and that there is virtual consensus among American sentencing scholars that mandatory minimum penalties have had no discernible impact on crime. They have unintended consequences, which are negative: long sentences for less serious crime; wide prosecutorial discretion, resulting in uneven and unfair application of the law; huge financial costs for trials and custody; and, in the United States, racial disparity, with something like two out of five African-American males between the ages of 18 and 24 being in custody among the 2.1 million people in jail in the United States.

That is why almost half of American states have moved away from the inflexibility of this approach by reducing or repealing many mandatory sentences, and why early this year the Supreme Court of the United States held that the federal sentencing guidelines should be considered advisory only, not mandatory. When we looked at what little mandatory sentencing there is in other western countries, we found that in every other Commonwealth country we looked at, and in many in continental Europe that have mandatory sentences—and there are very few—in every case, they have escape clauses saying that in exceptional circumstances the court should be able to sentence under the minimum.

In this regard, Mr. Chairman, it's worth noting that a national general population survey of 1,501 Canadians conducted by Environics Research Group in March of this year found that while 59% of respondents felt mandatory minimum sentences were a good idea, 76% of them felt there should be some flexibility for judges to impose less than the minimum under special circumstances. Canada is the only western democracy besides the United States of America that does not provide this flexibility.

• (1155)

The Chair: Thank you, Mr. Daubney.

Mr. Toews, it is your first round.

Mr. Vic Toews (Provencher, CPC): Thank you very much.

I appreciate the witnesses' input into this very important matter and I want to thank my colleague, Mr. Kramp, for bringing this bill forward. Whether or not there have to be some amendments in the bill, I can assure you the Conservative Party supports this bill. We feel it's absolutely essential that mandatory minimum sentences for these types of firearms offences be brought in.

I'm growing increasingly discouraged about the Department of Justice and their attitude towards this. In fact, the evidence is not as conclusive as the department says, and in trying to compare the mandatory minimum sentence structure brought here to what the Americans have in terms of their sentencing guidelines, we're talking apples and oranges. In fact, in those states and those cities that bring in tough, mandatory sentencing for firearms, we've seen a marked decrease in the use of firearms. That is the evidence, and I haven't seen anything to the contrary.

What we have in this country, unfortunately, is a Department of Justice that keeps on apologizing for criminals, that doesn't go into the courts and stand up and say that this is disproportionate—disproportionate to the rights of victims. Talk to the Toronto bus driver who got shot in the face, who has to live under that sentence for the rest of his life. What is disproportionate about that? Talk about the young cashier who's in a 7-Eleven store when a young thug comes in there with a loaded firearm and points that loaded firearm at that young individual. Can you imagine the trauma that individual feels for the rest of her working life?

To talk about disproportionate response...when you take a loaded firearm knowingly to commit a robbery and say it's disproportionate to give an individual an extra five years for bringing that loaded firearm into the situation, or to actually discharge the firearm in the presence of the four-year-old child or the bus driver or other innocent victims and say an additional 10 years is disproportionate—it's disproportionate to what? I just find this so astounding. Then to kill someone and say it is disproportionate to add 15 years to parole eligibility...because I think that's what your intent is in this particular situation, when we're talking about first-degree murder. There might have to be some fine tuning—but to talk about disproportionate....

What we need is a Department of Justice that will walk into court and say to the judge that this is the situation today on the street, and we will defend these laws and we won't talk about principles like proportionality or totality, which are parliamentary norms that can be changed by this legislation; they don't need to be there.

I find it astounding. We have the situation in which the Supreme Court in this country has struck down the offence of constructive murder. When a wheelman used to drive the car to a robbery, he didn't carry the gun, but when the person who walked into the store shot the individual and killed that individual, the wheelman was responsible for murder. That's constructive murder, and that's an appropriate thing when somebody goes into a situation knowing there could be violence and does it anyway. Now our Supreme Court says it can only be manslaughter. It is absolutely outrageous.

We have a Department of Justice standing up and saying it isn't proportionate; it's cruel and unusual—and I'm thinking to myself, cruel and unusual to whom? It's cruel and unusual to the victim; it's certainly not cruel and unusual to the offender who walks into this 7-Eleven with a loaded firearm, points it at a person, and pulls the trigger. This is a no-brainer.

Mr. Chair, we have a Department of Justice that, when we reviewed the issue of conditional sentencing, brought policy analysts here who said conditional sentences were a good idea, and when I asked if they were including murders, they said absolutely—absolutely.

• (1200)

That's the driving force behind this government's criminal justice policy: get criminals out on the street as quickly as possible. They say it isn't a deterrent effect to have a mandatory sentence. You know, there are not many innocent people who get shot and killed in prisons while these individuals are behind bars. Quite frankly, I don't have any sympathy for a person who walks into a 7-Eleven and kills a young girl or kills a young man or cripples a four-year-old child.

The proportionality: what are we talking about? Why don't we have a Department of Justice that goes into court and says, "We'll talk about proportionality, we'll talk about the impact of this type of present-day sentencing on victims"? We never once heard that in the presentation of the Department of Justice here today.

We talk about proportionality as it affects the criminal. I can't believe it. It's the Department of Justice: where's the justice? Certainly there's none for victims.

Now, I've gone on a bit of a...discussion here, but you know, you're speaking to the converted when you're speaking here. I just think I need to let you know that our biggest problem in helping you today is this Minister of Justice and this government. They will do everything in their strength to oppose this bill, and it is wrong.

Quite frankly, Mr. Kramp, the only way you're going to get this bill passed is a new government, or else some of these people on the other side of the table here will have the courage to stand up against their Minister of Justice and say we've had enough of this proportionality nonsense; we will defend the victims, and we will pass this kind of legislation through committee and have a full vote on it in the House.

The Chair: Thank you, Mr. Toews.

Mr. Marceau.

[*Translation*]

Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ): Thank you, Mr. Chairman.

To begin, Mr. Kramp, thank you for having introduced this bill. We have had many opportunities to discuss it. I also had the opportunity to discuss it with Tony Cannavino over the phone. In fact, Mr. Cannavino, you are a very effective lobbyist. I wanted to mention that here. Even though we are not always in agreement, you always raise issues which, at the very least, are thought provoking.

Mr. Kramp, you know—and Mr. Cannavino knows this as well—that the political party I represent is not at all opposed to mandatory minimum penalties. In fact, this was evident when we presented amendments with regard to Bill C-2 on the protection of vulnerable persons. However, we are a bit reluctant, not to mention very reluctant, to support consecutive sentences. This preamble is an introduction to the question I would like to put to Mr. Kramp.

