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Monday, April 27, 2009

Chair

Mr. Ed Fast

Standing Committee on Justice and Human Rights

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● (1530)

[*English*]

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

This is meeting number 16 of the Standing Committee on Justice and Human Rights. Please note that this meeting is being televised.

As a reminder to those committee members travelling to Vancouver on Wednesday afternoon, a bus will take us to the airport at three o'clock. It's behind the Confederation Building.

Mr. Ménard.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Will there also be a bus that will take us from the Vancouver Airport to the hotel?

The Chair: Yes.

Mr. Réal Ménard: Good.

[*English*]

The Chair: Thank you.

Appearing before us today we have a number of organizations and individuals to assist us in our review of Bill C-15.

First of all, Mr. Richard Elliott is here representing the Canadian HIV/AIDS Legal Network.

We also have Mr. Craig Jones of the John Howard Society of Canada; Graham Norton, director of the Public Safety Project for the Canadian Civil Liberties Association; Dr. Darryl Plecus, criminologist and RCMP research chair and director, Centre for Criminal Justice Research at the University of the Fraser Valley. And finally, we have Tara Lyons, executive director of the Canadian Students for a Sensible Drug Policy.

To introduce you to our process, you will have 10 minutes to present and then we'll open up the floor to questions from our committee members.

Perhaps, Ms. Lyons, you could start. You have 10 minutes.

Ms. Tara Lyons (Executive Director, Canadian Students for Sensible Drug Policy): Thank you for the opportunity to present to you today about our concerns with Bill C-15. I'm speaking on behalf of the Canadian Students for Sensible Drug Policy, also known as CSSDP.

We are a national grassroots network, comprised of youth and students, who are concerned about the negative impacts that many of Canada's drug policies have on individuals, families, and communities.

The Chair: Perhaps I could ask you to read a little bit slower so that our interpreters can keep up.

Ms. Tara Lyons: Okay, sorry, I'll try. I'm nervous.

The Chair: Thank you.

Ms. Tara Lyons: We believe the current criminal justice approach to drug use is failing our generation and our society and is leading to increased harm from drug use. The Canadian Students for Sensible Drug Policy neither encourages nor condemns drug use, and we recognize the social and individual harms caused by problematic drug use. CSSDP was specifically formed to address the lack of young people's voices in Canadian drug policy.

We find it problematic that current Canadian drug policy approaches, including that of Bill C-15, are often justified in the name of protecting young people but that these young people are not consulted in the creation of the legislation. As a result, these policies do little to affect the realities of youth and in some cases result in the actual criminalization of young people.

Throughout my presentation I will focus on young people and youth, whom we consider to be anyone under the age of 25. I will address three concerns today. The first one is the introduction of mandatory minimum sentences, which I'm told I can call MMs. There are experts speaking to this today, so I'll leave that to them. They are going to speak to the disastrous impacts of MMs, so I'm only going to touch on our youth concerns.

We are against the use of MMs as a response to drug use and drug-related problems. We believe it is essential that decisions relating to the future of young Canadians who have been charged for their drug use or addictions be left in the hands of Canada's judges and not of the police or prosecutors. We are concerned not only because MMs disproportionately punish the wrong people, but also because Bill C-15's focus is on incarceration as a solution, and it ignores other important aspects of dealing with drug use and addiction in Canada. Drug use and addiction and drug-related crime cannot be dealt with effectively without looking at the broader social issues intertwined with these problems.

The astronomical financial cost associated with the implementation of Bill C-15 inevitably means a continued lack of funding for other programs dedicated to the prevention of drug use, treatment of people with addictions, and reduction of harms related to drug use. Incarceration is not an effective way to treat drug use or addiction among young people—or any person with drug addiction, for that matter. Widening the net of criminalization and marginalization will not create a safer, healthier Canada and will not create a safe, viable future for young people.

My second point is on aggravating factors contained in the bill. Bill C-15 contains several aggravating factors that automatically increase the minimum sentence for the individual charged. It is clear that many of these factors are designed to protect youth, but the dangerously vague language of this bill means that youth often can and will be harmed instead of helped.

