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Chair

Mr. Ed Fast

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• (1530)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): This is meeting number 11 of the Standing Committee on Justice and Human Rights. Today is Wednesday, March 25, 2009.

You have before you the agenda for today. We are continuing our study on organized crime in Canada. We welcome a number of organizations and individuals as witnesses for our study.

Representing the Vancouver Board of Trade is Darcy Rezac and Dave Park. We also have the Canadian Association of Chiefs of Police, represented by Mike Cabana. Finally, we have the National Parole Board, represented by Jean Sutton.

I think all four of you know that we've just undertaken this study on organized crime across Canada. We're hoping that the evidence we glean from this committee will be used to prepare a report that will help us move forward in the fight against organized crime.

We're very grateful to you for appearing today. The normal process is that each organization will be given 10 minutes to present.

We'll begin with Mr. Rezac.

Mr. Darcy Rezac (Managing Director, Vancouver Board of Trade): Thank you, Mr. Chairman.

Will there be questions after my presentation or after all of them?

The Chair: We will have questions after all of you have presented.

Mr. Darcy Rezac: So there won't be questions for me immediately afterwards.

The Chair: That's correct.

Mr. Darcy Rezac: Okay, thank you; that's helpful.

Thank you very much, Mr. Chairman and members of the committee.

Dave Park is our economist emeritus at the Vancouver Board of Trade. He was our chief economist for many years. He has come back out of retirement to assist us with the public safety task force of the Vancouver Board of Trade.

This is a subject we've been pursuing for over 12 years. We have a problem in Canada with crime, and it's only now reaching the attention of the public with the intensity that we think it deserves, so we're delighted to appear before you.

First let me say that we're very supportive of Bill C-14. We think it should go through with all dispatch, and we encourage members of Parliament to ensure that happens as quickly as possible.

Organized crime and violent crime in Canada are related, of course, and related to our chronic offenders. In Vancouver much of our crime has to do with drugs, and of course we know that's controlled and run by organized crime. In Vancouver we are beset with the activities of chronic offenders, ranging the spectrum from beggars and thieves through to B and Es, car break-ins, violent crime and assaults, and now murder, with organized gangs using firearms. It is related in that continuum, and much of it has to do with drugs.

We've written to the Minister of Justice, we've had discussions with Statistics Canada, and the Board of Trade has put together a position. Our policy with respect to crime is a broad one. We think we have to look at root causes. For example, we are champions of early childhood development. We've got a task force with the YWCA, and we think that if we intervene between the ages of zero and six, we stand a good chance of ensuring that young people don't get involved in gangs and crime, and later, organized crime. It's part of that continuum, and we would encourage all parties to support those sorts of initiatives.

We support better treatment for addiction and mental illness for those incarcerated. We have a problem in Canada, and of course in British Columbia, in that most people are sentenced to two years less a day in provincial institutions, where those facilities simply aren't available to any extent. More treatment is available at the federal level, but more has to be done as well.

We're a business association with 6,000 members whose purpose is to ensure that Vancouver in Canada is the best place in the world to live, work, play, invest, and visit. That reputation is threatened because of the problem we have with crime.

There are 2.7 million Canadians who are victims of violent crime every year. That's according to the last Statistics Canada victimization survey. It's a bit dated now. A new one being undertaken as we speak will provide a much better measure of the actual levels of crime in our country, much better than what we see annually from Statistics Canada, which are crimes reported to police. We've been pressing Statistics Canada for well over 10 years to change the method of reporting crime to give a more accurate reflection of the actual levels of crime.

The current measure, crimes reported to police, only captures one-third of all crimes. The victim survey shows that 34% of crimes are reported to police and two-thirds aren't. For example, 88% of sexual assaults are not reported to police at all. We think that's a very bad proxy for crime rates.

In fact, until recently, Statistics Canada defined the national crime rate as crimes reported to police. We got their attention when we wrote an editorial that ended up in the *Vancouver Sun* and the *National Post*. It was in response to a headline that said, "Crime rate down based upon crimes reported to police". We said we hoped that was true, but we won't know if it is until the 2009 victim survey is conducted. After a similar statement was made in 2005 that the crime rate had gone down based upon police-reported crimes, the 2004 victim survey showed that in fact the crime rate had not gone down at all, except in one category, B and E; all the other eight categories had either stayed the same or had gone up.

That provoked a response from Statistics Canada, and we entered into a dialogue with them. Up until that time we had just had an exchange of letters and we weren't making much progress.

• (1535)

We were very pleased with our meeting yesterday with Dr. Sheikh, the Chief Statistician of Canada. We were advised that they're backing away from the traditional definition of crime rates and they will refer to police-reported crimes. It's a valuable study on its own, as long as you know what it is. They will be referring to crimes reported to police.

They will also take pains to point out to readers that there's another study on victims, which gives you a different measure of the crime rate if you use that as a definition. They surveyed eight major categories. They did it as they do the census, with a scientifically tested study of 20,000 Canadians. We don't think that's enough. We asked them to expand on that as well.

They were asked what their recent experiences were. In *The Globe and Mail* today, a member of Parliament responded that he didn't think it was useful to use crime measures based on perception. Ladies and gentlemen, these are the perceptions of your constituents who have recently had an experience with crime. It's a far better measure than crimes reported to police, which take out of the equation any opportunity to ask probing questions. It's a scientific survey. It has its weaknesses. It doesn't cover all crimes, such as white-collar crimes. But it covers most of the crime in the country, certainly the kinds of violent crimes that your constituents are concerned with and our members are concerned with.

We've asked them to do it annually. We've asked them to expand the survey so that it includes the CMAs, the census metropolitan areas, so that major cities such as Vancouver can actually gauge the situation with crime. Is it getting better? Is it getting worse? Our public policy response can then be more appropriate than in the past, when it was based on crimes reported to police. We were pleased with that. They're all set and ready to go.

I suggested to Dr. Sheikh that it would be a wonderful stimulus measure for the government to announce annual funding for the report. His response was that Stats Canada is shovel-ready. I would like to encourage all parties to put aside your differences and to

encourage the government to fund the study. As it's under way for 2009, it would start in 2010 and every year thereafter.

I should as well point out that Dr. Sheikh informed us that all the other OECD countries, or industrialized countries, as he expressed it, either do the reports annually or bi-annually. They do it more frequently than we do. We have not been holding our own with respect to asking our members who are victims and your constituents and citizens what their recent experiences with crime have been.

I want to leave you with one graph. We have a presentation before you that covers our position. On October 7, 1971, the Minister of Justice rose in the House and said that from now on the government is going to focus on "the rehabilitation of individuals rather than protecting" the public. He did not say "as well as" or "in addition to". He said "rather than protecting" the public.

Ladies and gentlemen, that's what we've been doing for almost 40 years. It's been a very good policy. It's been a wonderful policy for criminals. It's been a very bad policy for victims. At the Vancouver Board of Trade, our view is that we should give victims a chance.

What's happening in Vancouver? This is from a Vancouver police report that was done last year on 379 chronic offenders. These are people who have had multiple convictions, some were minor and some were major, but they're chronic offenders. An average sentence for the first offence is 101 days. The average sentence for the 35th offence is 25 days. This makes no sense to us. In recent polls that were published, our members tell us this is far different from the public expectation of justice that is being administered.

Our plea to the committee and to members of Parliament is to please put aside political differences and personal differences. We certainly have a crisis in our country with organized crime on the west coast and with violent crime and chronic crime. If we do the correct surveys and test those levels of crime properly, you will see that it's unacceptable for 650,000 Canadians to be injured during the commission of violent crimes every year, for there to be 2.7 million violent crimes in the country every year, and for one Canadian in four to be the victim of a crime in the past year.

• (1540)

We don't think it's acceptable and we hope you don't either.

Thank you very much, Mr. Chairman.

The Chair: Thank you, Mr. Rezac.

We'll move on to Mr. Cabana, representing the Organized Crime Committee. He's also the assistant commissioner for federal and international operations for the RCMP.

Mr. Cabana, the floor is yours.

[Translation]

C/Supt Mike Cabana (Co-Chair, Organized Crime Committee and Assistant Commissioner, Federal and International Operations, Royal Canadian Mounted Police, Canadian Association of Chiefs of Police): Thank you very much, Mr. Chair.

[English]

The organized crime committee seeks to enhance cooperation among law enforcement agencies at home and abroad, promote innovative law enforcement initiatives, and advocate for public policy and legislative change. On behalf of the Canadian law enforcement community, I thank you for providing us with this opportunity today.

This committee has invited me to discuss the current threat of organized crime in Canada and to identify challenges within the law enforcement community for its eradication.

As was reported to you last week, the law enforcement community has identified more than 900 organized crime groups operating in large cities and small towns in Canada. This is a substantial and growing problem. Today I hope to provide you with further information on the issue to allow for a deeper understanding of the challenges, what law enforcement has been doing to address the situation, and the legislative gaps that require our mutual attention.

