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—
Chair

Mr. Ed Fast

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• (1530)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order.

This is meeting number 13 of the Standing Committee on Justice and Human Rights. Today is Wednesday, April 1, 2009.

You have before you the agenda for today. We're continuing our review of Bill C-14, An Act to amend the Criminal Code (organized crime and protection of justice system participants).

Please note that we'll take 10 minutes at the end, in camera, to discuss a number of issues related to our travel to Vancouver for the organized crime study.

To assist us with our Bill C-14 review, we have a number of witnesses representing various stakeholders in the justice system.

First of all, we have the Ottawa Police Service, represented by Staff Sergeant Christopher Renwick, who is with the guns and gangs unit of the criminal investigative services branch, and we also have Staff Sergeant Bernie Ladouceur, with the criminal intelligence unit of the criminal investigative services branch. Representing the RCMP, we have Chief Superintendent Todd Shean, who is director general of drugs and organized crime, and we also have Superintendent Michel Aubin, director of immigration and passport.

Appearing from Halifax, by teleconference, we have Chief Frank Beazley, Chief of Police for Halifax. Welcome.

Later on we'll also have Mr. William Trudell, who is the chair of the Canadian Council of Criminal Defence Lawyers, appearing before us.

Gentlemen, as you know, the process is that each of your organizations will have 10 minutes to present, and then after you're finished, we'll have questions from each of our committee members.

We could start with Monsieur Ladouceur or Mr. Renwick.

Mr. Renwick, please.

Staff Sergeant Christopher Renwick (Criminal Investigative Services, Guns and Gangs Unit, Ottawa Police Service): Thank you, Chair.

Thank you all for giving us the opportunity to appear before your committee today to speak on behalf of the Ottawa Police Service's guns and gangs unit.

With me today is Staff Sergeant Bernie Ladouceur, the staff sergeant of our criminal intelligence section, and also with us today is Sergeant Dave Lockhart, also from criminal intelligence, and Ms. Tammy Quinn, our very capable crime analyst. Staff Sergeant Ladouceur will assist in any questions specifically in regard to organized crime.

The Ottawa Police Service's guns and gangs unit grew from the youth intervention section in 2006 to combat the emerging trend of street gangs that were forming in our city to conduct the illegal or illicit crack cocaine trade and the prostituting of young, vulnerable women. The current complement of the guns and gangs section is 11 investigators, who focus their attention in two areas: criminal investigations of known street gang members and their associates, and criminal investigations into the possession, use, and trafficking of crime firearms.

A uniformed direct action response team, or DART, was formed in October 2007 as a supplement to the guns and gangs unit, with a specific mandate of monitoring gang activity while providing a highly visible and active police presence in the affected communities.

I was present at the Ottawa Police Service's headquarters, along with Chief Vern White and British Columbia's Solicitor General and Attorney General when the federal Minister of Justice, Minister Nicholson, introduced Bill C-14. In his remarks following the announcement, Chief White stated that the proposed legislation will be of value, as it raises the level of seriousness of crimes committed on our streets.

Of particular interest to our street gang investigations is the introduction of a five-year minimum sentence for shootings involving restricted or prohibited firearms or for shootings linked to a criminal organization. This, along with the increased firearm penalties brought into law a few years ago, will be an effective and welcome proposed change.

In 2008, the guns and gangs unit and direct action response team seized 66 crime guns off our streets. We are experiencing an increase in the number of criminals carrying handguns in Ottawa for intimidation and enforcement purposes and for the protection of their crack cocaine markets.

Shootings in public places are more frequent. We have had two street shootings within the past weeks, both resulting in persons being shot and both with links to street gangs and the crack cocaine trade. Just this morning we recovered a .45 calibre pistol we believe was used in one of the shootings and we took a known gang member into custody. It is investigations such as this that Bill C-14 addresses.

The automatic first-degree murder designation for homicides and the minimum five-year sentence provisions for shootings both require that the offence was committed for the benefit of, at the direction of, or in association with a criminal organization. This will place an additional burden on the police investigators to establish the accused has membership in a criminal organization, and I am quite interested in how our courts will address this. I am optimistic that the recent expert witness designations of one of our investigators in a robbery sentencing hearing will help establish this procedure. We have also achieved expert witness status recently in an Immigration and Refugee Board deportation hearing.

We are using the Criminal Intelligence Service Canada's six-point criterion for classifying a person as a gang member. This was developed in 1991 to provide a standardization across the country. The definition of "criminal organization" is stated in subsection 467.1(1). However, the criterion we are currently using is not.

A lesson we learned early on is that an effective anti-gang strategy must be intelligence-led to make the best use of resources the Ottawa Police Service has put into the guns and gangs unit. Investigations are intelligence-driven, with the bulk of the information coming from four sources: Crime Stoppers tips from the community, street checks and occurrence reports from our front-line officers, coded informants developed by the guns and gangs investigators, and of course the sharing of information and intelligence from external partners. This is why we place so much importance on a crime analysis function, and we feel we're in a good position to establish the link to street organized crime that the courts will require to invoke the proposed minimum mandatory sentencing.

• (1535)

The creation of the two new offences in regard to assault against police and peace officers is encouraging; however, in our view, it appears to stop short of extending protection against intimidation of officers of the court and justice officials.

We routinely face problems with intimidation and witness fear that prevent the laying of charges or cause the withdrawing of charges against gang members. We are actually seeing gang members attending court proceedings involving fellow gang members, and it certainly is having an effect on our witnesses. We have yet to have in Ottawa an instance of intimidation of a court official, but the potential is always there.

To comment on the last proposed amendment regarding section 810, peace bonds, this again addresses the fear of members of our community by giving a provincial court judge more conditions that he can impose when ordering a defendant to enter into a recognizance. Most of our persons of street gang interest appear in front of a provincial court judge not as defendants in a peace bond hearing, but rather as accused for criminal offences.

If the court sees fit to release them pending trial, the conditions placed on them are by way of an undertaking or a recognizance. These imposed conditions are quite easily enforceable, and this is where our direct action response team comes into play with regular compliance checks to ensure that the conditions are being abided by. If not, they're arrested and brought back to the courts, where we make arguments to keep them inside pending the trial date. It

certainly would be of great assistance to our investigators and would minimize witness intimidation if the bail threshold were raised.

Following Justice Minister Nicholson's introduction of Bill C-14 on February 26, Chief White also remarked that it is a good beginning, but it is a beginning, and more is needed in getting criminals off our streets. The key is lawful access reform, lawful access being the term used to describe the legal process by which police can intercept private communication. Police need a replacement of that outdated 1974 legislation, which would provide us with intercept capability for new communications systems that the service providers are now offering the public. We also would like to see better rules and regulations governing our ability to obtain subscriber information. At the investigative level, Staff Sergeant Ladouceur and I are all too familiar with the restrictions placed on ongoing investigations and projects, not to mention the prohibitive costs.

I have talked a lot on enforcement and little on prevention and diversion. The Ottawa Police Service is committed to an anti-gang strategy based on the four pillars of community education, intervention diversion, enforcement, and targeted suppression. However, when dealing with criminal organizations and their involvement in the illicit drug trade and increased willingness to carry and use firearms, a firm hand is necessary.

In my view, Bill C-14 will meet the objectives of denunciation and deterrence to violent crimes committed in connection with organized crime and street gangs.

Thank you.

• (1540)

The Chair: Thank you.

We'll move on to Chief Superintendent Shean, please.

The floor is yours.

Chief Superintendent Todd G. Shean (Director General, Drugs and Organized Crime, Royal Canadian Mounted Police):
Thank you, Mr. Chairman.

My name is Todd Shean. I am the Chief Superintendent in charge of the RCMP's drugs and organized crime branch. Joining me today is Superintendent Michel Aubin. This afternoon we'd like to provide you with further information on the state of organized crime in Canada and emerging trends, and briefly take the time to outline several measures we are taking to target criminal activity both in Canada and abroad.

The reality of policing in 2009 is one of increasing complexity and constant change. Globalization has enabled organized crime to flourish across borders and across oceans. Crime groups are uninhibited by jurisdictions, sometimes victimizing people without ever setting foot in their country. Although drug trafficking remains a primary activity among organized crime groups, many have expanded their scope and have become involved in more than one type of criminal activity. They're also becoming more sophisticated and more diversified in their criminal activities in areas where there's less risk and high payoff, and using tactics such as intimidation, internal conspiracies, and corruption of public officials and others in key sectors such as transportation or finance.

We all know most organized crime groups are involved in drugs and that drug trafficking erodes the social fabric of Canadian society. But the activities of organized crime are numerous and of concern. As we stated to the committee last week, the Canadian law enforcement community has identified more than 900 organized crime groups operating in or affecting Canada. This number grows every year.

As you travel across the country and speak with key partners and ordinary citizens, I believe this committee will gain an even clearer understanding of the serious impact that organized crime is having on Canadians and on our communities.

The Chair: Chief Superintendent, perhaps I could ask you to slow down. Our interpreters are having some difficulty following you.

Thank you.

C/Supt Todd G. Shean: All right.

First let me briefly touch on the financial impact.