Unless I'm mistaken, as it now stands, the Criminal Code contains the offence of armed robbery. If a firearm is involved, the offence becomes armed robbery, which places it into a completely different category because this offence is more serious since it has much more serious consequences.

Am I to understand that your bill C-215 would add mandatory minimum penalties on top of the sentence for armed robbery? Is that the object of the bill?

• (1205)

[English]

Mr. Daryl Kramp: Yes, it is, and it's very simple. As soon as someone grabs a firearm, they have to realize that they are in possession of a deadly weapon. This is not a question of maybe slapping somebody over the head with a billy and potentially injuring them; every time you pick up a firearm you know you have the potential to either seriously injure or kill someone.

So we're talking about life itself. This is not just another assault. This is a potential life-taking assault every time a firearm is used. That deserves definitely an additional punitive measure.

[Translation]

Mr. Richard Marceau: I presume that before presenting a bill which is as important as Bill C-215, you did some research. Can you tell us what the average sentence has been for the cases you are targeting?

Of course, before solving a problem, you need to identify it. Some examples of tragic cases were mentioned before the committee, and of course I sympathize with the victims and their families. But are there any numbers to indicate what the average sentence has been in the last 5, 10 or 15 years, namely in the cases that you are targeting in Bill C-215?

[English]

Mr. Daryl Kramp: I don't have that at my disposal.

What I have done is listen to the people in the field. I've listened to the police officers who are there daily with the administration of justice, and from their relative history, they tell me quite emphatically that the punishment is not fitting the crime.

[Translation]

Mr. Richard Marceau: I understand and I know that Mr. Cannavino will be able to answer my question. However,

before making such a significant change, I believe that if we had the statistics it would help us to better form our opinion. We always have something of a bias through our training or through the work that we do. My wife has been a crown attorney for a long time and she has dealt with robbers and rapists, etc. There is obviously the police perspective.

I would like to have the coldest, hardest facts possible. Do you have any, Mr. Cannavino?

Mr. Tony Cannavino: First of all, your wife must have been very discouraged over the years. You also have, on your left, a defence attorney who has lived very comfortably and well throughout at least 30 years of practice. He has seen many cases and many clients.

I know that for some cases, your party is not against imposing minimal sentences. As we discuss Bill C-215, it is important that this not become subject to a plea bargain. It is an automatic reaction. The talent of the defence lawyer is to immediately reduce these sentences. This bill, without being a magic solution, will not solve all the problems of urban violence, but I can assure you that if it is passed, you will be sending a very clear message across the country to the effect that this is over.

We are not aiming at the cream of the crop of society, but those who terrorize our communities, a phenomenon that is growing. This is intended for violent criminals. That is very specific and it is the cornerstone of the bill. More and more street gangs are plaguing our neighbourhoods. And so, this bill is sending a message. I would go so far as to say that people will know they cannot get away with it, even if they have the best lawyers.

Also, I would say with all due respect, Mr. Marceau, that I'm very disappointed in Mr. Daubney's presentation, but obviously he should not take it personally, and you will understand why.

I myself, have worked as a police officer for over 32 years, over 15 of which were with specialized units, particularly Carcajou. In fact, when my boss was out of touch with what was happening, I cordially invited him to sit with me in my patrol car and take a tour of the community. Strangely, after a few hours, he changed his approach. I'm wondering if one day police officers across the country will have to invite every member of Parliament to come on patrol with them for a few hours in order to see what is happening.

• (1210)

Mr. Richard Marceau: I would be very pleased to, Mr. Cannavino.

Mr. Tony Cannavino: We would be delighted to give you that opportunity, and you would be able to witness for yourself the distress of some communities and of certain social groups.

In fact, I participated in the Forum on urban Violence in the Greater Toronto area. I heard incredible testimony from communities and social groups that are being held hostage. I know that as parliamentarians, you are doing your best to help these communities. However, as the spokesperson for our 54,000 members, I cannot accept that legislators are afraid to be challenged at the Supreme Court because of the Charter.

Mr. Richard Marceau: You could settle that with Mr. Daubney. In my opinion, so far no member of Parliament has said that to this committee. I have a final question, since Mr. Kramp and Mr. Cannavino did not have any statistics.

Mr. Daubney, do you have any statistics on the average sentence imposed in the cases Mr. Kramp is talking about?

Mr. David Daubney: Unfortunately, I do not have the statistics with me.

[English]

I can give you an educated guess about what some of the sentencing patterns are that would be affected by some of the more serious matters. Of course, murder is subject to a minimum penalty with minimum parole eligibility attached to it.

Manslaughter is an offence that goes from zero to life, and it has almost as many possible circumstances surrounding its use. But generally manslaughter is in the area of six or seven years, if you were to do an average sentence. Attempted murder is generally half of what a murder is in terms of parole ineligibility. Robbery is an offence that is, with a firearm, generally one of the most severely sentenced penalties in the Criminal Code. If there's a home invasion attached to it, we've had sentences of up to eighteen years if the person has a long criminal record.

These are all sentences the court is handing down, depending on its assessment of all the aggravating and mitigating circumstances that apply. Having a criminal record is the greatest single indication of sentencing length. If you have a career B-and-E artist there, he should be facing significant penalties, probably in excess of four years.

The problem with minima is often those minimum sentences become the maximum, so the minimum has exactly the opposite effect of what Parliament would like. That is, it's viewed as a ceiling. If you look at the impact of the changes that came in 1995-96 with the four-year minima, you can see that at play. What you also see at play is a huge movement from the courts to the crown's offices of plea bargaining where prosecutors—and with respect to Mr. Toews, who, as a former attorney general, knows this well—are provincial prosecutors who do the lion's share of prosecutions in this country and should be making the points that he suggested our department should make. We deal with federal offences. We deal with offences in the three territories. And we're certainly concerned about victims.

The Chair: Wind up, please.

Mr. David Daubney: I'll wind up by saying that the evidence is pretty clear. I agree that there isn't a huge amount of research in Canada on the firearms stuff, but what there has been on the one-year offences shows that a very significant percentage of those offences are stayed or withdrawn. That indicates that provincial prosecutors want to do the right thing as officers of the court. If they think a minimum penalty would be disproportionate in the circumstances, they may well accept a plea to a lesser offence that does not have a minimum attached.

The Chair: Thank you, Mr. Daubney.

Mr. Comartin, please.