For example, proposed item 5(3)(a)(ii)(C) in subclause 1(1) reads that a mandatory minimum sentence of two years is given if

> the person used the services of a person under the age of 18 years, or involved such a person, in committing the offence.

Clearly, this clause was added with the intent to protect youth, but the vague language means that an 18-year-old sharing a joint with a 17-year-old friend could end up in jail for two years because of this really vague language.

Another provision in this bill that is of great concern for us is in proposed item 5(a)(ii)(A), under which an individual receives a mandatory minimum sentence of two years if the offence is committed

> in or near a school, on or near school grounds or in or near any other public place usually frequented by persons under the age of 18 years

This could literally be anywhere: the street, the mall, movie theatres, or parks. If a place is frequented by young people, then it is more likely young people who will be doing time under the MMs in our already overcrowded jails and prisons.

The government is aiming to protect youth with Bill C-15. We recognize that substance abuse among youth is a great concern in Canadian society, but there is no evidence to show that increasing the potential consequences will have an influence on the decisions of young people or anyone else to use, produce, or traffic drugs. This bill and mandatory minimums in general do nothing to address the root causes of drug use.

The third point I'm going to touch on concerns drug treatment courts.

While recognizing the important role that treatment can play in deterring crime, we have several concerns with the bill's inclusion of drug treatment courts. Perhaps most importantly for this bill, only six cities have drug treatment courts and therefore only a select group of people will have the option to participate. Building drug courts in cities that don't currently have one is an expensive process, and drug courts are not viable in rural areas because the population is too small. First and foremost, drug treatment courts cannot be used to justify this bill, because they are only available to a small number of people, excluding individuals in smaller cities and rural areas.

We are also concerned with the results we have seen from the drug courts so far. The average percentage of people who graduate from drug courts in Canada is around 10%.

● (1535)

The Canadian Centre on Substance Abuse found that program completion rates evidenced in the evaluations of the Toronto and Vancouver drug courts are unacceptable by any standard of care, including that for the treatment of high-risk and high-need populations. Most drug courts lack client-specific programs that are required to meet the needs of different treatment groups, including women, aboriginal communities, young people, and people with co-occurring problems.

Further, low rates of completion of the program significantly elevate the overall cost to treat a single individual. For example, the total cost to run the Vancouver Drug Treatment Court for three and a half years was over $4 million. Since only 42 people graduated, the cost per graduate was just under $100,000. This money would have been or would be better spent on evidenced-based treatment, affordable housing, employment programs that give people a chance to get out of the cycle of imprisonment, child care for women wanting to attend treatment programs, and youth-based education programs for prevention.

Drug courts also use treatment services in the community, and people who are voluntarily on the long wait list for treatment get bumped off it for people in the drug treatment courts. This sets up a system whereby one has to be criminally charged to get access to treatment services.

There are also cases of marginalization present in the drug treatment courts. As I said, they are not available to all and they are not equally effective for all. Women are less likely to apply to drug courts, and if they do, they are much less likely than men to graduate. There are numerous reasons for this, including lack of gender-specific programming and being forced into group therapy with men, including men who are former dealers or boyfriends.

This is especially important to note given that mandatory minimums for drug offences in the U.S. resulted in dramatic increases in women in prison. Therefore, not only would Bill C-15 result in more women and mothers in prison, it would unfairly set women up to have no other option than to serve the mandatory minimum sentences.

The Winnipeg Drug Treatment Court evaluation states that graduation may be biased towards better-advantaged people who are of the majority: people who are white, socio-economically advanced, and male.

While in principle we agree that treatment is a better option than incarceration for individuals struggling with drug use and addiction, the reality of drug courts in Canada leaves a lot to be desired. The dismal results of the program so far show that they have not been as effective as they are made out to be, and they do not present a fair treatment option for everyone.