While not always visible, the result of financial crimes on Canadians is devastating and can contribute to the erosion of Canada's economic integrity. One example is counterfeit currency. We have all seen the signs in stores advising the public that they no longer accept \$100 bills. Ensuring the value and stability of the nation's currency is critical to the vitality of the economy, and counterfeit currency degrades the confidence Canadians have in their bank notes.

Mass-marketing fraud is seen as a high-profit, low-risk crime. In 2008, the loss reported on this type of fraud was \$66.4 million. It is important to note that 95% of people who are victims of mass-marketing fraud do not report it. Many crime groups target our most vulnerable demographics, such as our senior citizens.

• (1545)

[Translation]

Counterfeit goods is also seen as a low-risk activity.

Organized crime groups are becoming more and more interested in the potential high profits of counterfeit clothing and accessories, even auto parts, electrical products, pharmaceuticals, batteries, toothpaste and circuit breakers to name a few. Ultimately, counterfeiting results in losses to legitimate business and the economy, but it also poses considerable health and safety risks.

[English]

Contraband tobacco is another illicit market contributing to an underground economy worth hundreds of millions of dollars. Traditionally seen as a victimless crime, tobacco trafficking is now regarded as a significant source of income for all levels of organized crime. They reinvest the substantial profits from that to support other criminal activities. The result is a loss of federal and provincial revenues that would have contributed to health care and other social programs.

Last year the RCMP seized more than one million cartons of illicit tobacco. The availability of contraband is at an historical high. Our seizure level has surpassed the 1994 benchmark by 137%, and that was a time when the black market was considered entirely out of control.

The social impact is no less concerning. Organized crime tactics such as corruption, internal conspiracies, and intimidation undermine Canadian confidence in our transportation system, our judicial system, and the security of our entry points. When key sectors of the Canadian economy and institutions are targeted and public officials and employees are corrupted by organized crime, Canadians don't feel safe.

Organized crime groups will attempt to exploit employees at airports, as one example, by corrupting existing employees or by placing criminal associates in the airport workforce.

[Translation]

Project Colisée, an investigation led by the Combined Forces Special Enforcement Unit, uncovered a series of conspiracies to import cocaine to Canada from various countries via Montreal International Airport.

More than 90 people were arrested, and the criminal organization behind the scheme managed to corrupt two officials at the airport; one was bribed to help facilitate the importation of drugs by containers.

[English]

Organized crime groups have also escalated their use of violence in fighting for territory and shares of what have become very lucrative illicit markets. As a result, some gang members have started wearing body armour and bullet-proof vests and have modified their vehicles with armour plating. Acts of such extreme violence, and the fact that gang members are preparing for it, are alarming. As these gangs fight it out on Canadian streets, innocent bystanders are victimized. Many have lost their lives.

Organized crime is also becoming efficient at exploiting and victimizing people, subverting legitimate business, and corrupting parts of our political and judicial systems. Groups that have come to rely on the corruption of public officials are also using violence and intimidation tactics towards anyone standing in their way, including potential witnesses, the judiciary, and even law enforcement.

Be it because they fear reprisals or adhere to the unwritten code of criminals, witnesses often refuse to testify when they take the stand, as was the case recently in British Columbia during the trial of two top members of the Independent Soldiers gang. Witnesses were reluctant to provide details of the incident, with one witness advising the crown prosecutor that he would not provide details because he was looking out for himself.

These are some of the realities of organized crime today. We believe that knowledge and foresight are at the heart of any effective strategy to combat organized crime. Criminal intelligence is needed to accurately assess the threats and investigate key groups on a priority basis.

The RCMP recognized this necessity and adopted an intelligence-led approach several years ago. Through strategic and tactical criminal intelligence work, the RCMP, along with other Canadian police services, has been assessing the ever-growing organized crime threats. Enforcement priorities have been established to address the most pressing problems and investigations have been undertaken. However, the threats posed by organized crime in Canada today are clearly complex, widespread, and well entrenched in many communities across the country.

To address the fast-evolving nature of organized crime threats, a number of specific criminal intelligence initiatives have been put in place within the last three years. Undertaken at the local, provincial, national, and international levels, those initiatives are specifically aimed at the fight against organized crime.

Briefly, criminal intelligence probe teams developing tactical intelligence in support of enforcement operations against organized crime groups, including street gangs, have been established in several provinces. The RCMP has partnered with key foreign law enforcement agencies to facilitate the flow of organized crime information and to gain a better understanding of shared crime threats.

In addition, Canadian inter-agency cooperation is further enhanced by a number of national and international law enforcement committees, all of which contribute to a common strategic direction and a goal to disrupt organized crime. These groups include, among others, the National Coordinating Committee on Organized Crime, the Canadian Association of Chiefs of Police Organized Crime Committee, the Canadian Association of Chiefs of Police Law Amendment Committee, and the International Association of Chiefs of Police.

The relatively new Canadian Integrated Response to Organized Crime, or CIROC, is a body that represents all of law enforcement across Canada from both an operational and an intelligence capacity. CIROC focuses on developing operational strategies to leverage our collective efforts.

The RCMP continues to build meaningful partnerships with domestic and international agencies to create joint enforcement teams that have been among the most successful practices in disrupting organized crime groups. For example, combined forces special enforcement units and integrated response to organized crime teams are integrated teams of police officers and government

agencies with a mandate to expose, investigate, prosecute, dismantle, and disrupt organized criminal enterprises.

As well, we have joint enforcement teams targeting cross-border criminality, such as integrated border enforcement teams. These are intelligence-based binational groups that share information and collaborate on a daily basis with local, state, and provincial agencies on issues of national security, organized crime, and other cross-border crime.

On the international front, our foreign liaison officers are strategically located around the world to support our organized crime investigations and to serve not only the interests of the RCMP but also those of the entire Canadian police community. A 2006 seizure is an excellent illustration of the globalization of organized crime and the partnerships we have developed nationally and internationally.

● (1550)

Working with the Department of National Defence, the RCMP seized 22.5 tonnes of hashish off the coast of Africa that was destined for Canada. Our success was due in large part to the ability of the RCMP liaison officers stationed in eight different countries who were able to provide the required investigative support in this project.

In closing, Mr. Chairman, for our part, the RCMP is working hard to target the realities of organized crime groups in the 21st century. Is there more to do? Yes. Can we eradicate crime in Canada? No. But we can disrupt activities, target their proceeds, and discourage crime groups from exploiting and threatening Canada's financial integrity and border security.

Through the intelligence-led policing concept, and by working closely with key partners in Canada and throughout the world who face similar issues and challenges, we are contributing to safer homes and communities, at home and abroad.

I would like to thank you for inviting me to appear today. We would be pleased to answer any questions following the different presentations.

The Chair: Thank you so much.

Mr. William Trudell has now appeared.

Before we move on to Chief Beazley, we'll give you 10 minutes, Mr. Trudell, to present. There will be questions afterwards from members of the committee, as is customary.

Mr. William Trudell (Chair, Canadian Council of Criminal Defence Lawyers): Thank you very much, Mr. Chair and members of the committee.

I apologize for being late. There was a decision being made in Toronto about whether or not the plane was going to take off. It was late. I went up and said, "If I don't go, do I get two for one for my ticket?" They said, "No." So I came anyway.

The Canadian Council of Criminal Defence Lawyers is very grateful for the opportunity to come and assist you. We've been coming now for about 17 years. We see our role really not as one to take sides in one way or another, but to look at proposed legislation and offer our assistance as to whether indeed there's a gap that this legislation fills, whether or not we can offer guidance on possible changes, and even in some circumstances suggest that the bill may not be necessary.

In this particular case, our position is simply this. We recognize that there is a problem with organized crime in Canada, as throughout the world, but we want to be very cautious about the labelling of criminal organizations. It's almost in the infancy of the definition that was passed a number of years ago. There's only one really significant case—I think it's Bonner out of Ontario—where a criminal organization is defined in the jurisprudence. So we're really sort of in a developing stage, in our respectful submission, and therefore we would just ask you to be cautious when you add on sections of the Criminal Code that import the criminal organization aspect. What it does, in our respectful submission, is to make the proceedings, the offence, much more complex.

Let me just say this. I would respectfully submit to you and to my colleagues to my right, whom I respect, and to those out in the field doing the work, that to denote murder as first-degree murder in association with a criminal organization does nothing. Murder is murder. First-degree murder is first-degree murder. What it does, however, in our respectful submission, is it contributes to a clogging of really trying to make the criminal justice system work a lot smoother. So is there a gap in the legislation? Does it add anything? We would respectfully urge you to consider whether indeed it does.

Certain comments may be made for political purposes. That's your job. You bring in legislation and that's why you're elected to Parliament to do it. But is there a need? Is something really being proposed that fills a gap? In our respectful submission, this isn't happening with the designation of first-degree murder in association with a criminal organization or for the benefit of. We have deemed first-degree murder with the murder of a police officer, for instance. You don't need to worry about the definition of that. We accept that. That is in the Criminal Code. But when you bring this in, you're now sort of opening up challenges and complexity in terms of this case, and it doesn't benefit the criminal justice system at the end of the day if it's not sort of filling a gap. We would say that in the first instance.