•(1215)

Mr. Vic Toews: On a point of order, Mr. Chair, the point that the witness was addressing earlier was the constitutionality of certain provisions. Those were the comments I made. When the federal Department of Justice goes in, certainly at the Court of Appeal or the Supreme Court of Canada, in all those matters—

The Chair: Mr. Toews, thanks for your comment.

Mr. Vic Toews: It's a point of order.

The Chair: Mr. Comartin, please.

Mr. Joe Comartin: I'm trying to restrain myself, Mr. Chair, from entering into the same tirade against Mr. Toews and the Conservative Party that he just launched for straight political purposes.

Let me just say this. This is all about preventing crime. That's what we're here for as legislators, and that's what the police forces are here for.

I want to congratulate Mr. Kramp, because Mr. Kramp and I have talked extensively about this legislation. I think the approach he has taken is the appropriate one.

Mr. Cannavino—and I actually want to take some issue with both of you on this point—you both have argued strenuously that the precedent we set by setting the minimums in impaired driving is applicable here. I want to say to both of you that I think you've undermined to some degree the really substantial work that MADD did and that the police forces across this country did in educating the public.

So, Mr. Kramp, next time you give your speech, add that in some more. The element there was that we didn't just put in play the minimum sentences. We put in play a phenomenal effort in this country to communicate, to educate, that we in fact were not going to tolerate that behaviour by all strata of society.

The difficulty I'm having in looking at the statistics... And Mr. Kramp, I'll take some issue with you on your statistics, because the 2004 are more up to date. In fact, the use of guns overall is actually down in 2004 from what it was in 2003. I don't know what 2005 is going to show. But the debate I'm having with myself now is whether we are at that point where we can effectively use some minimum sentences to deter.

Deputy Chief Warr, when we look at those victims in Toronto, I don't think it makes a lot of difference to them whether they're going to get four years or five years. What matters to them is not getting shot in the first place, and that's really what I want to see. So are we at that stage where we can effectively—and I throw this to the two of you—do both an educational...?

Mr. Daubney's point is well taken. Most people who use those guns don't think for a minute. Organized criminals do, and they're the ones I'd really like to be going after on the gun issue, because so many of the guns coming into the country are coming through their hands.

But try to convince me that we're at a time when what we did with impaired driving can be done with gun crimes.

Mr. Daryl Kramp: Mr. Comartin, I have two responses. I do agree with your encapsulation that it's a total package. Will Bill C-215 deal with and stop the proliferation of weapons? No. Is it unto itself the ultimate solution? No.

With impaired driving, it took many things to secure results. However, the one component among many was an effective deterrent. And I'm hopeful that the message I'm trying to deliver here today is that this is just one spoke of the wheel. By no means is it the total solution, but it is an integral part.

And to deal with Mr. Daubney's statement, with all due respect, sir, you said most offenders have no idea of the penalty that they incur. Exactly. They don't even take a penalty as being a significant penalty. If they were aware that it would be more than a "slap on the hand", that it would be a serious, serious repercussion, as in impaired driving and in other circumstances, then I think we would get their attention and the deterrent factor—

Mr. Joe Comartin: But how do we do that? Talk a bit about the education side.

Mr. Daryl Kramp: No, this unto itself is a component. Of course, would we have to publicize this? Would we have to deal with this in an entirely promotional manner? Would it have to be government policy so that they could complement it in various ways? Would we have to go to the schools? Would we have to go to the penal institutions? Would we have to put the whole ball of wax in with this? Of course. Absolutely.

I'm suggesting that I'd love to deal with the whole thing in an omnibus bill, but I'm suggesting that as a private member bringing forth a component here, this is all I have the latitude and the liberty to do in order to deal with part of the problem. That, good sir, is all I'm attempting to do with this.

• (1220)

Mr. Tony Cannavino: I also think you've hit a strong point here with the example of impaired driving. It's a lot of deterrent with the mandatory minimum sentencing, plus a sustained campaign.

Canadian citizens are aware that if they're arrested for impaired driving, there's a minimum sentence there. If they reoffend, then it's even higher. There's stiffer sentencing. That's been in the sustained campaign for years.

So Bill C-215 isn't the panacea, but I think it's going to be a strong tool. Plus, the government and legislators will have to make sure there's a prevention campaign, a sustained campaign to make sure they really understand that there aren't any more flaws or plea bargaining or that they will not be able to get away with a couple of months.

With that mandatory minimum sentencing, we're not worried about the fact that it might become the maximum. Well, listen, it

doesn't happen that way. We'll take the risk, because actually the percentage is so low that it goes higher than this minimum provision in this bill, so for us it's not even taking a risk. We know it's going to be effective, it's going to be efficient.

Mr. Joe Comartin: I have two major points I want to cover. I need some convincing here. I look at the statistics over the last twenty years when we didn't have minimum sentences to any significant degree. The crime rate consistently goes down, including murder, armed robberies, violent crime. It's just a steady decline until 2003. In fact, it's continuing to decline in 2004, other than in homicide. We're substantially below our homicides in 2004 compared to where we were in 1980. And we still are, even with the increase in 2003.

We didn't have minimum sentences then, so I say this to all of you. If we need minimum sentences, somebody tell me why we had that kind of drop in crime.

Mr. Daryl Kramp: I'm not an authority on this, but let's take a look at the situation then versus the situation now. Society has evolved, society has changed. Years and years ago, we did not have the prevalence of guns and gangs to the extent that we do now.

This is a new, new march onto the scene, and if we don't nip this in the bud and take some serious action, this is a circumstance that could get out of control on us very quickly. We saw what happened when there was a punitive measure that dealt with the motorcycle gangs in Quebec. Legislation was brought in to deal with them, there was an enforcement policy, and it had an effect.

This is another dilemma and/or trial or tribulation.

The Chair: Let me interrupt, because we're running out of time.

Mr. Comartin, I think Mr. Warr wants to make a comment, but your time has expired.

Mr. Joe Comartin: Well, I want to ask him to answer the question.

Deputy Chief, we can go to you. You have a police force right now that's taking job action because you can't get them enough money. In the city of Toronto, you're faced with a substantial cut in your budget, or certainly not an increase, to deal with the problems you are having. And you have a province that has not dealt with the gangs anywhere near to the extent that Quebec has because of financial things, because of cuts that have been encouraged from the right wing in this country. Is that not more the solution than this bill is?

Deputy Chief A. Warr: Just to clarify, we've just received permission or budgeting from the provincial government to hire up to 250 additional officers, compared to what we have now, to address this problem, so we are getting some help in that respect. We do have provincial initiatives to address the gun and gang violence problem, but the problem is that the results of our hard work are not being followed through with the justice system.