If I still have time, I want to leave you with some words of a 22-year-old street-involved addict who lives here in Ottawa. She says:

> When I started using opiates intravenously I was too young and naive to understand the consequences. I had no understanding of addiction or of what a physical dependancy was. I can't change the past, all I can do is try to survive through today.
>
> In order to clean-up I need support and treatment, not drug court or a prison sentence. You wouldn't punish my PTSD with a 2yr minimum sentence so why would you put me in jail for an affliction I am ashamed to have.
>
> Incarceration won't solve my addiction, it will make it stronger and I will loose more control. The reasons I use drugs won't just dissapear because I change where I live. When I get jailed because of Bill C-15 I will loose my motivation and hope for sobriety, I will have no access to sterile...equipment, use more/different drugs and learn about crime (of which i presently know nothing). How will I re-intergrate? I want a job, I want an appartment, I want methadone, and to have a future where I can travel.
>
> I don't want to go to jail. I want to get clean. I deserve a chance, with Bill C-15 that chance will be taken away.

In terms of recommendations, given the evidence that mandatory minimum sentences for drug offences do not deter drug use or crime and the devastating impact these sentences could potentially have on Canadian society, the Canadian Students for Sensible Drug Policy recommends that Bill C-15 be abandoned.

Thank you for your consideration. I apologize for talking too fast.

● (1540)

The Chair: Thank you, and thank you for staying within the time provided.

Mr. Jones, you have 10 minutes.

Mr. Craig Jones (Executive Director, John Howard Society of Canada): Thank you.

Thank you very much for having me here, honourable members. It's great to be in front of this committee again and to be on this panel with these esteemed persons.

The John Howard Society of Canada has a long history of appearing in front of this committee. As some of you will know, my predecessor, Graham Stewart, made two or three dozen appearances here over his long tenure, and I always open these deliberations by saying that I'm not Graham Stewart. So please beat your expectations to the ground and we'll get on with it.

We are Canada's oldest voluntary sector and non-governmental charitable organization committed to safer communities and reduced reoffending through pro-social reintegration of prisoners at the end of their sentences. Our mission statement calls us to have “effective, just and humane responses to the causes and consequences of crime”. Bill C-15 fails on all three tests. I'll return to that in a moment.

The John Howard Society of Canada believes that criminal justice policy, precisely because it is a defining feature of Canadian civilization, ought to be the concern of all democratic citizens, not just their elected leaders. It is the obligation of NGOs like the John Howard Society of Canada to ensure that governments of all kinds adhere to the values of being effective, just, and humane in accordance with the principles of fundamental law and consistent with the best evidence on what works to create a safer society, where crime is managed according to the best available research in the scientific literature.

The John Howard Society of Canada is not soft on crime or tough on crime; the John Howard Society of Canada endorses policies and practices that are smart on crime.

I'm going to go directly to my recommendations, because you will have read at least some of these briefs, and you'll know that we share a perception that Bill C-15 is flawed across the board.

I have four recommendations.

First, as Bill C-15 targets crimes arising from business transactions related to illicit drugs, but misunderstands the nature of these transactions, the John Howard Society of Canada, in keeping with our values and principles of effective, just, and humane criminal justice policy and practice, calls on the Government of Canada to launch a royal commission to investigate and make recommendations on the best way to respond to violent crimes arising from illicit drug business transactions. The commission should call witnesses of international stature. It should, in its recommendations, be driven by peer-reviewed evidence, which I'm happy to share with you, and comparative historical experience with drug prohibition, the crimes that arise from drug transactions under conditions of prohibition, and the resulting legislative responses. All deliberations and reports should be published in full.

Second, the John Howard Society of Canada calls on the Standing Committee on Justice and Human Rights to commission a panel of independent experts to conduct an evidence-based evaluation of international experience with mandatory and minimum practices to evaluate (a) their effectiveness with respect to violent crimes arising from drug prohibition business transactions; (b) their agreement with principles of fundamental justice and human rights; (c) their concordance with principles of proportionate sentencing; (d) the potential for exacerbating reoffending by persons subjected to mandatory and minimum sentences; and (e) the public health implications for exacerbating the conditions of drug-addicted offenders and the families and communities to which they return. All deliberations and analyses should be published in full.

Third, in keeping with the government's commitment to accountability in public spending, the John Howard Society of Canada calls on the Standing Committee on Justice and Human Rights to commission the Parliamentary Budget Officer to expedite a cost-benefit analysis of the fiscal implications for provincial justice, including legal aid and correctional systems, of the effects of mandatory and minimum sentences in Bill C-15, and to publish this analysis in full.