Secondly, another section talks about mandatory minimum sentences for certain new offences. Is there a gap that necessarily needs to be filled by some of the new offences suggested in Bill C-14? We would respectfully submit to you that there isn't. We keep adding on to the Criminal Code when we're trying to figure out what certain sections mean. But the police have the tools, in my respectful submission, to charge people with offences involving firearms. If a statement is going to be made in terms of mandatory minimums, and new offences created, is it filling a gap in the long term, or indeed is it just to give a message? We ask you to consider that.

• (1555)

We, as defence counsel in this country, plead with you to restrict the imposition of mandatory minimum sentences. In my respectful submission, what it does is send the wrong message to the judges.

Judges treat these offences seriously. Denunciation is very prominent in our communities when guns and violence are involved, and judges need the discretion, in my respectful submission, to be able to fit the appropriate sentence to the appropriate crime and the offender.

Another section of Bill C-14 relates to increased use of the section 810 peace bond sections and increased recognizance. It was interesting to read the minister's comments when this bill was introduced. He talked about giving judges an opportunity to fashion terms of recognizance so the process wasn't a cookie cutter. Those were his words. In my respectful submission, that's inherently contradictory to having mandatory minimums.

We believe, and we experience it on a daily basis, that the courts in this country treat serious criminal offences seriously, treat crimes of violence seriously. I think that Parliament has done a job, and the police are doing a job, in together trying to bring the message that serious criminal activity will be prosecuted and treated seriously, and that is what's happening.

If you wouldn't mind, I will just analogize for a second.

Our forces are at war in Afghanistan. We're not just at war; we don't just have combat troops there. The whole thrust throughout the world, and the thrust of the Canadian military, is that we have to build and support democratic institutions to give those people the sense that the al-Qaeda way, if I can use that phrase, is not the way they want to live. To take it into combatting criminal activity, what we need to do is not only put this much energy into new offences, but also put considerable energy into policing, into investigation, and into community involvement, because people who associate with gangs, whether they are criminal organizations within the definition or just organizations, don't belong. They're abnormal. They don't fit. They have a different culture.

Why is that? It is because they find it is more attractive to their lifestyle. We're not going to stamp it out. What we need to do is put a lot of energy into trying to demonstrate, trying to integrate, and trying to educate.

I'm not saying pampering. I'm not saying that.

I live in Toronto, and not far from where I live is an area in Toronto that has lots of crime problems. The other night I was driving home with my children and my wife, and we saw three police officers walking down the street in this community. My son said, "That's really cool." I'm sure it costs a lot of money to have three police officers there, but that presence in the community sends a message.

If I decide I want to be part of a gang, I am not worried about a minimum sentence. I don't stop to think about whether it's mandatory. I don't stop to think about whether or not these acts are going to get me first-degree.... I don't even think in those terms. I am looking for immediate gratification.

There are people who belong to these gangs who find their self-worth there. I'm not saying not to punish these gangs, but if we punish them and give them credibility by targeting them, then I don't think we're solving anything.

These pieces of legislation are being introduced piecemeal. We suggest that piecemeal introduction of criminal legislation is going to blow up the Criminal Code.

•(1600)

We need to look at the entire Criminal Code, but we keep adding on incrementally. If you see, after you study these bills, that there's a need, that there's a gap, that there's something lacking, as opposed to just apparently the immediacy of emotional contagion in the community, then please, you have to pass them. But you have to decide whether there is a gap. You have to decide whether there is a need. And you have to decide what the impact is.

Throughout this country—from the Department of Justice in Ottawa through every province, including police forces, the defence, deputy attorneys, and judges—everyone is looking at a better, more efficient criminal justice system in the front end.

•(1605)

The Chair: Mr. Trudell, unfortunately, your time is up.

Mr. William Trudell: Thank you.

The Chair: There'll be more time to explain once you get some questions from members.

We'll now go to Chief Beazley in Halifax.

Chief, thanks for joining us. You have 10 minutes.

Chief Frank A. Beazley (Chief of Police, Halifax Regional Police): Good afternoon, Mr. Chair, and thank you very much for accommodating my schedule today. It's a pleasure to speak to you today regarding Bill C-14.

As you are aware, in many Canadian cities the concern about violence and youth crime has been rising in the last number of years. Halifax is no exception. Halifax has had a long-standing drug subculture, which has brought with it other criminal behaviour and violence. This problem has been compounded in recent years with the emergence of a street gang culture and related street violence. Halifax is consistently ranked as one of the most violent cities in the last decade.

In 2005 we implemented a crime reduction strategy that focused on targeting high crime areas and chronic offenders. These measures have resulted in the gradual decrease in violent crime. However, we still have much to do to reduce violent crime.

While crime has been trending downward for four consecutive years, it is violent incidents that alarm our citizens, particularly incidents involving firearms. I and my senior officers receive comments almost daily from citizens who say they are fearful of

coming to Halifax because of violence. That's something that none of us wants to see in our communities.

Despite the fact that most crimes of violence are being committed against and by people involved in criminal activity, violent offences, particularly those involving guns, create a perception that the city is unsafe.

But it is not simply a matter of perception. In 2008 we saw a more than 10% increase in the number of firearms seized by HRP versus 2007. Last year we seized 135 firearms in the city of Halifax. In the first two months of 2009, there were 18 incidents of violent crime involving a firearm and another 23 involving knives. As we speak today, my units are in an area of the city where another drive-by shooting has just taken place, and we're also now at the scene of another murder.

In August 2008, violence associated with opposing criminal groups began to emerge after a shooting. The violence continued sporadically until early November, when a key criminal figure was released from custody. It appeared that violent incidents were occurring daily. In spite of an unprecedented police response, targeting both of those criminal groups, the violence continued, culminating in two very public shootings. The first was in a parking lot of a local pizza shop, and the second was in a parking lot of the IWK Children's Hospital in Halifax. These shootings shocked the community and only intensified the police response. The significant resource deployment and highly focused effort resulted in the arrest of 14 individuals, the seizure of illegal drugs and weapons, drug charges, and significant Criminal Code charges, including conspiracy to commit murder and attempted murder.

Also in August 2008, a series of violent armed robberies in places of business emerged as a serious concern. A group of suspects emerged earlier, and charges were laid, but the robberies have continued. The robberies are well planned, including escape routes to allow the suspects to avoid detection. This criminal group has consumed significant resources and has required specialized skills and equipment to investigate.

These are only a few examples of the shootings in very public places that have become an all too common occurrence in the last few years. In my 39 years of policing, nothing has disturbed me more than the total disregard for the safety of innocent bystanders shown by those responsible for the shootings.

I am pleased that the proposed amendments to the Criminal Code will address the growing problem of indiscriminate and dangerous shootings. Bill C-14 sends the clear message that drive-by shootings, the reckless discharge of firearms in public places, and the use of firearms for intimidation by criminals will not be accepted by our society. It is long overdue.

Organized crime's use of violence and intimidation to achieve its criminal objectives is not a new phenomenon, but my experience tells me that the level of gratuitous and indiscriminate violence is new. In my view, the question asked by most citizens should not be whether or not homicides resulting from the activities of criminal organizations should attract the most serious of criminal sanctions, but rather, why these sanctions don't apply now.

We must clearly send the message that gang-related violence will not be tolerated. Specifying that murder is automatically first degree when it is committed in connection with a criminal organization is an important step.

•(1610)

I am also pleased that this bill will create two new offences designed to protect peace officers and other justice officials. Police officers today are being confronted more and more with weapons and violence. We must ensure that our laws address that violence, and these provisions speak to the level of violence and intimidation police face today. Assaults on police officers in Halifax this year over last year have risen in excess of 40%.

I would be remiss if I did not add my voice to those calling for changes to part VI of the Criminal Code, the legal regime under which police officers can intercept private communications.

I have spent a significant part of my career investigating organized crime and conducting wiretap investigations, and I can tell you that without the ability to legally intercept private communications, many very successful investigations would not have happened. That ability has been eroded by technology and the failure of the law to keep pace. The complexity of criminal investigations and the information involved has increased tenfold in the last decade. The tools to combat crime must also keep pace. I know you have heard from others on lawful access, so I will not belabour the point, except to say that the time to act on modernizing part VI of the Criminal Code has passed. We need these tools, and we need them now, to fight the increasingly complex problem of fighting organized crime and violence.

In closing, I am not here today to tell you that this bill, or any bill, will address all the issues of crime or violence. In fact, these issues will only be solved by a broad societal approach that addresses the underlying causes of crime, such as poverty, racism, and other social development concerns. This is not to say, though, that criminal law does not have a role. The proposed bill is a good step in the fight against criminal gangs and violence. It is targeted and it is directed at some of the issues communities face, and I would urge everyone to support this legislation.

Thank you, Mr. Chair.

The Chair: Thank you, Chief.

We'll now open it up for questions.

We'll begin with Mr. Murphy. You have seven minutes.

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

The position of the Liberal Party on this bill is that we're supporting it. Nevertheless, we benefit greatly from hearing from law enforcement officials, and in this case Mr. Trudell as well.

Today, there are a couple of common themes. One is that we are all here attempting to make our society safer. We all recognize that organized crime is organized and is becoming more so. And we all recognize that the Criminal Code is a mishmash of additions and improvements, gaps and irregularities, and that we're doing more of the same here. We all recognize this. Nevertheless, we're all trying, through swift passage of this bill, to add to some of the tools that law enforcement officials have—and doing so without changing, I would add, with due respect to Mr. Trudell, any of the ground rules of our rights and liberties.