Organized crime has significantly changed over the last five years in Canada.

[Translation]

While the drug trade remains a focal point of their activities, they have continued to become more sophisticated and diversified in their criminal activities.

Most are involved in more than one type of criminal activity which can range from drug crimes or financial crimes, such as identity theft, mass-market fraud and money laundering, to crimes such as human smuggling, human trafficking, and counterfeiting consumer products and medications.

[English]

While there are many factors at play in the acceleration of organized crime activity in Canada, the end result is that today Canada has been identified as a source country for synthetic drugs and a transit country for cocaine en route from North America to Asia. More worrying, and presenting an immediate threat to public safety, organized crime groups have escalated their use of violence in fighting for territory and shares in what have become very lucrative illicit markets. These groups have also come to rely on the corruption of public officials and using violence towards their rivals, potential witnesses, law enforcement, and the judiciary.

Many organizations have become more sophisticated in that they compartmentalize their operations and expand over a number of countries. They are relying on modern technology to communicate and to further insulate themselves from the reach of the law.

While there are many challenges, we have many examples of successful investigations through joint forces operations. These include the biker enforcement units, the Integrated Gang Task Force, and the combined forces special enforcement units, which are composed of law enforcement agencies from all levels, working on integrated investigations to address priority targets.

Inter-agency coordination is further enhanced by groups such as the national coordinating committee on organized crime, the CACP's

organized crime committee, which I am here representing, and the CACP's law amendment committee.

A relatively new group that is showing great promise is the Canadian Integrated Response to Organized Crime, or CI-ROC, which was until very recently called or referred to as the Council on Public Safety. CI-ROC was created to enhance operational cooperation between law enforcement agencies across provincial borders with regard to organized crime operations. Coordination of these efforts is necessary to ensure that the use of limited resources and assets are maximized and that emerging threats are identified and addressed to preclude further growth of organized crime. While it is still relatively young, the potential impact of such a body is tremendous.

There are many successes and advances, but given the new realities I mentioned, Canadian law enforcement is challenged in their ability to investigate. As with most complex issues, a multifaceted approach is required. Ongoing, timely, intelligence-sharing facilitates effective and proactive program delivery and provides guidance in effective deployment of resources to tactical operations.

Enhancements to legislation must be explored along with the scrutiny of current judicial processes and outcomes to ensure an effective response to enforcement action. In the face of the challenges posed by organized crime, it is the CACP's position that law enforcement agencies must be given the power and the tools to keep pace.

There are three specific areas I would like to address. The first is the impact current disclosure requirements are having on criminal investigations. In a 1991 case, *Regina v. Stinchcombe*, the Supreme Court of Canada ordered prosecutors to disclose to the defendant before the trial all relevant information. "Relevant disclosure" is defined as the reasonable possibility that information could be used to meet the crown's case, advance a defence, or make a decision that could affect the conduct of the defence. Disclosure in Canada has become a significant exercise in criminal cases, and issues pertaining to relevant disclosures surface in most major cases today. This can have a significant impact on the cost and progress of investigations and prosecutions.

● (1545)

[Translation]

Courts, crown counsel, defence counsel and police officers across the country have varying interpretations of what "relevant disclosure" is. Within our judicial system, the concept of relevant disclosure has been interpreted to the point where the threshold test for relevant disclosure is extremely low. As the investigation of criminal organizations has become complex, the management for purposes of disclosure has become more and more of a challenge. Consequently, this affects our capacity to investigate other criminal organizations.

A quick example of how expanding disclosure can affect an investigation. A few years ago, during a police investigation in Canada targeting a major organized crime group, 1.7 million pieces of communication were intercepted. Of those, 27,000 were transcribed. In the end, only 200 were deemed sufficiently relevant to the case to be used in court.

[English]

Investigations can produce an extraordinary amount of documentation. Significant policing resources are allotted to this duty, effectively removing them from front-line policing.

Further, the reality of the volume of disclosure has affected the capacity of law enforcement and prosecutors to attack organized crime as an offence in and of itself. In many instances, prosecution for substantive offences is preferred over organized crime charges. The legal framework and practices must evolve and embrace the efficiencies that can be provided by new techniques and methods such as those provided by electronic technology. Most importantly, there is a need to establish a well-defined and consistent threshold for relevant disclosure. This could be accomplished through enacting disclosure requirements and procedures.

The second area where we need to progress is the area of lawful access. While communications technology has evolved considerably and criminals are embracing and taking advantage of it, Canadian law has not kept pace with the rapid changes. Increasingly, complex technologies are challenging conventional lawful access methods. Communication carriers are not required to provide access technology. Law enforcement agencies are simply asking that telecommunication carriers build interception capability into existing or new networks and provide access to important customer name and address information.

The third and final issue I would like to address is the need for an increased ability to share information between government agencies, domestically and internationally, to eliminate havens where criminal organizations can flourish. The current environment is one of fear of sharing information, due to either legislative restrictions or human rights concerns. While it is essential to be careful in determining the appropriate information to share and the context within which it is shared or used, this can seriously impede the ability of law enforcement to investigate organized crime.

Organized crime operates from an international perspective. In fact, it can be demonstrated that organized crime is taking advantage of the infrastructure and legislation of certain countries. They are organizing to better insulate themselves. As an example, some criminal organizations have based themselves in India and China to forward precursor chemicals. Other organizations have sought refuge in Caribbean countries, while others are now infiltrating countries of the African continent to use as transshipment points.

In closing, Mr. Chairman, Canadian law enforcement is committed to tackling organized crime, and we need new thinking in the judicial process and new policies and guidelines to support these efforts.

On behalf of the CACP's organized crime committee, I am confident we can respond to the growing sophistication of criminality and together we can strike the right balance in our legal and legislative structures.

I also wish to compliment this committee on your plans to travel in the near future to several Canadian cities to discuss issues surrounding organized crime. The Canadian Association of Chiefs of Police strongly supports this initiative, which will allow the committee to get first-hand information from those who are on the

front lines in dealing with organized crime. CACP is prepared to fully support the committee in this important work, and we will work closely with the clerk of the committee to facilitate these consultations.

I would again like to thank you for inviting me here today. I would be pleased to answer any questions you may have at the conclusion.

• (1550)

The Chair: Thank you, Mr. Cabana. I also thank you for staying within your allotted 10 minutes; it is much appreciated.

We will now move on to Jean Sutton, who is representing the National Parole Board as director of professional standards and decision processes.

The floor is yours.

Ms. Jean Sutton (Director, Professional Standards and Decision Processes, National Parole Board): Thank you.

First I would like to thank you for the invitation to come and speak at the committee.

As the director of professional standards and decision processes at the National Parole Board, I bring to this committee over 25 years of experience with the board, principally in the area of training and development for our board members.

I really do not have a formal opening statement today for the committee. I just wanted to reinforce the years of experience I bring, so I am open to answer any questions that may be relevant to assist you in your endeavours.

Thank you very much.

The Chair: Monsieur Ménard.

[Translation]

Mr. Réal Ménard (Hochelaga, BQ): I am sorry, but I believe there has been a misunderstanding. When a government agency is invited to come and speak to us about organized crime, we expect to get some information. I expected that the National Parole Board would provide us with information. I am asking the witness to come back and see us again.

For example, I was told that a plan had been put together for street gangs in Canadian prisons. You cannot appear here and simply state that you have experience. I am not at all pleased. This is not a serious way of doing things and, ultimately, it is disrespectful to the members of the committee. I believe that the clerk must re-invite this person, and that she should provide us with information on what is going on in the prisons. This is not a job competition nor a time to present one's resumé.

[English]

The Chair: Monsieur Ménard, perhaps we could leave that until the end of the meeting. She may be able to answer some questions that some of our committee members find pressing. She may be able to give us helpful information, so I wouldn't want to prejudice the testimony she may give as questions are asked.

[*Translation*]

Mr. Réal Ménard: Mr. Chair, it is not a question of judging. The point is that we invite witnesses and then they do not provide us with any information. The clerk must call representatives from the National Parole Board once again and they should provide us with a presentation on what is happening in our prisons. That is why they were invited. I am not questioning the experience of the witness, but we need this information.

[*English*]

The Chair: Monsieur Ménard, I do understand your point. However, I believe the witness was told there's a 10-minute presentation period. She had an opportunity to do that. She has chosen not to. I don't want to dismiss the witness at this point. I think she should remain to answer some questions from members of the committee, and then we can judge later on whether we want her to come back.

Mr. Dosanjh, you've got a point?