Last, in keeping with the government's commitment to accountability in public spending, the John Howard Society of Canada urges the Standing Committee on Justice and Human Rights to amend Bill C-15 to mandate a cost-benefit analysis, by the Parliamentary Budget Officer, of the projected crime reduction outcomes of mandatory sentences, as envisioned by Bill C-15, no later than 2012, and to publish this evaluation in full.

● (1545)

Thank you. I look forward to taking your questions.

The Chair: Thank you, Mr. Jones.

We'll move on to Mr. Elliott. You have 10 minutes.

Mr. Richard Elliott (Executive Director, Canadian HIV/AIDS Legal Network): Thank you, Mr. Chair and committee members, for the opportunity to speak with you today. The Canadian HIV/AIDS Legal Network is a national non-governmental organization, an NGO, with special consultative status with the United Nations. Its mission is to promote law and policy that help with HIV prevention and care and to oppose law and policy that hinder it. I'm afraid I have to say that Bill C-15 falls into the latter category, and today we're here to speak to you about a number of problems with Bill C-15 and why, in our view, it should not proceed.

I've shared with the committee members a copy of our brief and some additional material. I hope you have a chance to read it, and I'd be happy to speak to anything in that material. You'll also find in the material that we've given to you a copy of a letter signed by almost 150 organizations and individual experts from across Canada who share our concerns with Bill C-15. This includes front-line AIDS organizations, people who work on the front lines providing addiction treatment services, and people who work with prisoners and ex-prisoners. It includes leading academic researchers. It includes the Centre for Addictions Research in B.C., and it includes the Centre for Addiction and Mental Health based in Toronto. All of them share our concerns with Bill C-15.

In our view, Bill C-15 is both misleading and misguided. It is misleading particularly in the way it's been presented to the Canadian public. Bill C-15 creates minimum prison terms for a variety of drug offences involving any quantity of a number of controlled substances. It's presented to the public as getting tough on serious drug crimes, and in particular on producers and traffickers of illegal drugs, and it's presented as a bill that will help ensure the safety and security of neighbourhoods and communities.

The objective of enhancing public safety and security, of course, is laudable, and we share it. However, the means chosen, as embodied in Bill C-15, are not, and it is misleading to present Bill C-15 as in any way likely to achieve these objectives. In particular, let me note the fundamental premise that we can draw a clear distinction between traffickers, the dealers that are supposedly targeted by Bill C-15, and users, the addicts, the people with drug dependence, who are supposed to be helped under our national anti-drug strategy. There is no such bright-line distinction, and in fact many people with addictions will engage in small-scale trafficking in order to support their addictions. There is evidence of this from any number of jurisdictions, including those here in Canada. These are the people who will be most easily targeted for prosecution under Bill C-15, the people who will, if the experience in the United States and indeed here in Canada is any guide, be the ones who will end up in prisons. They will be the ones who bear the brunt of mandatory prison terms for drug offences.

So it's misleading to suggest that Bill C-15 is going to make our communities safer and that it is going to target only supposed drug dealers. It's going to hurt those it professes to help most. However, it's also misguided in other ways, and I'd like to suggest that Bill C-15 is ill-advised on a number of fiscal, public health, and human rights grounds.

First of all, it removes judicial discretion in sentencing and imposing prison terms for drug offences in a very broad range of circumstances, including a number of non-violent offences, inviting sentences that are unjust given the circumstances of the offence. It sentences a crime rather than an offender, which is contrary to fundamental sentencing principles already recognized in Canadian law.

Secondly—and this should be, I think, of primary concern to this committee—the available evidence, and there is a lot of it, indicates that mandatory minimum sentences, particularly for drug offences and particularly including imprisonment for people who are convicted of drug offences, do not reduce the problems related to drug use, and they do not reduce drug use itself. In fact, Justice Canada commissioned its own review of the evidence a number of years ago, in 2002, and came to this very conclusion. In fact, the jurisdictions that have the most experience with mandatory minimum sentences for drug offences, including mandatory prison terms in the U.S., are now moving away from mandatory minimum sentences. Across the political spectrum, across the range of research there is an emerging consensus that these mandatory minimum sentences do not work for drug offences. They cause injustice, and in fact all they cause is a dramatic increase in the number of people in prison.