I have some very specific questions arising from the comments made. The first deals with some of the testimony you gave, Chief Superintendent Shean, on behalf of the RCMP, with respect to corruption and infiltration and intimidation. That's my first set of questions.

The next set is about the use of wiretaps, or the interception of information, which both Staff Sergeant Renwick and Chief Beazley talked about.

First, on the corruption aspect, it's quite a shocking statement, Chief Superintendent Shean, for you to say that organized crime is "becoming efficient at exploiting and victimizing people"—which I think people understand—and at "subverting legitimate business, and corrupting parts of our political and judicial systems". You went on to talk about intimidation. We read about intimidation daily, and I think we understand it.

My question is really twofold. What instances of corruption of public officials are we talking about, and at what level? Overall, with respect to corruption and intimidation and infiltration, what more can we do to combat these?

•(1615)

Superintendent Michel Aubin (Director, Immigration and Passport, Royal Canadian Mounted Police): Mr. Murphy, I'll address the issue of corruption of public officials. In my prior capacity, I was responsible for the CFSU in Montreal, *Projet Colisée*, which some of you may know. That investigation, as with other investigations across Canada, has demonstrated that the more entrenched criminal organizations do use corruption of public officials as part of their arsenal, their way of doing business.

That case explicitly showed that some agencies were being exploited because the employees had access to specific information facilitating the movement of cargo and the movement of people through our airports and our ports. That investigation also showed that employees at the Montreal airport were being exploited, and as well, members of the criminal organization were being positioned there as employees in various capacities to facilitate the purposes of the organization.

I can't get into specifics because the matters are still before the courts, but there is public knowledge to that effect.

That type of activity seen in Montreal is evident in other communities across Canada by the more entrenched criminal organizations, and attempts are made in general by the organizations to corrupt employees. Again, it's just to facilitate their activities. So it is not a singular event. It's becoming more and more evident. We're seeing it across the country.

Mr. Brian Murphy: The second part of the question is what to do to combat it.

C/Supt Todd G. Shean: Do you want us to address intimidation first?

I need to pick up on what Superintendent Aubin said, on the intimidation side of organized crime. I just recently arrived in Ottawa. I was the person responsible for policing in the Codiak region in New Brunswick, as you're well aware, Mr. Murphy.

Michel shared with the committee here today instances that occurred in the city of Montreal. I'm going to take you to the Moncton-Dieppe-Riverview area. We had occasions there where organized crime was establishing itself in different areas within our community, and there were instances where intimidation was perhaps more innuendo, perhaps some sort of contact. But organized crime was touching our public officials, to make them aware it was out there, and trying to influence them in decisions that would perhaps allow businesses to flourish within our community.

Mr. Brian Murphy: And what to do to combat those?

C/Supt Todd G. Shean: One is to ensure that the awareness component is there. I think we've talked about that, and it runs through everything we do. Organized crime in many instances cannot flourish; they need that type of support. They need to entrench themselves—and as I say, they're well entrenched—so we have to ensure the awareness is out there, and we have to be very cognizant to ensure we recognize exactly what they are doing and what is happening in our surroundings. We have to be very cognizant of our surroundings. So I think one of the biggest issues is the awareness side.

Supt Michel Aubin: In terms of intimidation, sir, a good example is the problems in Quebec. Monsieur Ménard may well be aware of this. Intimidation of public officials, police officers, judiciary, jury, and prosecutors is prevalent. In the province of Quebec, as an example, they've had to establish between all law enforcement a body to monitor, track, and put measures in place to protect our prosecutors and our judiciary. Part of the process in terms of dealing with it, in our view, is that the legislation has to be in place to support it. This type of activity cannot be tolerated, and it has to be prosecuted, and the legislation has to be there to support it as well.

Mr. Brian Murphy: I quickly want to move to wiretapping, the interception of information. Staff Sergeant, you've mentioned it. Chief, you mentioned it as well. What can we do to improve the tools you have with respect to the interception of information?

S/Sgt Christopher Renwick: At my level I certainly don't work with it daily. I've had discussions with Staff Sergeant Ladouceur and Sergeant Lockhart, who are more specialized in that area. My understanding of it—and certainly Staff Sergeant Ladouceur will step in to help out—is the fact that the service providers, and there are so many different new technologies, aren't coming to us with a standardized format where we can make it useful information. They

aren't wires anymore. There's no way for us to tap in. There are instances where servers are outside Canada, and with the technology that's being provided there's just no technical way for us to do that.

• (1620)

The Chair: Time's up.

We're going to go over to the next questioner. You can revisit that, Mr. Murphy, in the next round.

We'll move on to Monsieur Ménard, for seven minutes.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Thank you.

I have three questions to ask you.

First, I've been told a lot about one of the aspects of organized crime which is perhaps not new, but which we're becoming increasingly aware of. And that is the entire question of numbered companies. In recent days, two reports have been broadcast on the construction industry in Quebec. Some of the print media have even named certain specific sectors of that industry, cranes, for example.

What additional information could you give us on the interaction between organized crime and numbered companies? Could you even table documents before this committee?

Second, on my first reading of the bill—which we are going to support; there's no doubt about that—I reacted in somewhat the same way as Mr. Trudell. I said to myself that a person who committed a homicide for a criminal organization ran the risk of being imprisoned for life. I was trying to see what new aspect the bill added. I concluded from the information provided by the minister that, ultimately, there may be certain situations in which people who commit crimes or homicides for organized crime plead guilty to manslaughter, that is to say murder without premeditation.

Do you agree that the question of first degree murder is really a new feature of this bill? What kind of charges will this enable you to lay? I would like to understand how this provides you with a new tool?

I'll start by asking you two questions and, if the Chair is indulgent with me, I'll ask my third question after that.

Supt Michel Aubin: Mr. Ménard, I'll try to answer your first question, concerning the interaction between organized crime and industries, particularly in the construction sector.

It goes without saying that organized crime has to launder its money. In the past 20 years, the act has enabled us to attack that component. The act has evolved, but so has organized crime.

Money laundering involves three stages: investing the money, laundering it and bringing it back to use it for desired purposes. When organized crime invests money outside the country, in countries that permit it, the money is not available to the criminals. In recent years, we've noticed this attempt to launder money in companies or industries, which affords more immediate access to the money. The verb to commingle is used to characterize this way of doing things. In other words, money to be laundered is mixed in with legitimate money, which makes it more difficult to detect illegitimate money.

Mr. Réal Ménard: Could you target sectors in Canada where this money laundering mechanism is used? Is the construction industry, for example, conducive to that?

You're talking about organized crime in general. Everyone knows that criminals launder money and sell drugs. I'd like to know more about the phenomenon of numbered companies and in what sectors of the legal economy that takes place. Do you have any information on that subject?

• (1625)

Supt Michel Aubin: I can't answer you today. Unfortunately, I was not prepared for that question, Mr. Ménard. However, I can check to see if that information is available. If so, we can forward it to the committee. I believe you will be touring across the country.

Mr. Réal Ménard: That's our wish, but there are lots of obstacles along the way. However, we do hope to be able to travel.

C/Supt Todd G. Shean: Michel and I have roughly the same professional experience. I too have worked in the proceeds of crime field. In my experience, the phenomenon of numbered companies does not affect specific industries. I have observed that people get involved in numbered companies in a number of fields. That happened especially within the country, but some people also bought numbered companies outside the country.

Mr. Réal Ménard: All right. Answer the second question because I'd like to ask a third, if things go well for me.

C/Supt Todd G. Shean: I can answer, but I don't want to take—

Mr. Réal Ménard: If you answer the second question, that's great.

C/Supt Todd G. Shean: We support the bill, but it's just one of a number of tools that are put at the disposal of police departments and people who fight organized crime. I think we talked to the committee about the tools we needed to conduct investigations and access communications, as well as disclosure, the judicial process and the penitentiary process.

Mr. Réal Ménard: In the final days of the Martin government, every political party passed an act. At the time, Mr. Marceau was the justice critic for the Bloc Québécois. We quickly passed an act on reversal of the burden of proof for property obtained by crime by criminal organizations. I was informed that that bill unfortunately was not used, even though it received royal assent two years ago.

Are you confirming that information and are you able to say why?

Supt Michel Aubin: I would like to be able to answer, Mr. Ménard. My work in the field of proceeds of crime goes back a few years. It would be more appropriate to put that question to someone who is able to provide a more up-to-date answer.

Mr. Réal Ménard: All right.

[English]

The Chair: Thank you.

We'll move on to Mr. Comartin for his seven minutes.

Mr. William Trudell: Could I just respond to that?

Quite frankly—

The Chair: Mr. Trudell, on the second go-round you can respond, all right?

Mr. Comartin, you have seven minutes.

[Translation]

Mr. Réal Ménard: Stop cutting him off, he's going to think you don't like him.

[English]

The Chair: No, no, it's not that I don't like him. It's just that we want to keep to our time limits so that everybody has a chance to actually ask questions.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): I assume those last 30 seconds to Mr. Ménard aren't going to be taken off my time, Mr. Chair.

The Chair: They will not.

Mr. Joe Comartin: Thank you, Mr. Chair.

Thank you, gentlemen, for being here.