I wanted to respond to Mr. Marceau's question about the sentences. As I said in my presentation, I have some examples here. I have one very good example to tell you about, of a young fellow, 24 years old, with an armed robbery conviction. He spent 46 days in custody. That was the time he served up until his conviction, and that was his sentence.

This same fellow was charged with firearms offences a few years later and he received nine months in jail for his sentence. This same fellow has been shot twice. This same fellow is on two other arrests now for firearms offences, and both times he has been released on bail, with conditions not to possess firearms. This fellow is not getting the message.

The message to him is being strengthened. His power is being strengthened by this. He is a feared person in society because they know he's coming back. Whenever he gets arrested for committing a crime, he comes back and he can take vengeance on witnesses or on any of his opponents. That is the problem we're facing. People know that if they testify against a person, within weeks or months that person will be back to take action against them, so they won't testify. So they need that protection.

• (1225)

The Chair: Mr. Cullen, please, for seven minutes.

Hon. Roy Cullen (Etobicoke North, Lib.): Thank you to all the witnesses, and Mr. Kramp, congratulations to you for bringing this issue forward.

Philosophically, I'm aligned with what you're trying to accomplish. My only problem might be that it could be going over the top in certain respects. I'm just throwing that out; it's a very general statement. Would you be amenable to amendments? I don't know what those would be.

In my riding, and certainly in Toronto, we've had a whole spate of gun violence. Just recently in my riding, people were shooting each other up—related to drugs. Your point, Mr. Deering, is that drugs and guns certainly go together, so I'm sympathetic to what you're trying to accomplish. My colleagues here have been pushing our justice minister as well to look at tougher sanctions.

Even though I am a big supporter, and I'm sure my colleagues are as well, of crime prevention programs—we have a lot of that going on in my riding, and I'm sure in other ridings—I'm sorry, I don't think some people are going to be amendable to that kind of treatment. I think there have to be consequences.

I just want to go over some of your remarks.

You said our justice minister is philosophically opposed to mandatory sentencing. In the House, yesterday, he said he wasn't, but that he needs to be convinced of its efficacy. I think you're right that he's not disposed to go in that direction.

On the point about sentencing, we need some sentencing guidelines. I'm very disturbed about the kinds of sentences that are going through our courts. I'm not trying to be critical of judges. I know they have a very tough job.

I read the other day about some chap who came out of a bar or something and was hit over the head with a baseball bat. The perpetrator was convicted of manslaughter—why, I don't know, I wasn't there, maybe they had to plea bargain to manslaughter—and served a year and a half. Actually, he did the equivalent time, a year and a half, and he was let off, if the story was correct. I find that appalling. The mother was absolutely distraught, and, frankly, I don't blame her. It's interesting, I'm told that manslaughter with a gun is a minimum of four years, and manslaughter with a bat...I don't know. That's one issue I have.

When we were in Regina recently our justice minister—I wasn't there—tells me that he went into the community and was told they don't shoot people in Regina, they use knives. Bill C-215 is predisposed to guns. Frankly, that works for me, big time, because we have a lot of gun violence in Toronto.

In terms of your legislation, and I use manslaughter as an example, right now, with a gun, it is a minimum of four years. If you take your bill, that could be adding another five, ten, or fifteen years. That's pretty heavy duty. I think we need to be pushing the courts in terms of what fits the charter and what doesn't.

Mr. Daubney talked about it, and on your point about mandatory minimums, we accepted mandatory minimums; we passed mandatory minimums in this committee. We were hoping they were constitutional. We were advised they had a pretty good chance at it.

My concern would be more about the notion of whether the punishment fits the crime. That's the area of your bill that concerns me a little bit. But I think you're on the right track.

I'd just like to come back to the statistics. Mr. Comartin raised a good point: when you compare 2003 with 2002, some of those things can be a little misleading if 2002 was the lowest level of violent crime for a while. Generally, my understanding is the trend has been downward. But one murder is one too many, and I think we need to deal with that.

This speaks to guns. I'm wondering if you could speak to the issue of murder with knives or with bats. It creates this sort of notion that we're only committing crimes with guns.

•(1230)

Secondly, perhaps you, Mr. Cannavino, and Mr. Daubney could talk more fully about this notion of punishment. Is it going to pass a charter challenge in terms of whether the punishment is excessive? We recognize—as I hope you will—that we need to push the courts, but we have to be realistic. If it's just automatically dumped, then we'll have a problem.

Perhaps you could deal with those two questions.

Mr. Daryl Kramp: Thank you, Mr. Cullen.

You mentioned amendments. We have so many difficulties in this country, and we have many different penalties, punishments, and crimes. Whether it's knives, guns, or baseball bats, a person is still a victim, and I recognize that. So do we need more encompassing laws that would deal with this more effectively and give us the results we need? Yes.

The problem we appear to have right now is where do we go first? How do we deal with everything all at once? I'm suggesting I would love to. So am I open to amendments? Of course. Mr. Warr brought forth potential amendments to tie it in with drugs. I think there are many amendments that are viable that we would consider and could consider on this bill. But I also believe we have a situation. We're not trying to stick our finger in the dike here right now. The levy's been breached this year. Just take a look at the violence in our urban cores right now. We went over the top this year.

Mr. Comartin—to touch on your statistics—on the statistics I have seen over a 20- to 30-year period, we have our highs and lows on a one-, two-, or three-year cycle, but we are dramatically up over a 20- to 25-year period. Whether it's 2%, 3%, or 4% every year or two, take that over 20 years and you have a 40% increase. All across the board, violent crimes in Canada are up dramatically over a long period of time. On the statistics I saw, I'm not sure whether it was over 20 to 40 years, but that's the information that was given to me... that I had seen over an extended period of time.

Was there another question?

Hon. Roy Cullen: Would this need a charter challenge, in the sense of whether the punishment fits the crime?

Mr. Daryl Kramp: Quite frankly, I guess it's like beauty—it's in the eye of the beholder. I think the Canadian people are telling us right now that something has to be done. What we have isn't working; therefore the punishment is not fitting the crime.

Quite honestly, what is life itself worth? I happen to believe that life itself has a value that far exceeds one to three years when a life has been snuffed out, or absolutely threatened. I think punishment does fit the crime.

The Chair: Mr. Breitkreuz is next. Five-minute rounds, please.

Mr. Garry Breitkreuz: Thank you, Mr. Chair.