That brings me to my third point. Incarceration is extremely expensive, and this should also be of concern to all of the committee members and to all members of Parliament. It's going to be particularly expensive for the provincial governments, who are going to bear the primary cost of the enforcement of mandatory prison sentences. Many of those who are subject to mandatory prison terms under Bill C-15, if enacted, will receive mandatory terms that fall under the two-year threshold for doing that time in a federal prison. It would be interesting to know what the actual cost implications are, especially for the provincial governments, of Bill C-15. I would imagine that provincial governments might have something to say about the federal government passing legislation for which they will have to pick up the tab.

● (1550)

Of course—and here's a fourth point—incarceration carries tremendous societal costs of disrupting families, including for the children in those families, and when the net of incarceration is cast so widely as to encompass a very significant number of people convicted of non-violent offences or offences that could be better managed in the community, the cost is that much more excessive, compared to the basically non-existent benefit to be achieved from Bill C-15.

Fifth, increased incarceration generates poor health outcomes generally, in particular putting more people in prison and in particular people with addictions, and it is particularly ill-advised as a matter of public health. We know that drugs get into prisons, notwithstanding all of the efforts to date and no doubt all of the efforts that will come to keep drugs out of prisons.

Correctional Services Canada's own research estimates that about 80% of people in federal prisons have a history of substance abuse. Their own data also confirms regularly that people who have addictions continue to use drugs in prisons, including by injecting those drugs. What people don't have access to in prisons are sterile needles. This means—and we have evidence of this—that people share injection equipment in prisons, putting them at a much higher risk of HIV infection and hepatitis C infection. Therefore, it is no surprise that we see exceedingly high levels of HIV and hepatitis C infection among prisoners, which is somewhere in the order of 10 to 20 times higher than the prevalence of those diseases in the Canadian population as a whole.

Finally, let me share with you the perspective of people who use drugs. I want to share with you some text of a letter that was sent recently to the Hon. Rob Nicholson, Minister of Justice, and the Hon. Leona Aglukkaq, Minister of Health.

This is from Rosemary Fayant, who is the president of AAWEAR, which stands for Alberta Addicts Who Educate and Advocate Responsibly. She writes that AAWEAR is the provincial drug users' group in Alberta. She also facilitates a local users' group in Edmonton. They have a sister group in Calgary, which is called Grateful or Dead—I think that's pretty funny—as well as a group in Red Deer called The Next Step. There are newly-formed groups in Fort McMurray, Grand Prairie, Medicine Hat, and Lethbridge.

She says:

> The groups are comprised of people who use or have used drugs in their lifetimes. ... Many of our members now have stabilized [their drug use], have had housing since their involvement with the groups, some have quit using drugs and feel a part of the "mainstream".... As well, many of us have been incarcerated for drug offences, or drug related offences at some period in our lives.
>
> Although all of our life stories are different, there is a common underlying theme—we all made a decision that ended up with us being imprisoned, and our lives' have never been the same since. Prisons are now places filled with gang members, violence, and there are not many, if any rehabilitative programs available.

She goes on to say:

> The war on drugs in the United States has shown that it does not work, and with the implementation of Bill C-15 our provincial and federal prison systems will be overflowing with people just like in the States. Many people who have "made an error in judgment" will now be imprisoned and come out with a criminal record, and even with a pardon they will not be allowed entry into many of the countries of the world. The vast majority of people who sell drugs are doing so to support their own drug problem, and when one is ill from not having their drugs they will do anything to get them. Instead of treating people who use drugs as criminals, perhaps more thought should be put into treating them as people with a medical condition. The government should really do more to target the high level dealers, instead of wasting tax payer's dollars on the street level dealers.
>
> Speaking on behalf of the members of AAWEAR it is a proven fact that many of us have continued to use while in prison, and there are no real programs for people with addictions within our prison systems. Until the issues surrounding drug use are dealt with, people will continue to use. Perhaps more money should be put to better use in combating homelessness, because until one has a roof over their heads they cannot address any issues surrounding their life.
>
> We are therefore strongly urging you to withdraw Bill C-15 and refocus on the studies that show scientifically-proven approaches to addressing drug use and drug-related crimes within Canada, which are approaches that work for people who use drugs and for our communities more broadly.