Chief Beazley—if you can hear me okay—we had Assistant Superintendent Cabana here from the RCMP last week. He got into the lawful access issue.

I posed this question to him, and I'll pose the same to you. We've been hearing about this issue, and about moving on it, from solicitors general and attorneys general around the country, from law enforcement agencies of all kinds.

When I asked him whether he knew if the technology existed for us to conduct interceptions of these cellphones and other devices, he was not aware if that technology existed. So I'm asking you, are you aware of whether the technology exists in this country for us to be able to intercept these messages?

Chief Frank A. Beazley: Thank you very much.

The short answer is yes. At Halifax Regional Police right now we're actually going through an upgrade of our system that will allow us to do such things as e-mail and texting, those types of things. I understand, for instance, some emerging technology will allow us to deal with the “PIN-ing” that's commonly used between BlackBerry customers.

So the short answer is yes, for most of it. But I'm sure, with the way things continue to change, there may be a few things we can't reach. Part of the argument for lawful access is that somehow, through law, if these companies are going to continue to make these new devices, they should be required to make what they commonly call a “back door”, so that when the police do have authorization to intercept, we would have the ability to do that.

•(1630)

Mr. Joe Comartin: I think, Chief, and others, that was the specific point—whether that backdoor access or that technology exists. That's really what I was getting at.

Chief Frank A. Beazley: To my understanding, in some cases, no. But when I was at a meeting in Vancouver about a month ago, we were led to believe that some new technology that's just being developed will allow us to do some of these things that we couldn't do in the past.

Mr. Joe Comartin: I'll pass it over to you, Chief Superintendent.

C/Supt Todd G. Shean: I was just going to add to what Mr. Beazley said. There are some things that I think could perhaps be shared with the committee more so in camera, to explain more. We have people involved with that type of technology who could give some further details on the access to those devices.

Mr. Joe Comartin: Perhaps we'll pursue that in the future with the study we're doing on organized crime.

Chief Superintendent Shean, I was a bit concerned. At least twice in your presentation you made reference to the corruption of public officials. I know, certainly, there have been attempts, I think most notoriously in Quebec, where public officials were threatened and attacked and killed on a couple of occasions. Your comments seem to go beyond that, where public officials have been corrupted. I assume by that you meant bribery or outright involvement in criminal activity. I'm less aware of those kinds of situations. It was a blanket statement.

I guess I'm trying to get from you just how extensive you see the involvement of public officials in corruption, being involved with organized crime. Are there public cases you can point us to where there have been convictions?

C/Supt Todd G. Shean: To begin to answer that question, we identified that—and I believe Superintendent Aubin did when he was answering Mr. Murphy's question—in some of our cases we have seen that organized crime has attempted to corrupt public officials. We want to highlight to this committee that it's an important consideration to have, and we have to have that type of awareness out there because it does exist for them to thrive.

Mr. Joe Comartin: I'm sorry. I was left with the impression by two of your statements that they weren't just attempts, but they were successful operations where public officials had been corrupted. That's what I'd like you to comment on.

Supt Michel Aubin: That's correct, sir. As an example, in Montreal there have been some specific cases, investigations covered, that individuals working for a public body accessing information were corrupted and passing information on. They were subsequently dealt with, whether it was criminally or administratively.

Mr. Joe Comartin: Was that corruption as a result of financial incentives or threats of violence against the individuals?

Supt Michel Aubin: To the best of my knowledge, in those cases it was mainly financial incentives. I add that, based on my experience investigating organized crime. Organized crime in some cases has a knack, if you wish, or an ability to identify individuals who are more susceptible, and will in a progressive fashion bring

them on board. We see that. There were some organizations where there were concerted efforts to do it.

Mr. Joe Comartin: Mr. Ladouceur.

Staff Sergeant Bernie Ladouceur (Criminal Investigative Services, Criminal Intelligence, Ottawa Police Service): I apologize for not having all the details, but I do recall an investigation of a project that was taken down, where there was a hearing officer from the immigration sector. It was in the province of Quebec; I suspect it was in Montreal. I don't have the project name, but this official was taken down as part of allowing organized crime members to enter Canada. It dates back, probably, two to two and a half years.

Mr. Joe Comartin: I think I'm aware of that particular incident, but I don't think it involved organized crime. I think that was just corruption on the part of that particular individual, but that's my recollection of that event.

Mr. Trudell, I don't think I entirely caught this. At the time you were talking specifically of first-degree murder amendments that are in Bill C-14 when you talked about this type of piecemeal amendment to the code clogging the system. Could you expand on that? I didn't catch that point.

•(1635)

The Chair: A short answer.

Mr. William Trudell: A short answer? Okay.

When you add an element to an offence already existing in the Criminal Code, that element has to be proved. It doesn't lend to efficiency if it's not necessary. Use the first-degree murder example. If you are going to allege that a first-degree murder becomes a first-degree murder because the murder is done in association with or to the benefit of a criminal organization, you have to start by proving the criminal organization, proving the benefit, proving the involvement, as opposed to simply proving planning and deliberation, or a conspiracy or group.

The other thing, of course, is if you're convicted of second-degree murder, the punishment is life imprisonment. Aggravating circumstances are going to bring your parole eligibility close to 25 years.

If the committee ever gets a chance, look at the Bonner case in terms of what Madam Justice Fuerst had to go through in establishing a criminal organization. I think we were talking about the Hells Angels in that case. When we're trying to run an expedient system, if you add an unnecessary element, then I would respectfully submit it's going to add a complexity of time, cost, expense, and delay in the system where it's not necessary. That's my point.

The Chair: Thank you.

Chief Superintendent Shean, you mentioned there was something you might be prepared to share in camera. If we have unanimous consent here at the table, we could make some time at the end of our meeting to hear you in camera. Or would you rather come back?

C/Supt Todd G. Shean: We would prefer to have someone in that area come back. We have people with that expertise who could give an explanation that would be more beneficial to the committee.

The Chair: We'll take note of that. Thank you.

We'll move on to Mr. Moore for seven minutes.

Mr. Rob Moore (Fundy Royal, CPC): Thank you, Chair.

Thank you to the witnesses.

We've had a pretty good and wide-ranging discussion. Thanks for your feedback on the questions so far.

On the approach we're taking now as a government, it's been mentioned that this is a step in the right direction, but it's not the be-all and end-all. That's certainly not what we've held it out to be. Our approach is to take steps in the right direction with each of our pieces of legislation. In the last Parliament, that included mandatory and minimum penalties for gun crimes, reverse onus on bail for gun crimes, the changes regarding house arrest, raising the age of consent, and impaired driving legislation. In this Parliament we've introduced this bill as well as legislation dealing with illicit drugs, credit for time served, and, most recently, ID theft.

So we are taking an approach that looks at a specific problem and tries to move our justice system in the right direction, taking into account the concerns that front-line police officers, victims of crime, and other stakeholders in the justice system have raised.

We have representatives here from Halifax, the RCMP, as well as from Ottawa. Halifax and Ottawa are cities that cover very large geographic areas with urban and rural components. Today we're studying organized crime. I know the perception—and what we see on the news—is that this is often an urban downtown issue. We're also having challenges in rural areas.

Is this a problem just in the urban areas, or should we all be concerned, whether we're urban or rural, as members of Parliament or Canadians?

I throw that open to any of those I mentioned to answer.

S/Sgt Christopher Renwick: I can speak from my experience here in the city of Ottawa, with a population of a little over 800,000. It is an urban problem we're having with street gangs. We are not seeing that type of activity in the rural areas. Our experience is that those involved in the illicit crack trade with the violence, guns, and all the trimmings that go with it come into the urban core for that specific purpose. All the shootings and the instances we've been investigating over the past few months have been confined to the urban areas. We've done some warrants in the rural areas, but they've been more specific to firearms offences rather than gang or street gang offences.

• (1640)

C/Supt Todd G. Shean: I was just out in some of the western provinces. We see urban problems with gangs there, but we also see gangs in the rural areas. So it's more widespread than simply urban, in my experience with the different agencies for the RCMP I've dealt with.

Chief Frank A. Beazley: Can I speak for Halifax?

Mr. Rob Moore: Sure.

Chief Frank A. Beazley: The majority of what I see is in the urban core. But in the last couple of years we've found, particularly with drive-by shootings and criminals meeting criminals at different locations, it doesn't really matter where they are. We've seen shootings happen in our suburban areas. Organized crime is using our coastline and our rural areas to bring in drugs and smuggle in contraband cigarettes. But the indiscriminate use of firearms and shootings, particularly against these rival drug gangs, sadly occurs wherever they happen to meet each other. So it could be downtown Halifax or Fall River, Nova Scotia. Homes have been shot up in suburban areas as well as urban areas.

I hope that helps.

Mr. Rob Moore: Yes, it does. Thanks.

Chief Beazley, obviously we know that there have been gangs forever, really, and there has been violence forever, but you mentioned in your comments that the level or the intensity of violence is new. You mentioned something like that. I'm wondering if you could comment specifically, because obviously, sometimes there are high-profile incidents in the news, and they get people riled up.

The approach we've taken is that we have to be consistent about this. We cannot only react to one or two situations. We have to have an overall agenda, moving forward, that takes into account that sometimes there's going to be a dip in what happens and sometimes there's going to be a spike.