•(1555)

Hon. Ujjal Dosanjh (Vancouver South, Lib.): I am in full support of my colleague's position, not to ask the witness to leave, but I just want to put on the record that I believe it's not appropriate for a witness, when asked to make a presentation, to simply come and not make a presentation, particularly if you happen to be from the public service. I think this is very important. I do believe she should be staying and colleagues may have questions, but I want to put myself on the record in support of the sentiment expressed by my colleague.

The Chair: Just so you know, the clerk has advised me that the witnesses didn't have a lot of advance notice. They were given notice late last week, so I don't know if that's the reason there is no presentation, but I'm certainly going to let Ms. Sutton stay, and we may have some questions specifically for her.

We'll move to questions, and I think we'll revert to our normal rotation, which is seven minutes for each of the parties on the first go-round.

Mr. Dosanjh, you have seven minutes.

Hon. Ujjal Dosanjh: Thank you very much. I want to first welcome all of you with equal vigour, but particularly my friends from British Columbia, Mr. Rezac and Mr. Park.

Mr. Rezac, I noticed you didn't stress the issue of chronic offenders as much today as you did when you appeared before the B. C. caucus about a week ago. I want to ask you a question about the chronic offenders. I agree it is a serious problem, at least in British Columbia because we know the scene. It may be a problem in other urban centres.

When you are asking for escalation of sentences, are you asking for mandatory minimums past two years so they can go to the federal prisons and get treatment, or are you simply asking for some escalation of sentences but then obligating the provinces to provide treatment in the corrections facilities so it's not an exercise in uploading? If the provinces need funding, then the federal government should perhaps support them in funding.

Mr. Darcy Rezac: Thank you for the question.

Mr. Chairman, when I show this graph, that's the issue on chronic offenders, so if I didn't emphasize that sufficiently, I apologize. The main purpose of our mission is to highlight the issue of chronic offenders, and we're asking for escalating sentences.

We don't have the exact prescription for how you do that. Minimum sentences and so on would be up to folks in Parliament to debate and come up with something that's going to work, based on experience. We'll be happy to look at that, but what we're saying is that if somebody appears before a judge and they have 30 convictions and they're appearing again on similar or even other convictions that might be more serious, or violent convictions, there should be a requirement for those sentences to escalate and a reverse onus put on the criminal to demonstrate why they should not get a higher sentence.

Judges in British Columbia tell us it doesn't do any good. Going back to this 1971 policy, it doesn't do any good to put people in prison because they still come out as thieves and criminals and they assault people, they continue to do that, and it's usually based on having a problem with drugs or a mental illness. Therefore, it's a medical problem, and they refuse to treat it as a legal problem.

The only problem is that a whole bunch of victims are going to be created as a result of that decision. There seems to be a disconnect in terms of accountability between that decision and what's going to happen next, and our members and their families are getting pretty upset with that.

Perhaps Dave could answer with a little bit more detail on how we might do this.

Mr. Dave Park (Assistant Managing Director and Chief Economist, Vancouver Board of Trade): I think you touched upon it. There's no point in just repeating something and expecting a different result.

Yes, by all means there needs to be some way of restricting these people's activities so that society is not as afflicted by their activities, but there's no point in doing that unless you also have the means of treatment or some way of modifying their behaviour and their capabilities. If they are drug addicts and they are turned right back onto the street, they'll just start to steal again.

We have to have some means of intervening. I don't think we want to be prescriptive as to what exactly that should be, but it's quite clear that there needs to be a different approach to chronic offenders. It probably will require their being incarcerated longer, or at least detained in treatment longer in some way, but we're not attempting to be experts to prescribe what that might be.

•(1600)

Mr. Darcy Rezac: We're aware of some successful measures in Italy and other parts of the world that we can learn from.

In terms of download, we think that with the situation on the west coast—and it has happened in Quebec with gangs and violent offences—emergency funding is required. I think we should treat this like a tsunami, a forest fire, a hurricane, the Winnipeg flood—whatever it is. Let's do what we have to do to fix this thing.

By all means, let's fix it from the top down: let's get the bad guys who are the organized criminals and so on. But we have to attack it from both ends. This is going to call for policies that the present government may not have very much supported in the past, such as early childhood development, education, and literacy in prisons. All of these measures work; there's good evidence for that. But it's not just one measure; we have to do everything. We have to do what we can do first, and do it quickly. That's why we're delighted with the announcement that I heard today that we're going to attack the two-for-one issue. We're fully supportive of that.

Again, please put aside your differences. Let's get this stuff in place to help the police get evidence before judges, give people due process, get the bad guys put away or into treatment, and let the rest of us get on with our lives without being harassed by criminals—B and E artists—and being assaulted.

In Vancouver we have had a situation in which somebody, you'll recall, went into a hospital room and stole a ring from the hand of a 92-year-old woman and then got a minimum sentence for doing it. That's a horrific crime, and the impact was not only upon that woman but upon her whole family and on the sense of safety and security in a hospital. Give us a break; we need a sea change here.

Hon. Ujjal Dosanjh: I have another question for you. It's on the new methodology for the study of statistics, in which you're proposing it be done every year rather than every five years. I know that my colleague, Mr. Comartin, is quoted as having expressed some concerns.

I asked you this privately, but I'm going to ask you on the record. We would get Statistics Canada to come here and talk about this to perhaps educate us better, but my concern would be with defining who the victim is in the situation. For instance, when you do tort law, there is an argument for the "thin-skull" victim. I may be a weak individual, and if some ten-places-removed relative is hurt in a crime, I may feel victimized. I want to know what you mean by victim. Is it by just your feeling that you're a victim or by your being an actual victim that we would do the study?

Mr. Dave Park: Perhaps I can answer that question.

It's our understanding, from discussions with Statistics Canada and from looking at similar survey results, from other countries such as the United States and in the UN survey, that in fact they ask "Have you experienced a crime?" I'm not sure exactly how they put the question, but they are the experts.

I would strongly suggest that it might be very useful to have Statistics Canada explain how they do this. They are the experts. As you know, they conduct huge numbers of surveys. I'm sure they have taken the time and have gathered the best approaches from around the world to stage this particular type of survey, just as they do with other surveys.

Mr. Darcy Rezac: I should point out that this is not a new survey. This has been done for dozens of years. It's done in all the OECD countries, so there's some commonality. All the surveys aren't exactly the same because of different legislation and so on, but they do comparative studies, the UN does comparisons, and there's nothing new here.

They do probe those questions. It's not simply an opinion that's done by some paid researcher. It's a professional survey that's done. They test for those inaccuracies and put in place controlled measures for them. While there are shortcomings and it's not perfect, our view is that it's a better measure of actual levels of crime than crimes reported to police.

I agree with Dave. I would encourage you to have the chief statistician and his expert who has been running this survey for years and years come before you to testify, if for no other reason than that it's under way right now. You want to make sure that the data that's published is the best it can be.

The Chair: Thank you.

Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard: Thank you, Mr. Chair.

I have four short questions, three for Mr. Cabana and one for Ms. Sutton, whom I still hold in friendly regard. I am not targeting you personally, but we would like you to contribute a little substance to all of this.

Mr. Cabana, first of all, tell us more about CIROC. I would like to understand where its innovation lies in comparison with what already existed, what this will achieve.

Second, I did not understand your second recommendation very well. During the last session, the committee was told about warrants that were good for three months and that they wanted to extend to one year. We were told this would be useful for surveillance investigations. Is that what you are referring to? Tell us clearly what you want.

Third, if we were to add a new offence to the Criminal Code banning the wearing of symbols that link an individual to organizations deemed criminal by the Court under section 467, do you think that could be useful?

After you have answered, I will ask Ms. Sutton if she can tell us whether or not is true that the Correctional Service of Canada has a policy on street gangs in penitentiaries. What can she tell us about that at this point in time?

• (1605)

C/Supt Mike Cabana: Thank you, Mr. Ménard.

I will give you my answer in reverse order: I will begin by answering your last question.

Mr. Réal Ménard: Very well.

C/Supt Mike Cabana: As regards the wearing of colours or badges that might identify someone as belonging to a criminal organization, it would be desirable, in terms of the impact on people and as a deterrent, that there be an offence in the Criminal Code banning the wearing of them. As far as investigations are concerned, the gathering of evidence within the context of a criminal investigation, it would pose some challenges in identifying which organizations these people belong to. So there are advantages and disadvantages. It is something that could affect investigations. On the other hand, if we are talking about the effect on the general public, I agree with you that it would be an advantage.

Mr. Réal Ménard: Does this not add to the evidence during investigations? For example, does the fact of wearing a Hells Angels' patch not contribute to the evidence?

C/Supt Mike Cabana: Absolutely. That is what I mean by pros and cons.

Mr. Réal Ménard: Alright.

C/Supt Mike Cabana: I think that your second question dealt with what we call lawful access. If I understand your question correctly, you would like to know exactly what we want.

Mr. Réal Ménard: I was talking about lawful access, in your second recommendation. What is it you want?