I'd like to thank all the witnesses for appearing before the committee today. I also want to especially commend my colleague, Mr. Kramp, for introducing this bill. If we just look at the escalating gang violence in Toronto and the other cities this summer, I believe this bill would represent a major deterrent to the use of firearms by these criminals. To me it's an obvious thing: if these criminals are in

jail, they won't be a threat to the public or the police. That, to me, is self-evident. So I'd like to compliment you, Mr. Kramp, for keeping us all informed of the results and for your efforts to get the witnesses before us here today.

Now, my question follows up on what Mr. Cullen has raised, and I want to give an opportunity to all the rest of the witnesses to maybe comment on this. While we're in the process of considering appropriate mandatory minimum sentences and consecutive sentencing for violent offenders who use firearms, Parliament might be overlooking the fact that other weapons are being used more often and with more serious, or just as deadly, injuries and results. The committee knows that I have long argued that we should put our resources into front-line policing and into punishing the criminals, rather than a hugely expensive gun registry. In 2004 there were 622 murders. Two weeks ago, Statistics Canada reported that 27.7% of those murders were committed with a firearm, but 33% of the people were stabbed to death.

The Canadian Professional Police Association has just pointed out to us that the provisions of Bill C-215 should also apply to other serious offences committed with other types of weapons. I have talked to many police, and one of the most frustrating parts of their work is that the courts do not support their good work; you don't have to go very far to find a policeman who will confide in you that this is his greatest frustration.

I want to emphasize that I completely support Bill C-215. We need deterrents like it, and I think this bill fixes the problem. Would you be interested in commenting on whether we should have other types of weapons included, not just firearms? I don't want to delay the passage of this bill, and I don't want to see this issue as an excuse not to deal with the bill, but how do you—the witnesses who have not yet commented—view that, and Mr. Kramp, if there's time?

•(1235)

Mr. Daryl Kramp: Quite honestly, I think you have to walk before you crawl. Would I like to see us running right now? Absolutely. I think this is a good first step.

To be non-partisan and to be fair to all concerned, I'm in agreement with Mr. Cullen. I have seen a marked change in the attitude of the government and/or members in the House over these last few months while we have been experiencing difficulties. The government has been saying that they are going to bring in legislation at some particular point that will deal effectively with some of the problems we're facing. The difficulty I have is who, how, why, when, where, and what's it going to be and what's it going to entail?

Quite frankly, if it dealt with the problems that we're facing here right now, I would say wonderful, happy days, and away we go. I'm not looking for personal gratification in bringing forth a private member's bill. I'm not convinced, though, and I am honestly not even hopeful that it will be dealt with in that particular fashion. So what I'd like to be able to do is take an initiative like this and to use it as a benchmark to carry forward. Hopefully, it will show us a way or lead the way and put an emphasis out there that all of the judicial members of the ministry can take a look at and say this is the will of Parliament; this is the will of the people. Hopefully, we can grow from that.

Thank you.

Mr. Tony Cannavino: Of course, for us it would be so easy if there were to be a consensus here today saying let's include all weapons, because whether you're injured by a gun or a baseball bat, it's the same problem and it's the same crime. So the Canadian Professional Police Association—54,000 police personnel—would agree and would support that. I think they should be included, but we just want to make sure this bill goes through as legislation.

I might just add another thing. It's not raising the maximum that will be a solution, because the actual maximum is not respected. Judges don't impose the actual maximum. So even if you were to say it's for two lifetimes, 55 years, or 150 years, they'll never apply it. That's why, for us, a mandatory minimum is important.

On the other thing about the chart, if I may, let's see the latest decisions of the Supreme Court. I think it was in impaired driving cases that went to the Supreme Court and they said they also have to take into consideration the security of the people. That's a statement made by the Supreme Court. In this case here, what we are talking about is protecting our communities, protecting our Canadian citizens, and protecting our front-line police officers who have to struggle every day with violent criminals.

The Chair: Chief Deering, did you have a comment?

Chief Rick Deering: Perhaps in response to a comment made by Mr. Comartin that he'd like to get hold of those organized crime groups, I think it's important for him to understand that the people in this country who control the drug trade are in fact organized crime groups. The street gangs in Toronto are in fact organized crime groups. The street gangs in Vancouver and Winnipeg are in fact organized crime groups. So from my perspective—and this year I'm the current chair of the CACP organized crime committee—we have a serious problem with organized crime. Every young person who grabs a gun to go out and commit an armed robbery to secure drugs in fact is directly linked to organized crime. So I think there is perhaps a difference in opinion between you and me as to what the definition of organized crime is.

To go to your comments, sir, we are the catch basins of society, but we are also on the front lines of society and we experience societal change. I can tell you that in my constituency, we are seizing more guns now than we ever have in our history. I think the Metropolitan Toronto Police Service is experiencing the same thing, as is the Winnipeg Police Service. So on the issue of knives versus guns, this is cutting-edge stuff. This is the trend of the future. We see it first. You may not see it in the courts for five or six or ten years,

but we see it now. What we're trying to say is that we need to deal with it before we become another United States of America.

• (1240)

The Chair: Thank you, Chief Deering.

[*Translation*]

You have five minutes, Mr. Lemay.

Mr. Marc Lemay: I've only five minutes, Mr. Chairman, for such an important matter? I will try to keep within my time.

Let us settle one thing at the outset. The Supreme Court has recently handed down a decision on public security when it had to interpret section 2 of the Canadian Charter of Rights and Freedoms.

By the way, Mr. Daubney, I hope the text you read will be submitted to our committee. I will make that request. All the committee members and myself would appreciate that. I would also like the speaking notes of the other witnesses we have heard today to be distributed to us, so that we can study them carefully. I already have those of the Canadian Professional Police Association.

The Supreme Court said that the most important thing a judge must do in sentencing is to individualize the sentence. Judges must base their sentences on the person before them.

Mr. Cannavino is right. In the past 30 years, I have argued in various courts, including the Court of Appeal, and I once went to the Supreme Court. In criminal law, there is always social reprobation. Whatever my friends in the Conservative Party may think—unless we amend the Canadian Charter of Rights and Freedoms—the Supreme Court has said that rehabilitation, the return of people to society, is an essential part of sentencing. That completes my argument.

I really like what I heard from the Department of Justice. What caused the reduction in driving under the influence? It was the fear of getting caught.

I have argued a number of cases in the course of my career. Every time, the client said he did not think he would be caught. We always give them one chance. I have never seen a prison term imposed as a first sentence for driving while under the influence, unless someone tells me today that the Criminal Code has been amended in the last 16 months. Actually, I was arguing cases in court 16 months ago. So people are given a chance, but just one. It is different in the case of repeat offenders.