You mentioned that there had been a change, in your view. Can you give an example of that? How are things different now?

Chief Frank A. Beazley: What I'm saying is that I'm seeing a change in the intensity of violent crime. If you look at the statistics, let's say for youth offenders, they may say that youth crime has gone down over the past 10 years. But the increased violence, the higher violence, has actually increased. That's whether you're looking at assaults or at robberies.

In 2005 we had eight attempted homicides in Halifax. Three of them were drive-by shootings. In 2006 there were three, two of which were drive-by shootings. In 2007 there were four, and two of those were drive-by shootings. In 2008 there were twelve, five of which were drive-by shootings. So far, since January 1, there have been five attempted murders, and one of those...actually two of them, as of today, were drive-by shootings.

We're finding that the gangs that initially were carrying firearms as a status symbol have moved on. Once they start shooting, they start shooting, and it doesn't matter where you are. I mentioned the IWK hospital. This is where babies are born in Halifax, and they just started shooting it up just outside the front lobby. It's wherever they meet these rival gangs.

So we're seeing it increase. We're seeing violent crimes becoming more violent, and of course I'm only talking about the use of guns. We've had 18 cases since January in which people were stabbed. So the violence itself is getting more violent. That's the best way I can convey it to you.

The Chair: Thank you, Chief.

We'll move on to Mr. Dhaliwal for five minutes.

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): Thank you, Mr. Chair.

I would like to thank the panel members and welcome your suggestions here as well.

My question is to Mr. Renwick. I have heard that it's difficult to prove that someone is a gang member, so prosecutors have difficulty using laws designated and designed especially for gang members. Can you tell us what we, as legislators, can do to improve that situation?

• (1645)

S/Sgt Christopher Renwick: Our section has been up for a few years now, and we just recently achieved expert witness status in court as gang experts. One of our detectives, Detective O'Brien, was there in January giving evidence at a sentencing hearing.

It is a process, and it's a fairly new process for us. First there is the definition of a street gang. Second, we're applying the six-point criteria that were set up by Criminal Intelligence Service Canada. There are six questions about involvement: are they self-possessed members of a gang; have they been involved with crimes? Actually, I have the six criteria here, if you're interested in hearing them.

Mr. Sukh Dhaliwal: Sure.

S/Sgt Christopher Renwick: The first criterion is that a reliable source of information says that a person is a gang member. Second, a police officer observes a person associating with a known gang member or members. Third, a person acknowledges gang membership. Fourth, a person is involved directly or indirectly in gang-motivated crime. Fifth, the court finds the person to be a gang member. And sixth is whether the person is found displaying common or symbolic gang identification paraphernalia: colours, tattoos, and that type of thing.

To designate a person a gang member, the person must meet three of those six criteria, one of which must be number four, which is that the person is involved directly or indirectly with gang-motivated crime.

That's the criteria we apply, and that, with the definition of a gang member, is a basis for the court designating the person a gang member. I know the Criminal Code has a definition of organized crime that is different, but one of the reasons Criminal Intelligence Service Canada brought in this criteria in 1991 was to try to have some standardization across Canada.

Mr. Sukh Dhaliwal: So can it be part of the legislation across the country?

S/Sgt Christopher Renwick: I had that discussion with some of the criminal investigators in our guns and gang section this morning, and I know the Criminal Code does have a definition of "organized crime", because I looked it up this morning as well. The discussion was around whether or not that would be included in the Criminal Code to make it easier. We're talking about street gangs here; organized crime is a whole different kettle of fish. But yes, it would give some standardization and some common application across Canada.

Mr. Sukh Dhaliwal: Thank you.

We met B.C. Attorney General Oppal last month when he was out here, and he provided us with some statistics. Roughly 10% of all criminal offences actually go to trial, and the truth is when there is a case of gang violence or when a suspected gang member is arrested, the cases take their place at the back of the line, so the gang member can get back on the streets.

From your perspective, do you see this as a crucial issue when suspected gang members are arrested?

S/Sgt Christopher Renwick: Sir, I missed that part after "10%". The gang members do what?

Mr. Sukh Dhaliwal: They say that only 10% of cases go to trial, and even when they go to trial, they are put on the back burner because they do not have the expertise when it comes to the crown and judges. Do you feel the same way?

S/Sgt Christopher Renwick: We do have a dedicated crown attorney here in Ottawa to prosecute our gang cases. I was recently in Toronto, where they have an office of in excess of 50 dedicated crown attorneys. So that's a direction we're going in.

My own opinion for why they may not go to trial is that it's not a reluctance to prosecute them. A lot of them end up in a plea or some other resolution before trial. I don't see, here in Ottawa, a reluctance to prosecute gang members. It's actually the opposite. There is a real appetite to move forward with those, because of the problems we're having. One gang member, quite active, is causing a lot of grief in our community, and we are the enforcement side of it. We are not experiencing crowns backing away. Sometimes they will take plea bargains to other related offences, which is a little disappointing for us, but certainly there's not a hesitation to prosecute.

Mr. Sukh Dhaliwal: Thank you.

S/Sgt Christopher Renwick: If I may add, sir, my experience with it—

• (1650)

The Chair: We're going to pass to our next questioner. We're already a minute over for Mr. Dhaliwal.

Monsieur Ménard, you can continue for five minutes.

[*Translation*]

Mr. Réal Ménard: Thank you.

Earlier I asked a question about reversal of the burden of proof for property obtained by crime by criminal organizations. The Bloc passed that bill with the assistance of the entire House. My former colleague, a very honourable man, Mr. Richard Marceau, former member for Charlesbourg, left the House a lasting souvenir.

Why wasn't that bill passed? Mr. Trudell seemed to have an answer. I propose that we listen to him, since he has come from Toronto and almost didn't get here. In view of his courage, we're going to listen to him.

[English]

Mr. William Trudell: I think when you get a serious offence where there is a reverse onus provision, the reverse onus provision isn't necessary. There are still the three standard grounds: primary, secondary, and then the third ground, which is the protection of the public interest. Quite frankly, the reverse onus provision in most cases is not necessary to implement, in my respectful opinion, in terms of the experience. If the offence is so serious, if there are guns involved, it is very unlikely that someone is going to be released on bail. It's early, really, in the history of the types of offences where the reverse onus would be used. So the tool is there, but it may not be necessary.

That's the experience that I would suggest.

[Translation]

Mr. Réal Ménard: I see you used a little gimmick to reconcile yourself with the law by not responding to the bill directly, but by making an editorial statement on a principle. I understand that.

There is something else I would like to understand, and your viewpoint may be interesting. You don't appear convinced that the bill on homicides and first degree murders is a new tool for police officers. What makes you doubt that this tool will make it possible to lay charges?

Does culpable manslaughter or when it's alleged that there was no premeditation... In all cases where criminal organizations face charges, they won't be able to say that it was negligence and that it was not premeditated. You seem to think that this actually isn't new law. I would like to understand why.

[English]

Mr. William Trudell: I think you've heard from my colleagues testifying today that there's no reluctance throughout the country to prosecute. I think there are major prosecutions involving organized crime and guns and gangs throughout the country.

Where the investigative tools and the infrastructure are there in terms of crown attorneys working with the police, crown attorneys from the provincial organizations working together with federal prosecutors to prosecute drugs too, the prosecutions are happening. There is no gap, if I could respectfully submit.

We're talking about Bill C-14. We're talking about first-degree murder deemed. I would respectfully submit that there's going to be no plethora of new charges laid because of this tool.

Quite frankly, the police want to get the matter into the courts expeditiously and efficiently. The added layer is not going to assist them. I think that's the point I'm trying to make here. There's no reluctance in this country to prosecute.

•(1655)

[Translation]

Mr. Réal Ménard: You suggested that we read a Supreme Court judgment. What judgment was it? Can you forward it to the clerk so that we can read it?

[English]

Mr. William Trudell: It's a case called Bonner and Lindsay.

[Translation]

Mr. Réal Ménard: All right. We know the Lindsay decision. It was in British Columbia.

[English]

The Chair: Thank you, Mr. Ménard.

Mr. Trudell.

Mr. William Trudell: The one I'm referring to is Bonner and Lindsay. It's an organized crime prosecution. The decision of Madam Justice Fuerst is a thorough decision on organized crime and the definition in the Criminal Code. It's under appeal, but it's helpful reading.

The Chair: Thank you.

Mr. Petit, are you ready to ask a question? You have five minutes.

[Translation]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you very much. I have five minutes? This will be very brief. Perhaps I'll share the time allotted to me with one of my colleagues, if I don't need five minutes.

The question will be for Mr. Todd or perhaps Mr. Michel Aubin. I'm going to repeat roughly the same terms as Mr. Ménard used earlier in citing an example. Recently, there has been talk about the construction industry, which appears to be infiltrated by organized crime. If members of organized crime infiltrate the construction industry, it's because they want to launder money that comes from prostitution, theft, drugs, cigarettes and so on. So they need a vehicle in order to enter a group and launder their money.