C/Supt Mike Cabana: In order to try and give you the shortest answer possible, legislation governing or currently managing the collecting of evidence, in the sense of lawful access to communications, goes back to 1974. The provision was added to Part 6 of the Criminal Code in 1974. The technologies targeted by that legislation in 1974 no longer exist today. So this is not a situation whereby the police community is asking for powers in addition to those that existed at that time. We are not asking for police to have the right to access anyone's communications without authorization. What we are asking for is the ability to access communications that are happening through new technology, current technology.

Mr. Réal Ménard: I understand.

C/Supt Mike Cabana: Currently, with some technologies, we do not even have the ability to intercept communications. The companies developing these technologies are under no obligation to create the ability to intercept them.

Mr. Réal Ménard: If you have more specific information, I suggest you send it to the clerk. I think that this could be a very concrete recommendation. We would have to identify which technologies we are talking about, but I think that we can follow you on this issue; it appears very reasonable to me.

C/Supt Mike Cabana: Very good.

What was your first question?

Mr. Réal Ménard: My first question concerned CIROC. What is new about it?

C/Supt Mike Cabana: CIROC is a new agreement within the Canadian police community. It is a committee made up of representatives from various police agencies across Canada, from the municipal, provincial and federal levels. The objective is to ensure that there is operational coordination for police efforts across the country. Traditionally, police forces worked within their own areas of jurisdiction, whether municipal or provincial, and used the information that existed at their level. Intelligence is now managed by CIROC. It is shared and analyzed through a common database and operational decisions are made by the committee. So the result is better coordination.

Mr. Réal Ménard: Ms. Sutton, would you be willing to answer my questions if time permits?

•(1610)

[English]

Ms. Jean Sutton: Certainly.

First of all, I really want to express that there was no disrespect intended to this committee. There was a miscommunication. Even with the short notice, if I had anticipated that you were expecting of me a presentation, you would have received it. Our role is limited, and for that reason, we thought the purpose was to answer direct questions.

[Translation]

Second, as to your question, I am sorry but this is not in our area of responsibility. That question should really be addressed to Correctional Services Canada.

Mr. Réal Ménard: Very well.

Ms. Jean Sutton: I am sorry.

Mr. Réal Ménard: That is fine. Let us say no more about it, but I do not hold it against you.

Ms. Jean Sutton: Thank you.

Mr. Réal Ménard: Do not tell me that I have some time left, Mr. Chair.

[English]

The Chair: You have a minute, and that includes the answer.

[Translation]

Mr. Réal Ménard: I would like to come back to the issue of banning the wearing of any symbols that would associate individuals with organizations. This is a proposal that the Bloc put forward in 2007. I did not understand what the disadvantage could be. Some people may challenge it under the Charter, I agree. However, I remind you that our proposal targeted organizations that had been declared criminal under the criteria set out in sections 467.11, 467.12 and 467.13 of the Criminal Code.

What would be the disadvantage of a Criminal Code provision of that kind?

C/Supt Mike Cabana: The only disadvantage I can see to that proposal would be in the ability of the various police forces to identify the members of each organization. When carrying out surveillance, it is easier to identify someone who is wearing their colours. If the people do not wear them, it is more difficult to determine exactly who is part of the organization.

Mr. Réal Ménard: Like street gangs.

C/Supt Mike Cabana: Like street gangs, exactly.

Mr. Réal Ménard: I was even told that, as things were going on in Creole, surveillance was more difficult for your services because you were...

The Chair: Thank you, Mr. Ménard.

Mr. Réal Ménard: Excuse me, Mr. Chair.

[English]

The Chair: Thank you.

Mr. Comartin, you have seven minutes.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

I'd like to thank you all for being here.

Perhaps we should just deal with the proposal from Mr. Rezac, that we bring in Statistics Canada with regard to the study. I think it would actually be *Juristat*. Perhaps we could add them to the list. It seems there's a consensus that we do that. From my perspective, in terms of the validity of that survey, perhaps we could ask them to indicate the degree of accuracy in the survey in terms of an accurate reflection of crime rates.

Mr. Cabana, there was a piece on one of the national networks last night on the use of the BlackBerry in gangs, mostly street gangs but I think all of them. The assumption—I think you made the same assumption—is that there is technology available to build in interception capability.

Is that an assumption on your part, or are you in fact sure that this technology exists?

A/Commr Mike Cabana: Actually, Mr. Comartin, that goes to the heart of the issue in terms of lawful access. The emerging technology, under the current legislative framework, does not require the industry to build in that back door.

Mr. Joe Comartin: No, I understand that, Mr. Cabana. I think we all do. I'm asking whether you are aware if in fact the technology exists or if it has to be developed.

A/Commr Mike Cabana: Currently?

Mr. Joe Comartin: Yes.

A/Commr Mike Cabana: It has to be developed.

Mr. Joe Comartin: Okay.

Let's use BlackBerry as example, because that's the one that was on the news last night. Do you have any sense from RIM on how long it would take them to develop that kind of capability?

A/Commr Mike Cabana: Again, the issue is that currently RIM is not the one developing the technology. Law enforcement is left—to its own demise, basically—having to figure out what the technology solution is. That is taking resources away from investigation. We have to invest in research and development to be able to find the solution.

Mr. Joe Comartin: Are you saying to us that nobody that you're aware of in the private sector is looking at developing that kind of technology?

A/Commr Mike Cabana: Not to my knowledge, sir.

Mr. Joe Comartin: Okay.

This may be a redundant question, but I'm going to assume, then, that in terms of limiting people's access to this newly developed technology.... Do we have any way of knowing how we can limit it so that only police agencies that are authorized by judicial authority would be able to do it? Do we know if we can build that kind of technology?

• (1615)

A/Commr Mike Cabana: I don't see why it couldn't be built, and actually I refer back to 10 years, 15 years, or 20 years ago. The technologies of those days were emerging technologies, and the proper guidelines were put in place to make sure there was not abuse. Law enforcement was, and still is, and under the present

circumstances would be required to obtain judicial authorization in order to do the intercepts.

Mr. Joe Comartin: That's interesting, because I had this discussion with the Solicitor General from B.C. when he was here, in terms of trying to cope with Stinchcombe. When I was practising, we had a lot of technology for case management that was available for purchase over the counter. I asked him whether the provincial government in B.C. had looked at putting in place that kind of technology to make it possible. I've had cases myself in which we've had to deal with hundreds of thousands of documents or pieces of paper, and there is the software technology, the ability of the computer, to sort that and identify that and go right to the point of relevancy, but I would have to say I am not aware of any police force, including the RCMP, that has tried to use it on a regular basis.

A/Commr Mike Cabana: Actually, Mr. Comartin, you're right. The technology does exist, and there are a large number of police agencies across the country that have access to that technology and that are using the technology. Unfortunately, in terms of bringing the cases to court, there is still a predominance of jurisdictions in which the disclosure still has to be done in paper form.

Mr. Joe Comartin: Is that as a result of judicial decision-making?

A/Commr Mike Cabana: In some cases it is a result of judicial decisions. It could be as a result of the defence request, or, in some instances, it is a result of a crown requirement.

Mr. Joe Comartin: I'm sorry, I don't know what you mean by that last point.

A/Commr Mike Cabana: The crown prosecutor himself or herself prefers to have paper.

Mr. Joe Comartin: Okay.

Those are all the questions I had. Thank you.

The Chair: Thank you, Mr. Comartin.

We'll move on to Mr. Norlock. You have seven minutes.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you very much for coming, gentlemen.

I guess, with my background, I could give you a whole whack of anecdotal evidence or anecdotal stories or references related to some of the questions I'm going to ask. I'm going to mention a particular judge, because I think he had it right. Unfortunately, in other jurisdictions I think they have it wrong.

Just up the creek here, in Pembroke, Ontario, I had the privilege of working with Judge Russell Merredew, who did a study in his court of the number of charges. The largest number of charges were for breaches of probation. His statement was that the court has only one power, and that's the power of its orders. That's all it has. When people disrespect or don't adhere to the orders of the court, basically you have anarchy. So what he did in his court was that for the second charge of breach of probation, he had a specific number for incarceration, and every defence counsel knew what that number was. A third offence had another number. The fourth offence had another number. And guess what happened to the number of charges for breach of probation? It went down significantly.

In other courts I had the privilege of working in, with the acquiescence of the judiciary, the breaches of probation, under negotiation with the crown and defence, were the first charges to be disposed of. Judge Merredew didn't permit that in his court. I'm using his name. I suspect he's retired now. I just wanted to throw that out.

This graph would disturb any Canadian. Now, I'm no longer in the other field of work, where I could say some things and almost get away with them. I can't say some things here, because my political adversaries would like to haul me out in the court of public view and nail me to the wall. But let me just say this, and then I'm going to ask you for your comment. Obviously, you gentlemen—I'm referring specifically to Mr. Park and Mr. Rezac—did your homework before you came here. You made some presentations to us. This graph indicates something serious.