Let us speak frankly. I've argued for clients, and if I go back to practising law, I will always argue... Sentences will be negotiated, particularly if this bill is passed. When there are many charges, the first things that are looked at are the charge and the minimal sentence. Be careful there, there will be a whole debate about this.

Yes, you are right: the minimum sentence has become the maximum in many instances, and that is not about to change. However, you have to equip yourself with the necessary tools. That is why I thank you and Mr. Kramp for coming to tell us about this problem.

The problem you are facing is street gangs. With respect to organized crime, Bill C-49, which was passed yesterday—or which will be passed shortly—and Bill C-53, which will be coming forward, will enable us to make progress and to reverse the burden of proof for goods obtained through crime. However, the street gang phenomenon is one that you the representatives, the chiefs of police, will have to deal with. And that is starting to happen.

I was telling a colleague that young street gang members might decide one day to shoot people wearing pink. No planning goes into what they do. They walk around the street and if they do not like someone, bang, they shoot them! That is quite a phenomenon! And I am far from convinced that this project will end that practice. If you were to guarantee that the opposite...

• (1245)

[*English*]

The Chair: Mr. Lemay, your time has terminated. Do you have a question?

[*Translation*]

Mr. Marc Lemay: Already!

Can you give me a guarantee that the bill will solve the street gang problem?

[*English*]

The Chair: Mr. Cannavino.

[*Translation*]

Mr. Tony Cannavino: Mr. Lemay, I would be delighted to spend a few hours with you so that you might tell me more about what you have learned during your 30 years as a criminal lawyer.

You say that there are fewer drunk drivers because people are afraid of being arrested. That is not because police officers are not courteous. Much to the contrary, they are very polite and when they stop people, they are professional. However, there are minimum sentences. You say that they are given a first chance: their driver's licence is suspended. I don't think that really counts.

Mr. Marc Lemay: I agree.

Mr. Tony Cannavino: A year without being able to drive is a tough sentence. This is not murder, it is driving while impaired which, it is true, can cause a death in some cases. I understand that, but we are talking about other penalties; we are not only talking about suspending a driver's licence. However, it is not true that people are given a chance. They are already given a minimum sentence, that is to say, suspension of their licence. And then, there is the matter of incarceration.

Mr. Marc Lemay: I meant the minimum jail sentences from the outset.

Mr. Tony Cannavino: No. Minimum sentences are applied, and there are no loopholes for someone who is convicted of impaired driving, none whatsoever.

I would like to point out something else. When we say that the minimum has become the maximum, I would like to tell you that if I were to make a list of all of the sentences handed down in Canada, you would not even have 5 per cent of those cases, because the sentences provided for in this bill do not go that far.

I was part of almost every elite squad in Quebec, including Carcajou, when the gang laws were adopted, the laws that had some teeth. Moreover, there is a bill on the way to deal with reverse onus. When these bills were adopted, when I was part of the Carcajou squad, I can tell you that the Hell's Angels and the other motorcycle gangs made themselves scarce. That was not a problem, because they were arrested and most of them are now in jail. Those who are not in jail beat a hasty retreat to Ontario, to Manitoba, just about anywhere, and they are trying to stir up trouble.

Mr. Joe Comartin: Thank you very much!

Mr. Tony Cannavino: Exactly.

As far as street gangs go—and we said this earlier—we are just starting to see the tip of the iceberg. Our police officers noticed a long time ago that crime is changing.

In closing, I would like emphasize one final point. When we intercepted someone who was importing drugs and who had been in transit through the United States, we always laid the charges in the United States. We did that because here, they went to the “hotel”, and they did not stay very long. In the US, the sentence was 20 or 25 years. I can tell you that that caused them to panic and to enter into negotiations! So I could talk to you at length about the differences between the United States and Canada.

[*English*]

The Chair: Ms. Sgro, you have five minutes for questions and answers, please.

Hon. Judy Sgro (York West, Lib.): I was going to raise that issue. Is that five minutes not for both the response and the question?

The Chair: Yes, it is.

Hon. Judy Sgro: We haven't followed those rules very well. It's eight minutes before one, and there are a few of us on this side who want an opportunity to do some work on a piece of legislation that I think many of us would like to support. The question is, we have to recognize what we've heard from Mr. Daubney as areas that...

I guess I can just be totally emotional and political. Yes, I would support this and add another 100 years onto it. We can make all the political speeches we want, Mr. Toews. You almost turned me off from supporting it. It's a good job I believe in it enough to support it, in spite of you.

But to not be political, what is it we can do better to protect people in this country? Forget the partisan stuff; these are serious issues we're dealing with. Frankly, I've been talking with the justice department to try to introduce a motion that would ban handguns completely from urban centres. It's impractical. You can't do some of the things we would like to do, because when you are the government you have to be even more responsible, do the right thing, and make sure it's constitutional—and all the things we have to do.

I guess from our perspective I'd like to see us do some more work on this so we can find some way of making it acceptable, because it's a message as much as it is anything else. Banning handguns from large urban centres—which I can't do because it's not constitutional—and all that other stuff is the same issue. It's a message we want to send. We can't do it, at the end of the day, and I have some colleagues who would not like to talk about eliminating guns from anywhere, I suppose.

The point is that it's messaging and trying to get messages to the courts to enforce what we already have that doesn't even get enforced. It's frustrating to go forward with more legislation if we can't even get the judges in the country to use what they have currently. I'm told they have the tools. I'm told that by our chief. They have the tools in the courts; the point is they're just not using them. So the message is to get the attention on the issues we are demanding, as legislators and Canadians, to see that the enforcement happens, and that they start doing the minimum and raise them up, and teach a few more of these people lessons.

So it's an issue of messaging. I know there's a federal-provincial conference coming up. I know the minister is very concerned about the things going on, so don't think he isn't. He lives in this country. He has a family just like the rest of us. The question is, how do we get the message out? How do we strengthen it? This is one vehicle we're looking at.

I have Louise Russo in my riding. I have the four-year-old in my riding. And believe me, these punks out there doing what they're doing don't give a damn about you, me, or anybody else. They don't stop and think first, they just shoot first. They have no respect for your life, so they have no respect for some victim's life. It's as simple as that.

So we need to have the tools to focus on education, jobs, and all those other things we all know have to be done, but we have to get the message to the crowns and the judges when it comes to plea bargaining. There shouldn't be plea bargaining when anybody has used a gun. Flat out, it shouldn't be allowed, and we shouldn't be able to make exceptions and play down those kinds of issues. How do we do that? How do we make this bill better? How do we make it into something that all of us as legislators would want to support?