We've also learned that they are infiltrating not only large groups, but also groups that in some cases consist of employers, union officers, sometimes people who contribute to democracy in Canada in various forms. We see organized crime entering very quietly by the back door and moving up. In some cases, that can even cause much more serious problems. As someone said earlier—I don't know if it was the representative of the Ottawa police—there are intimidation problems. Someone may be afraid; even a politician may be afraid. We saw what happened in Italy. Everything started in the construction industry and, following Operation Clean Hands, the affair went as far as a judge of the Italian Supreme Court, who was involved in all kinds of events. He was not the only one; a number of judges were involved.

Bill C-14 provides protection for politicians, police officers and people who will have to take action to combat organized crime, and so on. Do you think this protection is enough today? I have some doubts, even though we are proposing the legislation. In 1975, an investigation was conducted into construction. It was said that would never occur again. Now this is 2009, 33 years later, a generation later, and organized crime is still involved in construction. That's why I'm asking you whether you find the bill we are trying to present to you satisfactory or whether it's just a little part of what can be done.

C/Supt Todd G. Shean: I'll answer first and Mr. Aubin can continue. You emphasized an interesting point. Organized crime enters an industry and tries to legitimize itself. So it infiltrates the construction and other industries. Once that's done, it often tries to take control of the industry. It may perhaps be able to get contracts at lower prices than a legitimate business because the organization is trying to launder money, so it can afford to lose a little money to get a contract. Every bill, every effort we make is just an effort. Will the bill help us? Yes, absolutely. It will help us, but it's just one factor.

As I explained earlier, you also have to talk about awareness. We also have to know that organized crime tries to infiltrate. You have to be aware of that.

Perhaps Mr. Aubin has something to add?

• (1700)

Supt Michel Aubin: No, Mr. Shean is entirely right. I don't believe it's just the construction industry. It is a well-known organized crime technique to slip into, to enter an industry by the front door, then to expand its field of action using its own techniques. This method is known around the world with regard to organized crime.

In my opinion, and as Mr. Shean said, this bill should be linked to other aspects that Mr. Cabana mentioned last week before this committee. When you talk about lawful access, disclosure, information sharing, these are all aspects that are necessary to the law enforcement system, to the judicial system, so that we have the necessary tools to attack organized crime, while respecting human rights, the Charter of Rights and Freedoms. However, it has to be acknowledged that organized crime, particularly in the case of well organized groups, has this ability to intimidate, to corrupt. If we don't have the tools, we won't be equipped to attack it comprehensively.

With respect to disclosure—that was mentioned earlier—it has to be acknowledged today that what the court requires in terms of disclosure, the necessary evidence against a criminal organization, is so voluminous that it is very difficult for police departments and prosecutors to manage that evidence so as to lead to a complete prosecution and, ultimately, to a charge against a criminal organization. What is unfortunate is that, when a criminal organization is recognized as such at a particular location, in a certain province—as was the case of Lindsay and Bonner in Ontario, where the Hell's Angels were recognized as a criminal organization—it is all the more necessary since that organization is recognized in the same way elsewhere in Canada, without us having to prove it again.

[*English*]

The Chair: *Merci.*

We'll move on to Mr. Murphy for five minutes.

Mr. Brian Murphy: Thank you, Mr. Chair.

I don't have all that much time to debate, Mr. Trudell, but we had some statistics the other day about murders: 104 in 2006, 74 of which were first-degree. I guess your argument is that it's going to take a lot of extra resources to go for first-degree when on the basis of the facts the result may be a second-degree conviction. But it is my experience—and the police will probably back this up—that prosecutors and police forces will make that decision based on the difficulty of the case, and it is an extra prize, if you will, that prosecutors and police will I think make the decision on a case-by-case basis.

I want to let the fellow maritimer sitting down there have some time. He's absolutely correct that Halifax has changed in character. I was a university student there, and some of my classmates—not me, of course—would roam the streets late at night without any worry whatsoever, but it's changed. Its complexity has changed. Gang members from North Preston roam the Maritimes.

I guess what I'm asking you from a law enforcement point of view, Chief, is whether you think there are enough tools in your satchel. I'll be specific. Right now you can get permission to have wiretaps for a period of one year at a time. My information is that it doesn't seem to be being used all that often. Prosecutors are reluctant to go for the full year to wiretap and intercept.

The second question I have is along the lines of the evidence given by Staff Sergeant Renwick with respect to the expert witness designation. They've had some success here in various courts, I suppose, in getting the designation. Have members of your force—a member of the RCMP, JFO, or whatever—been designated as experts on a criminal organization, in the courts in Nova Scotia? Is it easy to get? Are those some of your difficulties?

Chief Frank A. Beazley: I think in Atlantic Canada we've been a little bit reluctant to go ahead with organized crime charges, and when we have gone ahead with them—I'm thinking of one particular case we had several years ago—the actual organized crime charges were dealt off for guilty pleas and other substantive charges.

I think in Atlantic Canada, or at least specifically here in the regional municipality, we're not used to laying those types of charges yet. I think the crown is nervous. I don't think they have the expertise, and in some cases when we talk about these types of investigations, at this time we're relying very heavily on Toronto or Montreal, which have had some experience, and the crown is talking. So in some of our more recent investigations, I think we're prepared to move ahead. The crown is starting to get more comfortable with it. But, again, a lot of times when you do lay these charges, they don't go to trial, because there are different deals made. I guess that is the best way to put it.

In regard to expert witnesses, particularly in the area of outlaw motorcycle gangs, we do have people who have been designated as expert witnesses. For 12 years I was an expert witness in Nova Scotia and in Newfoundland. I've testified in Montreal against outlaw motorcycle gangs. What's improved is that there are now rules around it. There's training by the Canadian Police College and the RCMP, so I think we've gotten better at it. The rules around it have allowed us to testify much in the same way in Halifax as you would in Vancouver, trying to make sure we put our best foot forward in these types of investigations.

• (1705)

Mr. Brian Murphy: But on the wiretap question, just briefly—you're permitted to have a year of wiretap surveillance—is it being used for the whole year if it's applied for?

Chief Frank A. Beazley: Recent experience is that, no, it hasn't been, and I think the crown, again, is being cautious. We're getting the normal terms to do this, and then we go back with a renewal.

Mr. Brian Murphy: How much time do I have?

The Chair: You have half a minute.

Mr. Brian Murphy: Very briefly, we're thinking of taking a tour of various hot spots, if you will, as a committee. What I'm hearing today makes me think that if we're going to get any fruitful information about gang activity and how to combat it, we should have a good portion of our meetings in camera, that is, closed to the public. Would you agree with that strategy? I'll throw that open to yes or no from everybody except Mr. Trudell, who would probably want transparency.

The Chair: Chief Beazley, would you like to see that?

Chief Frank A. Beazley: We could probably give you some more current information that would be difficult to give right now.

The Chair: Thank you.

The other officers here?

S/Sgt Bernie Ladouceur: It's the same position from the Ottawa police as well.

C/Supt Todd G. Shean: I'd expect there's some information that would be valuable that we would be more prepared to share.

The Chair: Thank you. We'll take note of that.

Mr. Storseth, you have five minutes as well.

Mr. Brian Storseth (Westlock—St. Paul, CPC): Thank you very much, Mr. Chair.

I'd like to take the time to thank the witnesses for coming today. It was very interesting testimony today. I was glad to hear you talk about how important this legislation is as a step forward, but it is just that, one small step forward. We still have a lot of work to do. That is exactly the position our government is taking. It's the position the minister said. I was happy to hear you agree that this is legislation that needs to be moved quickly if we're to get other legislative tools put in place for you.

I have some questions that come up out of the testimony today. I'll talk to Chief Superintendent Shean, as K Division is the police detachment in our area.

How prevalent is the drug trade to these organized crimes? Is this still one of the main suppliers of finances for organized crime?

C/Supt Todd G. Shean: Yes, all our intelligence demonstrates that the drug trade is still one of the primary activities of organized crime groups. I won't reiterate what I went through in my presentation. We've seen that they've branched out in many other areas.

Mr. Brian Storseth: I have a question on that after.

If it is very important, how important is the use of cellphones to the drug trade and to the drug dealers?

C/Supt Todd G. Shean: In any sense, when you're running any type of activity there has to be a means of communication. So they're an absolute.... I can't recall any drug case that I was working on and had been part of that the person didn't have as a minimum one.... Normally you'll see multiple cellphones or devices to communicate.

Mr. Brian Storseth: BlackBerrys. Oftentimes they change them and their numbers throughout the course of a month even. So a drug dealer who didn't have access to his cellphone or a BlackBerry would be somewhat of a drug dealer from the Stone Age then.

C/Supt Todd G. Shean: It certainly would complicate matters.

Mr. Brian Storseth: The question that naturally comes to mind for me is that I understand what you're talking about when you talk about wiretaps and how important it is to be able to glean the information they're talking about. If there was a tool put in place so that convicted drug dealers from organized crime were not allowed to access a cellphone, would that not be a useful tool for the RCMP to have? Let's not get into constitutionality here.

•(1710)

C/Supt Todd G. Shean: It seems to me that's already been done. It already exists. Some courts have ordered that.

Mr. Brian Storseth: And that's the lead-up to my next question. How often is that enforced, though? It seems to me it's something that has been done, it's something that's already been established, but you don't ever hear of it being enforced.