When we, as a government, tried to begin to bring in people to the judiciary who we thought best represented...

When we first became police officers, during our orientation we were told that the basic model is common law and that the average, common person, the average man and woman out in society, would be able to not only comprehend the law that governs us but comprehend and accept and give acquiescence to the administration of that law in terms of enforcement and the execution of justice.

In your humble opinion, do you believe that Canadians today understand the law as it is and the reasoning of the judges and the judiciary who are paid to represent the common man and render sentences upon people who commit antisocial behaviour? I'm using the touchy-feely words.

• (1620)

Mr. Darcy Rezac: Thank you for that.

Mr. Chairman, there is a disconnect. We've spoken to judges, and I think there's a disconnect between what judges perceive and their rationale for making those decisions. They will go back to the law, and case law, and precedent and so on.

Canadians expect something different. In our understanding, from a recent study that Dave can perhaps talk to, I think 74% of British Columbians—though my numbers might be off by two or three percentage points—do not think the sentences being rendered reflect the views of Canadians. Our own informal, non-scientific poll on our website, www.boardoftrade.com, shows that of the people who have answered that poll, about 77% think that sentences almost never or never reflect the views of average Canadians.

I had a discussion with British Columbia's chief judge, Hugh Stanfield, on *The Bill Good Show* on CKNW recently, for a couple of minutes. The question I asked him was, why are sentences in British Columbia so much more lenient than in the rest of the country? The second question was, how can you justify decreasing sentences for chronic offenders in the city of Vancouver given that graph—which I just mentioned here? His response was to refer to the recently commissioned provincial report by Doob and Webster, which shows in aggregate that average sentences in British Columbia were about the same as those in the rest of the country. But my feeling is that most Canadians think that sentencing in the country is an issue and a problem. That aside, his response was, well,

it's a common misperception that sentences are lesser or more lenient in British Columbia. I asked if he was referring to the Doob and Webster report. He said, yes, and I referred him to page 64—which I believe is in the handout—showing that 21% of drug traffickers in British Columbia get more than six months in jail, whereas the average is 58% in the rest of the country.

So in aggregate our sentences might be the same as the rest of the country, according to Doob and Webster, but for the bad guys, the drug traffickers, we're far more lenient, and this graph demonstrates that.

For him to go on radio and tell the public that in fact we're no different—which is a myth—and then to defend the system and try to defend some of these lenient sentences, we think is offensive, and we think it can be misleading to the public as well. So we challenged him on that. You must have a more fulsome discussion with him on that, as it was only a short clip on the radio.

We're not finished with that. I think that disconnect between judges and the public's expectations is a serious issue in Canada.

Mr. Dave Park: Just as a quick addition to that, I would add that this same study quoted 69% of Canadians as saying that sentences are too lenient in general. The authors go on to explain that if you really dig into it, maybe it's not the case. But I believe that the public in British Columbia and in Canada as a whole are not happy with what they see happening in the courts. In British Columbia, I believe we'd find that this is actually bringing the administration of justice into disrepute.

Mr. Darcy Rezac: There is no question that's the view of the Vancouver Board of Trade. The mayor of Surrey, who I hope will appear before this committee when it travels west, or before then, recently said she's in favour of electing judges. We're not there yet, but what she's saying I think is what we feel, that there needs to be a higher level of accountability.

The only accountability they can describe to us right now is the percentage of their decisions that are overturned on appeal. Well, we don't think that's a good enough connect with the average Canadian. There has to be some better method of plugging into what the expectations are. Ladies and gentlemen, I think that should be done through you, our elected MPs, and from what your constituents tell you. I really do.

• (1625)

The Chair: Thank you.

We're going to start our second round. Who is going for the Liberals?

Monsieur LeBlanc, you have five minutes.

[*Translation*]

Hon. Dominic LeBlanc (Beauséjour, Lib.): Thank you very much, Mr. Chair.

I would like to welcome the witnesses and thank them for their comments.

I have a question for Assistant Commissioner Cabana. You have addressed the issue of disclosure and the duty to disclose pursuant to Stinchcombe. The Attorney General of British Columbia told us he shares your opinion on this subject: we must find a way not to restrict, but rather to simplify or expedite, this requirement.

[*English*]

I'd like to hear the assistant commissioner tell us how he thinks we could expedite or improve the disclosure requirements but not run afoul of the charter rights given in the Stinchcombe case. Surely you're not suggesting we not disclose to an accused person evidence against him or her. Obviously, you're looking at a way to make it less cumbersome on the administration of justice, occupy less time and fewer resources, which would reduce delays.

Other than providing documents digitally, for example, are there other ways we could streamline disclosure and not, in your opinion, violate the charter rights of the accused?

Also, Mr. Cabana, I'm wondering if a lot of this isn't an issue of a lack of resources in some jurisdictions, rather than standardization. If some jurisdictions want it in paper form, others will accept it digitally. Some may have the technology, others don't. A lot of that can be solved by providing adequate resources, could it not, if the Government of Canada, in partnership with provincial attorneys general, found a way to better share the burden that these decisions impose upon the administration of justice?

A/Commr Mike Cabana: Thank you, Mr. LeBlanc, Mr. Chairman.

Thank you for your very interesting question. There are actually a number of different approaches that I can think of right now, but of course they would require further examination, and as I'm sure you are aware, there are a lot of people right now across the country at different levels within law enforcement and within the judiciary who are looking at some of those very issues.

I think you touched on some of them, actually—standardizing the approach to disclosure, but also the definition of relevance. We see a significant disparity across the country, depending on the jurisdiction, in what is deemed to be relevant information. If we could come to terms on what should be deemed relevant to the defence and it falls within the Stinchcombe requirement, that in itself would serve to resolve a lot of the issues we're facing right now.

Also, if you go to the Stinchcombe decision, there's a recognition in there that disclosure is an ongoing process. In a majority of the jurisdictions now an expectation has been created that disclosure will be provided upon charges being laid. At the tail end of any investigation this creates a huge crunch in terms of resources to be able to prepare and package everything to make sure nothing is left to the side, that the disclosure is complete. It should be recognized that it is an ongoing process that starts from the moment a person is charged and will go on for a period of time.

As Mr. Comartin mentioned, there are different technologies out there. Most law enforcement agencies across the country are using those technologies. There would be a great benefit in standardizing how that technology is being used. I think that goes to some of the reluctance from the judiciaries that we've seen over the years. As with anything new, when law enforcement and prosecutors started

using electronic disclosure, it was not prepared the way it should have been. There's a learning process.

For the most part, over the last ten years we have gone through that learning process, and it would be greatly beneficial to standardize how electronic disclosure should be made and how the judiciaries and the defence should expect disclosure to be received.

This may be perceived as a plea for additional resources, but there has to be a recognition that neither law enforcement nor the crown has ever received additional resources in order to facilitate disclosure. I've been in law enforcement for almost 30 years, and disclosures of 20 years ago were quite different. There have never been additional resources provided in order to facilitate that.

I agree with you, part of the issue is the lack of resources to facilitate this in a timely fashion.

I also think of coming to terms with or defining the role of the crown and the role of police in terms of who is responsible for assuming the cost of disclosure and to what extent. Again, there is some disparity across the country.

• (1630)

The Chair: Thank you, Mr. Cabana.

We'll move on to Monsieur Lemay. You have five minutes.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): First of all, I would like to thank our guests for being here today.

I do not agree with Vancouver's position, though it is a magnificent city. Appointing one person as a judge rather than another because he promises to give harsher sentences makes no sense.

Having said that, have you already carried out a study? I read your study on repeat offenders, but have you already looked at parole services? The problem is not when someone goes into prison but rather when they come out. Have you seen that prisoners are coming out too quickly, that they are not doing their time? It is not right that a prisoner should be freed after 3 months when a judge sentenced them to 22 months.

Stop asking for longer sentences; that is not the problem. Stop asking for direction from judges. Ask the government to change the parole laws. Prisoners are freed too quickly. If you do not admit to that, we are off to a bad start, particularly as far as organized crime is concerned.

White-collar criminals or leaders get out of jail. We never see them. They are not the ones who hit people with baseball bats; they tell someone else to do it for them. When they go into jail, they behave like gentlemen and they are quickly released.

Ms. Sutton, you will certainly come back to the committee. I would like to get more information about parole. What does one-third of the sentence mean? Are there certain things people have to do to get a third, a half, or a quarter of the sentence? It has gotten to the point where we release people after one-sixth of the sentence. I know; I was a criminal lawyer for 30 years. My clients who had been sentenced to 32 months could not care less, because, 4 months later, they were back out on the street. In our jargon, we call a first sentence a "bit", which means that it is not serious.