Now I'm talking instead of asking questions, which is contrary to what I always do, but anyway I only had two minutes.

Is there any time left? I'm going to respect my five minutes.

In a minute and a half, can you tell me what else we can do within this bill to make it passable and workable? I guess I'm going to have to go to Mr. Daubney on that.

•(1250)

Mr. David Daubney: Well, if you want me to answer first, I think it will be a challenge to make it charter-proof without really changing the scope of the bill dramatically; the numbers would have to go down dramatically. It may be possible. For example, if you look at what the Supreme Court has struck down, they struck down the drug trafficking minimum of seven years in the Smith case a number of years ago. In *Morrissey* and other cases, they've upheld four years for these kinds of crimes. So we know that's your scope for manoeuvre. We only have one other offence in the code, other

than murder, of course, that has a sentence of more than four years; it's an offence that I don't think has ever been used, relating to living off the avails of juvenile prostitutes. It's five years.

So what would be upheld? It's somewhere in that narrow window. So if you have a situation where you have someone who has already been sentenced to three years, say on a subsequent conviction, of a section 85 offence, which is possible now in the court, and you're adding five years to that, you've already exceeded what is likely to be viewed as the threshold for charter viability. I think that's the best guess one can make at this point in time. It doesn't leave you with much room for manoeuvre. I really do think that the 10-year and 15-year add-ons are over the top, frankly, and are just not worth Parliament's time putting forward, because they are clearly not going to get through the courts.

•(1255)

The Chair: Thank you, Ms. Sgro.

Mr. Thompson, you have five minutes for questions and answers, please.

Mr. Myron Thompson: Thank you.

Thank you, Mr. Kramp, for an excellent bill. And thank you to all the presenters; I really appreciate your comments. And I really want to thank my colleague, Mr. Toews. I thought his presentation was great, and we need more of those.

I see in your documents here that there's a reference to section 745 and reference to prisons and the gangs organizing in them.

I also want to refer to the fact that in 1993-94 a colleague and I went down to Cornwall. Some of you may remember when they shot up the mayor's house and the city hall when gun smuggling was at its peak, and they were shooting at police helicopters. How does the smuggling of guns compare today with what it was in 1994? Is it better or worse? Are there more guns coming in? Is it improving? I don't see how it can be—maybe because I know that personnel have been cut severely in the policing area. You don't do better policing with less people. Some governments seem to think that's the case, but that isn't the way it works.

And I do believe, according to all of the guards I've talked to and some of the wardens, that gang training is actually taking place in the penitentiaries. It's actually taking place under our nose in the penitentiaries, as prisoners are being prepared on how to get out, how to get into a gang, how to get a gun, or how to do all those things.

I'm a little concerned about the comment from Mr. Deering that we don't want to become another United States. In fact, according to some of the stats I'm looking at, there seems to have been quite an improvement or quite a reduction in crime down there, quite significantly better than what we're seeing up here. So I'd question his comment.

I think the intention of the charter was to have a document that protects our freedoms, protects our property, and protects our people. Yet I'm hearing constantly that it won't pass the charter; it won't pass the charter test. Is the charter becoming a hindrance to having good justice, when it was supposedly brought in to bring in better justice?

You can comment on anything I've said, any one of you.

Have a good day.

The Chair: That was two and a half minutes, so you've got two and a half to go.

Mr. Daryl Kramp: The one concern I have, of course, is that... The statement was made, who is responsible? Mr. Daubney said, well, the courts will decide where we go. I'm a new member, but I have always thought, or felt, or had the perception that Parliament made the rules, made the laws for this country that dictate how this country operates. I've often thought that as a parliamentarian, my number one responsibility now—my number one responsibility, above and beyond anything—is the health and safety and protection of the citizen. Everything else is secondary.

This bill moves us a step forward, and I urge my colleagues to take a very serious look. I recognize that this is not the panacea, as was stated, and will not solve the dilemma, but I really do believe it's a reasonable approach. It's a considered approach.

The most important part of this entire initiative, I believe, is that it will serve as an effective deterrent. It will send a very clear message that we have reached a tipping point in society where we will not accept this kind of escalation of violence. We're not talking about just run-of-the-mill violence. As I suggested before, a weapon is one thing, but when you pick up a gun, it's not something you're just going to brush against your neighbour. A gun is a lethal weapon. If you pick up that gun in the commission of an offence, you know exactly what you are doing. That's not an accidental, "Oh, I think I was hunting, and the gun went off, and I might have hurt somebody". This is a wilful action for which there has to be a consequence.

If we don't take some movement on this bill and this initiative, and we leave this committee here today and we send a message that we're really not too concerned about this somehow, we'll just pass it off again and again, I can assure you that the criminal element out there... You think they're not paying attention to this committee right now? They're watching. They know what's going on. A lot of people say that the criminal element is not really aware. They know more than a lot of the citizens who supposedly should be concerned, and they will be watching very carefully what we do. If they feel that this is going to be dealt with with impunity, that there is no more enforcement or no more punitive measure to be looking at, then basically it's a home-free-and-away-we-go society.

We have a responsibility. We have to take a stand, and it's now.

• (1300)

The Chair: Thank you, Mr. Kramp.

Mr. Tony Cannavino: Mr. Chair, could I please...?

The Chair: Mr. Cannavino, you tend to go on at length, and we've reached our time—

Mr. Tony Cannavino: I'll take 15 seconds.

One thing that wasn't addressed was debt time, the time served before the sentencing that counts for double and triple. That's another thing we should consider taking out. I just wanted to add that.

The Chair: Members, we have two more witnesses who would like an opportunity to question. We could extend maybe 10 or 15 minutes, until 1:15 max. Mr. Comartin has a brief intervention.

What is your wish?

Hon. Roy Cullen: All right, but make it brief.

The Chair: The consensus is that we will extend for 15 minutes max.

Mr. Myron Thompson: On a point of order, Mr. Chair, I had asked for a comment on whether or not they were aware of the gang training going on in prisons. Could we get a quick comment on that, on what they know about this?

Mr. Tony Cannavino: Again, you can visit some prisons and see in certain wings the logo of the Hells Angels. In other places it's the logo of the Bandidos. The newly jailed are trained there.

Mr. Myron Thompson: I've seen that. I know what you're talking about.

Mr. Tony Cannavino: You're absolutely right on that, absolutely right. The prison guards don't control the prisons.

Mr. Myron Thompson: No, they don't.

The Chair: Thank you.

Mr. Wrzesnewskyj, for five minutes, question and answer, please.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): Thank you, Mr. Chair.