S/Sgt Christopher Renwick: Sir, I could maybe better answer that at the level I am with the Ottawa police. Cellphones are key. When we arrest somebody we're amazed at the number of times the cellphone is going off in the short period that we have it. On bail release conditions, recognizance, and undertakings, we almost always have no cellphone conditions. On enforceability, we have a street crime unit. Their sole purpose is to be out there and enforce these conditions and look for breaches. It's a very valuable tool to us.

Mr. Brian Storseth: So you're getting good results out of that then?

S/Sgt Christopher Renwick: Absolutely, we are.

Mr. Brian Storseth: Excellent.

You talk about many of the somewhat legitimate businesses that are offsprings. How easy is it for you to audit the business of a known convicted member of an organized crime gang? How easy is it for you to audit those books?

C/Supt Todd G. Shean: For both Michel and I, our backgrounds are in proceeds of crime, so we've experienced the actual audits of those businesses. It can be quite complex because some of the businesses, especially if they've been running for a while, will resort to accountants, lawyers. They are a legitimate business that is functioning in a business world, so you really have to separate the legitimacy to see how the business started, how it was funded to begin with, where the money came from. Really, you're doing a forensic accounting job on those businesses, and it is quite complex.

Mr. Brian Storseth: That leads to my last question, which is a short one. We've talked about the legislative tools that need to be put in place. But it seems to me that when we talk about things such as the audits, it's a resource question. For each one of you, are legislative resources or financial resources the biggest problem in your day-to-day activities?

C/Supt Todd G. Shean: I think it's a combination of both. I don't think there's a simple answer.

I absolutely don't think any officer sitting before you today would say that more resources are not required. Normally when there is a requirement, we will come before the legislature and ask for those resources. On occasion, funding is an issue as well.

There are some tools that we require as well, which I know Mr. Cabana mentioned when he was here last week, and we mentioned it today. We need some of the legislative tools.

It's a combination of things that we require as law enforcement to address the avenue of organized crime in our communities.

Mr. Brian Storseth: Thank you.

The Chair: Thank you.

We'll move on to Mr. Rathgeber for five minutes.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair.

Thank you to all the witnesses for appearing today.

I'm going to limit my questions to Mr. Trudell. I have some concerns and questions regarding some of your comments, specifically on the amendments to the Criminal Code that will treat as first-degree murder any homicide that is committed as a result of organized crime or gang activity.

I specifically took careful notes during your opening comments when you called it labelling and said that labelling of such homicides as first-degree murder would do nothing. I'm confused by that.

I was a practising lawyer until my election. I'm not a criminal lawyer, but I have friends who are, and I talk to prosecutors. They tell me that for a first-degree murder charge, especially one that's being tried before a jury, the most difficult part of proving the offence is on the planning or the deliberate part of it. Would you agree with that, especially for a jury that has trouble understanding what is actually inside the mind of the accused?

Mr. William Trudell: I think it's fair to say that a strict level of proof has to be established beyond a reasonable doubt that the murder is planned and deliberate. I don't think the jurors in this country have a great deal of difficulty understanding that concept.

As a matter of fact, I think we're moving to standard jury charges throughout the country that judges would give in relation to these. I don't believe there seems to be any information or statistic that jurors are having difficulty interpreting what "planned" and "deliberate" mean and what the difference between first- and second degree-murder is. I think that through judicial institutes, etc., judges have really gone out of their way to make them standard.

However, in response to your question, I think it's fair to say there is a higher onus on proving planning and deliberation because of the maximum punishment.

•(1715)

Mr. Brent Rathgeber: We really have an economy of time here. Thank you for that.

You will agree with me that "planned" or "deliberate" and "involved in gang activity" are not mutually exclusive. This gives the crown one of two choices in proving a first-degree murder charge. If Bill C-14 becomes law, the crown can prove planning and deliberation, which it's always been able to do, or the crown can go an entirely different route and attempt to prove it was involved in a gang activity.

Mr. William Trudell: I would think that as we progress, if this bill is passed, we're going to find out something about this. Quite frankly, there is some planning involved in most scenarios where a murder has taken place by people involved in criminal activity through organizations.

My position is that you're talking about making it difficult for jurors to understand planning and deliberation. I was suggesting that it's going to add a burden to crowns to try to prove what a criminal organization is, call the expert evidence, and then try to show the link.

Mr. Brent Rathgeber: I'm suggesting to you, sir, that it does not add a burden. It gives the crown an option.

Mr. William Trudell: No, I don't agree. There has to be some planning and some deliberation for first-degree murder. I find it very difficult to imagine situations where persons involved in criminal organizations or gang activity who carry out a murder wouldn't be charged with first-degree murder, unless it was accidental.

Mr. Brent Rathgeber: Is it not the current state of the law that if a homicide is occasioned in a sexual assault and the person dies, the crown need not prove that it was planned for the person to die? It is assumed to be first-degree murder. Is that not the current state of the law in Canada?

Mr. William Trudell: It certainly is.

Mr. Brent Rathgeber: In answer to Mr. Comartin's questions, you said you were not convinced that there would be a plethora of charges coming out of these amendments. If that is true, why are you opposed?

Mr. William Trudell: It's up to you to decide whether or not there's a need for this legislation. I'm suggesting that if there was a need for this legislation we would probably see a number of charges in this area. I would respectfully submit to you that we're not going to see it, because I believe the Criminal Code covers the situations that we've been talking about.

When capital punishment was done away with in this country, we decided there were certain offences that were deemed first-degree. As we progressed, the offence that you were referring to was also included. This was because the legislature, after intensive screening and consideration and testimony, decided that there was a gap and it was necessary. If that's what you decide here, then the bill goes forward.

Mr. Brent Rathgeber: Thank you, and my thanks to all the witnesses.

The Chair: Mr. Norlock.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you.

I'm on another committee called the public safety committee. We were considering national security, I believe, with Mr. Comartin, in the last Parliament, and we were looking at counterfeit goods. I want to lead to how we feed organized crime. There's an importation of foreign goods. Any one of the witnesses can answer this—police witnesses, perhaps the chief in Halifax.

We were dealing with two types of counterfeit goods at the time. Some of them were fashionable items, like your Rolex watch that really isn't, or your Louis Vuitton purse. I made the horrible

statement of saying no purse was worth \$3,500, and a lot of the ladies disagreed. I'd like you to inform the people of Canada about what they're really doing when they go out and get these so-called deals to impress their friends who think they're the real thing.

Some of those counterfeit goods that we looked at were actually goods that we use every day. We were shown extension cords that, when you took the plastic off, contained very little metal, just little hairs of them. In buying such a product, people not only support criminal manufacturers but also endanger themselves and their fellow citizens.

Perhaps the superintendent or the chief could answer this question, and then maybe the chief could follow up.

• (1720)

C/Supt Todd G. Shean: In my presentation we spoke of counterfeit goods. We talk a lot about awareness. We have to ensure that the Canadian public is aware of where the money goes when they buy counterfeit goods. Organized crime has infiltrated these areas, because it is considered low-risk. So when you buy the designer purse, who gets the money that you've used to purchase that item? That's one concern. The awareness component is one that is very significant for us.

Then there is the safety component. A designer purse may not be dangerous, but some of these items are being used in automobiles, homes, and even toys. These items can cause harm to our citizens.

Those are the two points that we need to draw attention to, and I think one of the big issues is the awareness.

The Chair: Chief Beazley.

Chief Frank A. Beazley: I don't think I could add much more to that. I'm not an expert in this field. The little bit I do know is that we have to be concerned about safety—the extension cords, the batteries. The toys that the superintendent talked about may be made out of things like lead that could make our children sick. I think the public have to know that they're increasing their risk of maybe having their home burn down using these types of goods.

The other thing is that it's all about the money. Organized crime is greedy. People are always looking for a deal of some sort or another. But I think what we don't often talk about is that if we buy things legitimately, support legitimate business, it brings money back into your community. With these things that are often smuggled in, the money goes directly to the criminals, who use it for other types of criminal enterprises, and our communities all suffer in one way or another because of that.

Mr. Rick Norlock: Thank you, Chief.

Would I not be correct, Superintendent, in saying that the person who buys the purse from organized crime...? This is going to come around to Bill C-14. Organized crime are the people who receive the benefits of it, and that assists them in buying drugs, and the drugs in turn cause the turf wars. So by buying that purse, the person who is very concerned about the bullets flying in their neighbourhood, or at the hospital or downtown when they're doing their shopping, is, in actual fact, facilitating those things happening. We as citizens have a responsibility to make sure that when we use our wallets, we don't go to the very thing that endangers our safety in the long run.

Is that too far-fetched, or is it pretty accurate?

The Chair: Please be very short.

C/Supt Todd G. Shean: I don't believe that's too far-fetched. I think we have to draw that awareness component: where is that money going? It's going to fund organized crime, and organized

crime is involved in a bunch of illegitimate businesses, such as drug trafficking, such as weapons. So you're correct in stating that money is going back to the organized crime group to further their business.

● (1725)

Mr. Rick Norlock: Thank you.

The Chair: We're at the end of our meeting. Unfortunately we're out of time.

I want to thank all six of you for appearing before us. This is likely going to be a long road as we gather evidence to see what we can do to assist government in addressing some of the challenges with organized crime. So again, thank you to all of you.

We're going to suspend, and then we'll go in camera.

[Proceedings continue in camera]

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