I would like the National Parole Board to provide us with a study on this issue, which would meet the needs of our friends from Vancouver and probably those of our colleagues opposite. What criteria do you use to establish whether or not a person should be freed? For example, if a person has been sentenced to 40 months in jail, how do you assess whether or not they should be freed?

• (1635)

[English]

Ms. Jean Sutton: There are actually two ways an individual can leave prison or receive *libération conditionnelle*—parole—at one-third.

First of all, if he is a first-time federal offender, and non-violent, which is defined as not serving an offence under schedule I, which tends to be offences against a person, or who has not been convicted of a serious drug offence, which is schedule II, which again is defined, then he will be considered for parole. Unless the board can determine the likelihood that he or she will commit an offence of violence prior to the end of the sentence, we must direct, so there is little discretion within the law for those cases.

The alternative way applies to someone who has served several sentences, served more than one sentence, or is coming in for a first sentence that is clearly for violence or for a serious drug offence. That person is considered under the regular criteria for parole. The very first element within those criteria is protection of the public.

We look at a number of elements when determining the protection of the public, including the likelihood of reoffending if released. We look at what has brought him into prison, we look at what interventions have taken place, and then we look at what the plan is on release. In terms of the elements that are considered in each of those, the issue of interest here today is organized crime. Organized crime fits in every aspect of that—or gangs, if we want to use that language. Prior to that, we're looking at what evidence has come forward, and it is very clear that the board, as an administrative tribunal, does not need to have a conviction; if there is evidence or information coming forward that identifies that this individual has been involved in some organized activity, we can weigh that into our decision, unlike the court.

While he's incarcerated, we're also looking at information coming forward from Correctional Services or the police for further engagement or continued engagement within that same milieu. Then again, on leaving, who will he be associating with? Where will he be going? Are other associates who have been part of that gang in the same vicinity or the same halfway house, if he's going to a halfway house? It is clear from the evidence-based research that associates are a major consideration when looking at reoffending, and that is a major element within the board's decision-making.

The Chair: Thank you, Ms. Sutton.

We're going to move to Mr. Rathgeber now.

Mr. Darcy Rezac: Could I just clarify something?

The Chair: Yes, but please do it quickly.

Mr. Darcy Rezac: Thank you very much, Mr. Chairman.

Let me clarify that it is not the Vancouver Board of Trade's position that we should elect judges. I was simply reporting that the mayor of Surrey suggested that recently. I happen to have some sympathy for her sentiments. It's not that I agree that we should elect judges, but we agree that there should be a higher level of accountability for judges. We agree with you completely on your concerns about parole after one-third.

The Chair: Thank you.

Mr. Rathgeber, you have five minutes.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair, and thank you to all the witnesses for their presentations. I must say that I've learned some things, and I've agreed with much of what I've heard this afternoon.

Mr. Cabana, I'm fascinated by your concerns regarding lawful access to advancing technologies. All members of Parliament are quite technologically dependent on the BlackBerry, and I understand that it's probably equally useful to those who are engaged in organized crime and other nefarious activities.

After reading your report, and following up on what you said in your oral comments, which was that communication carriers are not required to provide access technology, I'm wondering if you could help me with other jurisdictions. Given the role that I suspect these devices play in communication and in making deals in organized crime, what is the state of the law in other jurisdictions? I'm thinking of the United States. Can you help? How does this work with respect to patents and software licensing agreements? What happens outside our borders?

• (1640)

A/Commr Mike Cabana: Probably not much. I know there are similar discussions that are ongoing between U.S. law enforcement agencies and some of the industry leaders, including RIM, for example, over access to intercept technology. I can confirm they don't have the technology. I assume they are facing the same challenges we're facing here in Canada. But in terms of licences, agreements, or anything like that, I'm afraid I can't help you.

Mr. Brent Rathgeber: You stated that because communication carriers are not required to provide access to technology—I think I heard you correctly—it was left up to law enforcement to attempt to intercept, presumably by getting a warrant and then intercepting. With the very attempts that law enforcement has to try to intercept, does that not raise issues of patent and software agreements? Do those become issues?

A/Commr Mike Cabana: I'm afraid I can't answer that question. I don't know.

Mr. Brent Rathgeber: Okay, thank you.

Individuals from the Vancouver Board of Trade indicated that they support the government's announcement with respect to dealing with the two-for-one pre-sentence custody.

Mr. Cabana, I was wondering if you had a position on that policy announcement that was made earlier today—the two-for-one pre-trial custody issue.

A/Commr Mike Cabana: Actually, CACP and the Canadian law enforcement community do not support two-for-one pre-custody time.

Mr. Brent Rathgeber: Thank you.

Regarding the Vancouver Board of Trade, I have a couple of questions, if I have time, Mr. Chair.

The Olympics, of course, are less than a year away. I'm wondering if the Board of Trade knows if there is a comprehensive plan between the police and border security to provide for the safety and security of both the athletes and the many visitors who are anticipated to come into Vancouver in light of the recent activities that are certainly causing concern among people who will be visiting your beautiful city.

Mr. Darcy Rezac: Thank you very much.

There's no question. We've had discussions with the head of the military, Rear-Admiral Tyrone Pile, who has some major responsibilities, and also with the RCMP, the Olympics folks, and so on. Olympics security has been an issue right from the get-go, and all the agencies are working very hard on that. We're satisfied that there's a comprehensive plan, most of which we don't know the details of, nor should we be aware of. But we're on top of that. I am confident that the folks are doing that.

Perhaps the RCMP would be in a better position to comment on that, but I am confident from the discussions we've had that that's well in hand.

Mr. Brent Rathgeber: From a tourism perspective—and you are primarily a board of trade—are you concerned that the reputation Vancouver is getting in light of the gang warfare is going to compromise the number of tourists who are going to be visiting Vancouver in 2010?

Mr. Darcy Rezac: It's probably a blessing in disguise because it's causing a spotlight to focus on issues that we've had for years and years and haven't addressed. We're not doing this because of the Olympics, let me be very clear; we're doing this because we have a serious problem with crime in Canada and a particular one in Vancouver right now. This is not the new normal. We at the Board of Trade are not going to let this stand. The Chief of Police, Jim Chu, will not let this stand, nor will the RCMP, nor will our politicians and our elected officials from British Columbia and elsewhere in Canada. We're confident of that. We have to fix this thing. The Olympics give us a good reason to do it more quickly, so in that way perhaps it's a blessing in disguise.

We see a heightened will on the part of everybody to address some of these issues. Angus Reid told me recently that a poll would be coming out very soon that will show crime in British Columbia rising right to the top as an issue for the first time. It's right up there with the other issues like the economy and so on. I haven't seen that

yet. Perhaps I shouldn't be telling you that, but I think I should, given the circumstances.

● (1645)

The Chair: Thank you for those answers.

We're going to move to Mr. Murphy.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Thank you, Mr. Chair,

Thank you, witnesses, for coming.

I certainly want to dispel one of the impressions that Mr. Rathgeber left us with, unintentionally I'm sure, in saying that all parliamentarians are wed to their BlackBerrys and all organized criminals are as well. I'm sure he didn't mean to lump those people together.

Voices: Oh, oh!

Mr. Brian Murphy: I say that on behalf of the parliamentary union here.

I am very encouraged, Mr. Rezac, that you have recognized that the issue of preventing crime has both a beginning and an end. I was very encouraged by that phrase. I am not on the bandwagon of judge bashing; I know too many judges. I believe that somewhat opposite to that is that they are very strenuously and vigorously applying the law as it is written. The buck stops here and in legislatures—

Mr. Darcy Rezac: Precedents—

Mr. Brian Murphy: —and in city halls that have bylaws.

To that end, I'd like to dig right into the law and ask Mr. Cabana whether the RCMP and police chiefs in general have looked at section 467.1, which is the definition of "criminal organization". I've been here three years and I know we've talked about *gangs de rue*, street gangs. I know that in the news stories—and we're talking about connecting with the public—we're talking about street gangs and gangs. I don't think you'll find the word "gang" or "street gang" or "*gang de rue*" in the Criminal Code. Doesn't that show a disconnect, I guess, between the laws as we have them and the problems we perceive?

In light of the very sparse declarations by courts, which are merely following the law on criminal organizations, do we really need to revisit that section and widen the definition, so to speak, or widen the net, to give judges more tools to deal more harshly with these gangs?

A/Commr Mike Cabana: Thank you, Mr. Murphy.

Absolutely. Any effort to try to streamline the process surrounding the application of this piece of legislation, section 467.1, which defines organized crime, would be welcome. There's a reluctance across the country, unfortunately as much from a law enforcement standpoint as a justice standpoint, towards applying or using the provisions found in that legislation.