I'm very pleased to be the newest member of this committee, and I'm doubly pleased because when this bill came forward in the House, I voted in support of it to make sure it had a chance to come to committee and be passed.

Although I'm pleased here—and like I said, doubly pleased this has come forward, and it's the first stage we're dealing with—I was truly disappointed by Mr. Toews' statement that the only way this bill will get passed is if this government is defeated. It serves absolutely no purpose to play partisan politics with an issue of this importance and a bill of such importance. It acts as a detriment to what we're trying to achieve here.

I'd like to move on to some of the comments Mr. Daubney made. He referred to an Environics poll back in March that said most Canadians support an escape clause, or the ability of judges to have leniency in their sentencing. You know, we're politicians; we're familiar with polls. Polls go up and down, depending on not just the mood, but the way a question is asked.

So I have real concerns about using that as support for your points of view, which followed statements such as this particular bill outrages our sense of decency and is grossly disproportionate to the crimes committed. I can tell you, without taking a poll, there is a great sense of outrage in the communities affected by gun violence and gun crime. There's great disappointment because there's a feeling there's gross disproportionality in the sentencing of the criminals who commit these crimes.

Also, you made a statement that a lot of the criminals have no idea of what they face, so it really doesn't matter what sort of legislation we pass. It has no effect because the criminals have no idea what they face. Well, they may not be experts in criminal law, but I can tell you that out there they know they don't face a deterrent. There is empirical evidence—and some of it was stated by the witnesses—that shows there really isn't a deterrent. So they may not know if it's 47 days or six months, but they know it's pretty inconsequential.

I'd like to return to what I started off with, my pleasure of having this be the first bill being brought forward and having the opportunity to work on it. I certainly hope this bill passes. I agree there are certain amendments. We heard from the police in Toronto that they'd like to see certain amendments. Perhaps there are even some amendments that deal with the whole concept of combined sentencing. Is there a chance that someone may be charged with two crimes that don't involve guns, and then you'd have this tacked on?

Perhaps there's some refinement that, Mr. Kramp, you would be willing to look at to make sure the intent of what you're trying to achieve is achieved. Perhaps we could cover some other areas that were overlooked so this committee, which works in a non-partisan way, takes this private member's bill and refines it a bit so it achieves your goal.

Mr. Kramp, could you please respond to that last comment?

• (1305)

Mr. Daryl Kramp: As I mentioned before, is this the perfect solution? I don't believe it is. But has it taken us quite a ways down the road in the direction we have to go? I believe so, yes.

If there's definitely a will in this committee to try to move this bill forward in a positive manner, and if we can show some movement where hopefully we could satisfy people from all sides of the House here that we're going to get the results we're looking for, I'd be pleased to work with the committee.

The Chair: Thank you.

Mr. Warawa, you're the last questioner this morning.

Mr. Mark Warawa (Langley, CPC): Thank you, Mr. Chair.

I would like to start off by making a couple of comments regarding Mr. Toews' presentation. My take on it was generally the frustration I have myself with the position of the government and the presentation from Mr. Daubney.

Mr. Daubney made a number of comments I jotted down, one that what's being proposed here is "grossly disproportionate". I don't agree. He shared that the sentence must be proportionate to the offence, and I agree. I think Canadians in general believe the sentencing we see is not proportionate to the offence, and therefore we have Bill C-215 before us today.

He also commented on longer sentences creating greater recidivism. Well, then maybe we have problems with the way Correctional Service Canada runs our prisons, and we need to look seriously at that. If we have the gangs running the prisons and people are coming out more dangerous than when they went in, there's a serious message there we need to take a look at.

Mr. Warr, in a moment I'm going to be asking for another one of your examples.

Numerous times I've been at a rifle range or at a gun range, practising with a handgun or a rifle. I have four boys, so it's fun, and I also have some friends who are police officers. Right from a child, you are always taught to never, never point a gun at somebody, and it's very serious: if you ever point, you're going to be in trouble. You're going to get chastised if you're ever caught even unintentionally pointing a gun at somebody. You never, never, never do it.

If a police officer pulls his revolver, there's going to be paperwork. It's a big deal to point a gun. Whether you're a police officer or a civilian, you never point your gun at a person.

Well, what we're talking about today with Bill C-215 are people who are deliberately taking a lethal weapon and pointing it at someone to take control of that person to intimidate and in some cases use deadly force. Do we need to have a message that this is not going to be tolerated in Canada? I think right now we do not have that, because of some of the examples that were shared with us by Mr. Warr. There is not a severe consequence, and that's what the attempt of Mr. Kramp is, to have a consequence, a message, and that's part of the educational process.

So I applaud your efforts here. I do support this. I am disappointed and I think most Canadians are disappointed with the approach the justice minister and his department are taking in calling something like this "grossly disproportionate". I disagree. I think we need to head in this direction.

In closing, Mr. Warr, could you please share some examples? And then other members.

Thank you.

• (1310)

Deputy Chief A. Warr: Thank you, sir.

There's one here, a 25-year-old male convicted of carrying a firearm in 1997: 18 months probation and 58 days pre-trial custody was his sentence, and five years firearms prohibition. The next year, robbery, carrying a concealed weapon: one month open custody. Two years later, assault, kidnapping, forceable confinement, and drugs: suspended sentence.

A voice: Is that a surprise?

Deputy Chief A. Warr: Two years later, possession of a firearm and ammunition, restricted weapon, and a bunch of other charges: 90 days and 10 months pre-sentence custody, probation. A year later, possession of a prohibited or restricted weapon with ammunition: eight months and three years probation. And his latest charge is second-degree murder, where he shot and killed somebody.

So there's a person who learns from his punishment.

Mr. Marc Lemay: He had a good lawyer.

Mr. Mark Warawa: There was a request that we would give this information. If you could pass on those examples to the committee, I'd appreciate it.

Deputy Chief A. Warr: Yes, I'll submit the whole file.

Mr. Mark Warawa: Thank you.

The Chair: Thank you to our witnesses for being here for a rather spirited round of questions and answers.

There's just a quick question from Mr. Comartin. Mr. Comartin has made a request to change the hearing date on Bill C-53 for the witnesses, the Canadian Bar, the Canadian Council of Criminal

Defence Lawyers, and possibly the Barreau du Québec, from October 27 to November 1. Are there any concerns or objections?

Some hon. members: No.

The Chair: There being none, fine.

Thank you.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliamentary Internet Parlementaire at the following address:
Aussi disponible sur le réseau électronique « Parliamentary Internet Parlementaire » à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.