There are a number of factors, but it's mostly because of the burden of proof, the requirements in the burden of proof that we're held to in order to prove that the organization being investigated does in fact fall within the parameter of a criminal organization. I think there would be a benefit to looking at this.

The review should also consider the possibility of looking at the need to avoid duplication. Presently, if we have a prosecution in a specific area that looks at identifying a specific group as a criminal organization, and there's another prosecution somewhere in the country or even in the same jurisdiction, we have to go through the same mechanism again, even though the group was recognized as a criminal organization. We have to re-initiate the process, which is, in my humble opinion, pure duplication.

Mr. Brian Murphy: Good.

Mr. Rezac, you talked about Italy. We don't get too much experience in comparative law here. In light of the fact that you really think the system is broken and that mayors are saying we should have elected judges, I think we know that in the United States they have problems with drugs and gangs and they have elected judges and have had for some time. I think we know that they've tried mandatory minimums and filled jails and that's not necessarily working.

I guess there's a general question. If you had to pick and choose the perfect set of laws, selection of judges, and resourcing of police forces, is there a sort of combo you could come up with in looking at various countries?

Mr. Darcy Rezac: First, I'm not using Italy as a model for anything, except that I'm aware that they have a fairly successful program for dealing with people who are addicted to drugs. It's worth looking at. I'm not passing judgment on whether it's good or bad.

With respect to the United States, there's some mythology. Some of the measures used in the United States have worked. In fact, if you read the book *Freakonomics* by Steven Levitt, a prize-winning economist, you see, in fact, even using police-reported crimes alone, that the crime rate in Vancouver is a multiple of what it is in New York City, Detroit, or Los Angeles.

Violent crime, by some measures, is higher in Canada than it is in the U.S. Their crime rates have been going down. They do a victim study every year. Their crime rates have been going down dramatically over the last 10 years. The "three strikes and you're out" works. It's harsh justice and we're not advocating that, but in fact taking people who commit multiple crimes off the streets reduces your crime rate. Having more police works.

There's some common mythology that we've had, going back to the 1971 philosophy, that putting people in jail doesn't work. Well, you know what, folks? It works for victims. It may not work for the criminals, who might still be criminals when they come out, but it sure works for the victims. When people are locked up, they can't steal our cars, break into our homes, and shoot each other. They can't do that. That's what we're calling for.

• (1650)

The Chair: Thank you. We'll move on to Mr. Uppal.

You have five minutes.

Mr. Tim Uppal (Edmonton—Sherwood Park, CPC): Thank you, Mr. Chair. I also want to thank the witnesses for coming.

The questions are mostly for Mr. Cabana. We heard yesterday that there was a major drug bust. I think around \$13 million worth of

drugs were captured and a very sophisticated and coordinated smuggling operation was disrupted. Now, this came of some very excellent work that our police forces were doing with forces across the border in the U.S. Can you describe a bit our working relationship with the police force in the United States?

A/Commr Mike Cabana: Certainly. We have a number of different initiatives where we work very closely with our American counterparts. I guess probably front and centre to the issues we're discussing here today would be the integrated border enforcement teams, which in fact are composed of five core agencies, two of which are Canadian—the Canada Border Services Agency as well as the RCMP. The other three American agencies are the U.S. Coast Guard, U.S. Immigration and Customs Enforcement, and the U.S. border patrol.

Now, those teams also involve numerous other agencies, and depending on the area where the units are, they engage local enforcement agencies. So whether it's a municipal police force, whether it's state police, those units are actually involved. They were involved, I believe, in the case you were referring to. They played a significant role.

As with any case, whether we're dealing with another agency domestically or with an agency internationally, there are always issues that surface in terms of roles and responsibilities within the context of the investigation. I guess this is the message that I would like to leave with the committee here. The days of law enforcement agencies fighting for their turf, much as what we're seeing in the lower mainland with the criminal organizations, have gone by. The law enforcement community in Canada and internationally is actually working very closely to better coordinate their efforts and to share the information.

Mr. Tim Uppal: In your opinion, how important is the drug trade to these criminal organizations? Would you say that it is the primary source of income for the gang organizations?

A/Commr Mike Cabana: I believe you're absolutely right. The drug trade remains the primary source. What we're seeing, though, is a lot of those criminal organizations are branching, if you want, and they're moving into other lucrative criminal ventures that maybe do not necessarily hold the same kind of risk as drug trafficking traditionally does. Now, whether we're talking about counterfeiting, dealing in counterfeit medicine or smuggling individuals across the border, really, those organizations are in the business of making money.

Mr. Tim Uppal: How would you say that mandatory minimum sentences and the inclusion of a new aggravating factor for drug crimes, for example, for the offences committed for the purpose of an organized crime would disrupt criminal organizations?

A/Commr Mike Cabana: Depending on how it's applied, it would act partially as a deterrent. I say "partially" because I don't believe it would have the impact that the public might think it would have. But as Mr. Rezac mentioned, if they're incarcerated, they're not on the street, so it would provide an opportunity to impact their operations.

The Vice-Chair (Mr. Brian Murphy): You have a whole minute.

•(1655)

Mr. Tim Uppal: As politicians, we're approached with several different ideas, and one of those ideas is the idea of making some drugs non-criminalized or of legalizing them. How do you and your association feel about that?

A/Commr Mike Cabana: I believe, actually, it was a few years ago that the Canadian Association of Chiefs of Police put out a resolution against decriminalizing drugs in Canada. Personally, I don't believe it's a solution; I don't think it would solve the problem. Again, these organizations are involved in making money. If you look at the tobacco industry right now, tobacco is legal in Canada and the same criminal organizations that are involved in drug trafficking are still involved in tobacco smuggling. So I don't think it would solve the problem.

The Vice-Chair (Mr. Brian Murphy): Thank you, Mr. Uppal

Now we'll go to the parliamentary secretary, Mr. Moore.

Mr. Rob Moore (Fundy Royal, CPC): Thank you, Mr. Chair. Thank you to the witnesses as well. I enjoyed your testimony today.

Mr. Rezac has mentioned victims a couple of times, and I appreciate that. So often over the years the victims have been the forgotten voices in the equation when we've talked about the criminal justice system. You mentioned victims a couple of times, and people in communities being victimized.

One of the primary concerns we're hearing about is recidivists, repeat offenders, and we're talking about that today in the context of organized crime. In the last Parliament we introduced measures designed to disrupt criminal enterprise. They included mandatory penalties for the use of a firearm in the commission of an offence—that would be escalating. So if someone committed a crime with a gun, there would be a minimum sentence imposed. If they got out and did it again and were arrested or convicted again, there would be a greater minimum penalty imposed. I think to a lot of Canadians that makes a lot of sense, not only as a way of protecting Canadians from the individual perpetrators, but also in disrupting criminal enterprise.

As you know, we've introduced two pieces of legislation, one dealing with gang violence and the other dealing with drug crimes. As the Minister of Justice has said, we don't hold them out as the be-all and end-all; we look at them as steps in the right direction. When we accomplish these steps, we want to move on with new measures.

There are two points I'd like comments on from Mr. Rezac and then Mr. Cabana. One is on resolve, because last year this was not the issue it has been this year. Last year when we had criminal justice legislation it was very difficult to get it through this House in any measure. I mentioned mandatory minimum penalties for gun crimes. The other was conditional sentences for serious crimes, where someone commits a serious crime but ends up serving their sentence from the comfort of their own home.

You're right that if you did a poll in Vancouver now this would be right at the top of people's minds. But how important is it for us as lawmakers that we maintain a resolve, when hopefully this isn't in the spotlight every week? How important is it, not just for the individual perpetrator but for breaking up criminal enterprises?

Mr. Darcy Rezac: That's an excellent question. All we can do is plead with you to have the resolve to see this through. Even if we rounded up all the gang members in Vancouver and put them behind bars, the problem would not be over. We'd still have that underlying problem.

I realize it has been politicized, and the reason the legislation didn't get through last session was because of politics and because public opinion polling didn't register this as a public issue in the same way it's beginning to register now. All I can do is ask the government to stop beating up on the opposition for not supporting it last year—and I'm sincere about that. When we met with the B.C. Liberal caucus, the Liberals, and the NDP on this visit, they told us they were very supportive of these things. They were alarmed by this and wanted to work with us and others in the government to help fix it. If they say that to the government, please accept it as a gesture of goodwill.

Everybody, let's make these current bills now and the ones that have to come, including the one to do away with the two-for-one—we understand it will be introduced on Friday... Let's put that aside and do something for the victims and the country. I think we can do that. Everybody will benefit, because your constituents and our members, the people in B.C., certainly want to see that happen. I think there's an opportunity for non-partisan resolve to do the right thing. Please do that.

•(1700)

Mr. Rob Moore: If either of you want to comment on the criminal enterprise, as lawmakers we want to disrupt that. We want to have policies in place that do not allow for the criminal enterprise to continue to grow and be minimally impacted, when law enforcement does its good work and makes an arrest but the criminal enterprise lives on. How can we disrupt that enterprise, and how important is it that after making the arrest we have effective sentencing?

A/Commr Mike Cabana: Thank you very much for your question.

There isn't an easy answer. I believe there has to be a multi-faceted approach. To go back to your original question, committees such as this one with elected officials clearly have a significant role to play. This is not an issue that law enforcement is able to address in isolation.

You made reference to the criminal organization legislation. It has been in place for a number of years. It would be timely to have a look at that legislation to see how it's been applied over these years and identify whether there are any changes that would be appropriate to facilitate and streamline the process.

But I go back to my multi-faceted approach. There are legislative remedies here. Part of that has to include the lawful access, which right now is a significant hurdle in law enforcement's ability to attack criminal organizations. We'd also have to look at the sentencing guidelines, which as you mentioned are part of the solution but not the whole solution.

[Translation]

The Vice-Chair (Mr. Brian Murphy): We will continue with Mr. Petit, the parliamentary secretary.

Mr. Petit, you have five minutes to ask your relevant questions.

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

This is perhaps a question for Mr. Cabana. I will lead up to my question and then I would like to hear your opinion. You have already discussed this and gone over the problem by answering the questions from my various colleagues, including those of the opposition.

I come from Quebec. In the last two years, there have been a lot of problems linked to drugs coming in through our national ports and airports, which come under federal jurisdiction because our agents are supposed to be there. I understood, from reading certain newspapers, that in Montreal, which is a hub for drugs, the business grosses something in the order of \$2 billion per year.

I agree with Mr. Rezac on the issue of statistics, and you yourself talked about them earlier on during your testimony. Statistics always show what we are able to see. We are like St. Thomas: if we saw it, we put it into the statistics. Drugs with a value of \$2 billion came into the country, but we did not see offences worth \$2 billion being committed across the country. So our statistics do not necessarily show us what has is happening.

However, people like Mr. Rezac, a civilian from Vancouver, you, a police officer, and this lady who looks after police relations, have come to see us. That means that there are fears. If Mr. Rezac took the trouble to come from Vancouver to see us, it means that there are fears. Even if we do not agree with his entire message, we sense his emotion and concern. I have also sensed this fear in my own riding, expressed by elderly people.

Mr. Cabana, there is one question I wanted to ask you above all. I read your document in which you speak about the corruption of public officials, on page 4, and I quote: "These groups have also come to rely on the corruption of public officials ..."

We have a good bill that will protect good police officers, good judges and good witnesses. What are you referring to when you talk about the corruption of public officials? This intrigues me.

• (1705)

C/Supt Mike Cabana: Thank you very much, Mr. Petit.

Canada is no different from some other countries, but we have to be careful not to generalize. Criminal organizations have many resources at their disposal. We know, based on information that we have and on cases that had been brought to the attention of the public and the courts, that these organizations specifically target the members of certain agencies, including Canadian police forces, in order to make it easier for them to carry out their activities.

Mr. Daniel Petit: Do I have any time left, Mr. Chair?

The Vice-Chair (Mr. Brian Murphy): You have two minutes left, Mr. Petit.

Mr. Daniel Petit: This is extraordinary.

I see that you are very prudent and that you are an experienced policeman. I have been intrigued by an issue for the past two years or so. We were informed about an investigation that was carried out in a foreign country, it was called "clean hands", or "*mani pulite*" in

Italian, which tells us where this happened. The judges discovered that there were problems with some officials, etc.

When you talk about official corruption, are you referring to the kind of corruption that was shown on television, where judges were shot in the street because they were about to investigate public servants who had received money from the construction sector, for example, or from other sectors? That is what we saw on television.

C/Supt Mike Cabana: I understand, but once again, we must not generalize. My comments were not about any single specific situation. I actually meant that we must realize that even Canada is not immune to corruption. Following certain investigations and criminal prosecutions, we know that government employees, at both provincial and federal levels, were targeted by organizations and were corrupted over the years. We must have our eyes open to the facts, if you wish.

Mr. Daniel Petit: Alright.

Have I any time left, Mr. Chair?

The Vice-Chair (Mr. Brian Murphy): You have half a minute.

Mr. Daniel Petit: Thank you, I have a very brief question.

You have read Bill C-14, which deals with the protection of persons in the legal system. Do you agree? You know that the previous legislation was not very clear. Do you agree with the scope of this bill?

C/Supt Mike Cabana: Absolutely, sir. Your bill addresses certain gaps and shortcomings that were there and it will have an impact, I believe, on the corruption we are discussing here, and especially on the protection of employees.

Mr. Daniel Petit: Thank you very much.

Thank you, Mr. Chair.

The Vice-Chair (Mr. Brian Murphy): Thank you, Mr. Petit.

This concludes our second round.

[*English*]

I'm rather at the will of the committee. Mr. Fast, I think, wanted to reserve a few minutes at the end of this meeting for some committee business, but there are a few minutes left, and short questions would be appropriate—maybe two-minute questions, if there are people who wish to put some.

If not, I would ask the participants to wrap up in a two-minute piece so that we could hear something that perhaps you didn't get a chance to explain.

Is there any objection to that? No? Good.

Mr. Rezac or Mr. Park.

Mr. Darcy Rezac: Thank you very much, Mr. Chairman.

Thank you for receiving us. We received a very warm reception. We hope we can bring a west coast perspective to your deliberations. We know that your task isn't easy, and it's very easy to criticize the tough jobs you folks do day in and day out. We certainly respect what your purpose and mission is, and that's to do the right thing for the country.

We have a particular problem on the west coast and we need your help. We in the business community are prepared to work with you, we're prepared to work with the judges, we're prepared to work with the crown, police—everybody. This is an issue we would ask you to put on the agenda. Chronic and violent offenders are a serious issue in Canada. We would ask you to put it on your agenda and help us resolve this with all dispatch.

Thank you very much for receiving us.

• (1710)

The Vice-Chair (Mr. Brian Murphy): Thank you, Mr. Rezac.

Mr. Cabana.

A/Commr Mike Cabana: Thank you, Mr. Murphy.

I'll keep my comments to two points and I'll try to be as brief as possible.

First of all, I want to reiterate the importance of the lawful access perspective. There is misunderstanding on the part of the public, based on some of the media articles I've seen over the course of the past few years. Law enforcement and intelligence officers, right now, merely want to be able to do in 2009 what Parliament intended that we be able to do back in 1974 when the original legislation was enacted. We need to bring legislation to today's standards to be able to benefit from or facilitate the use of today's technology. That's my first comment.

The second comment, which really hasn't surfaced in my responses when I was talking about the multi-faceted approach, is to deal with the importance for us of ensuring the enforcement community's ability to share information and intelligence between agencies, both domestically and internationally—there is an issue domestically as well. We need to realize that good intelligence will allow us to have early warning of what is coming down the road and will put us in a position to prevent some of the actions of criminal organizations.

In the legislative reviews, aside from lawful access there's also a need to look at some of the legislation put in place, sometimes several decades ago, governing the exchange of information—including the Privacy Act—to make sure that federal agencies can share the intelligence, among themselves and with the provincial and

municipal agencies and vice versa. A gap exists now that is actually putting Canadians at risk.

The Vice-Chair (Mr. Brian Murphy): Ms. Sutton.

Ms. Jean Sutton: Thank you very much for allowing us to appear.

As an administrative tribunal, our legislation very clearly says that our first and foremost consideration is protection of society. In doing that we are making decisions on individual cases, and in that capacity we can already consider information that is coming forward to us. And we do consider information around gangs, whether they are gangs or organized crime, street gangs or institutional gangs. This is a major consideration.

But key to that is reliable and persuasive information. So I'm very pleased to hear...and I can testify that after over 20 years of working in this area, I have seen an improvement across the system for sharing information. But it is always and central to allowing each of us to do our work that we have to share this information in intelligence, and being at the end of the system, for the National Parole Board that is a major consideration because our decisions are only going to be as good as the information we have on which to base those decisions. So I wish you luck.

The Vice-Chair (Mr. Brian Murphy): Thank you very much.

I think I would be remiss in my extremely temporary role here as chair not to respect the interventions of both Monsieur Ménard and Mr. Dosanjh when they expressed to you from their point of view the need, for their benefit and our benefit, to have had some material. I also couple that with your statement that you would have been more than willing to prepare such a document. I would ask you—no power here to force you, of course—to submit documents, if you wish, that we can all read at our leisure after, if you wouldn't mind.

Ms. Jean Sutton: I'll be very pleased to do so.

The Vice-Chair (Mr. Brian Murphy): Power trip, as the parliamentary secretary says.

I want to thank you all for appearing.

Now we'll suspend briefly and reconvene for committee business.

[Proceedings continue in camera]

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