● (1555)

And I—

The Chair: I'm going to have to stop you there.

Mr. Richard Elliott: I will simply end by asking that the government withdraw Bill C-15 and that members of other parties vote against this legislation.

Thank you.

The Chair: Thank you.

We'll move to Graeme Norton, representing the Canadian Civil Liberties Association.

Mr. Graeme Norton (Director, Public Safety Project, Canadian Civil Liberties Association): Thank you very much, Mr. Chair and members of the committee, for the opportunity to speak before you today.

I'm here on behalf of the Canadian Civil Liberties Association. We are a civil liberties watchdog and advocacy organization. We've been around in Canada in excess of 40 years. Some of our primary objectives include the promotion of respect for and observance of fundamental human rights and civil liberties in Canada. Our major objectives also include the promotion and legal protection of individual freedom and dignity against unreasonable invasion by public authority.

We've provided the clerk with a brief, setting out some of our concerns about Bill C-15, and I will be reviewing some of those concerns in my presentation before you today.

In short, our overriding concern with Bill C-15 is that it is insufficiently nuanced and casts too wide a net. We share many of the concerns that some of the other witnesses have already expressed, and I'll review those now.

We're concerned, in large part, that persons who do not pose a significant danger to Canadian society will be lumped in with those who do and will be targeted for mandatory imprisonment. In our view, a more tailored approach is necessary to ensure that the bill does not cause significant collateral damage through the pursuit of its otherwise legitimate objectives and public safety goals.

Our primary concern with Bill C-15 relates to its overriding purpose: the introduction of mandatory minimum sentences for drug crimes in Canada. The CCLA has generally opposed mandatory minimums in all areas of Canadian law. We're particularly concerned about them when they're used to combat drug crime. Such sentences can be appealing because they purport to offer simple solutions to complex problems. The available evidence, however, suggests that the purported benefits of mandatory minimum sentences are somewhat of a mirage. Mandatory minimum sentences have not proven capable of effectively preventing or reducing crime. Studies have shown that citizens are generally unaware of which crimes come with mandatory minimum sentences and which do not. Indeed, the majority of social scientists who have studied the impact of such sentences have found they offer no value as a crime deterrent.

Such findings have been particularly pronounced with respect to drug crimes, where observers have found no discernible impact whatsoever on drug consumption or related drug crime as a result of the imposition of a mandatory minimum sentencing regime.

Moreover, because of their rigidity, such sentences create the risk that a particular offender will receive a sentence that is not appropriately tailored to the nature of their particular crime. Simply put, predetermined one-size-fits-all sentences are not capable of being sufficiently responsive to the unique characteristics of certain crimes, or of those who may commit them.

Inevitably, situations will arise where a predetermined mandatory sentence is excessive compared with the facts of a particular case. We've set out a couple of examples in our brief where courts have found the sentences they've had to impose as a result of mandatory minimum legislation to be, in their view—that is, in the view of those with the closest perspective of a particular case—unjust or unduly excessive.

While these negative consequences can result under any mandatory sentencing regime, they appear to be particularly from the use of such sentences to address drug crime. Drug crime, as others have noted, is a type of criminal activity in which a wide range of people can become involved for a wide range of purposes. Some, for sure, are violent offenders, profiting from drug users and drug addicts. There's no question about that. Others, however, may be addicts themselves, or users without addictions. Some persons may become involved in drug crime through low-level production or trafficking activity on a one-time basis, in order to deal with a personal financial crisis, for example.

Indeed, the danger posed to society by different drug offenders may differ widely, and courts should retain sufficient discretion to ensure that offenders receive sentences that are both appropriate for and proportionate to their particular offences.

In our view, Bill C-15 is not sufficiently nuanced to achieve proportionality in sentencing. And it is not difficult to imagine excessive sentences, should the bill become law.

The provisions relating to the production of marijuana, for example, would require that the same minimum sentence of six months' imprisonment be imposed on offenders who grow a single plant for profitless distribution to friends and on offenders who grow 200 plants to be sold for profit to strangers. While one can certainly imagine that the courts may wish to differentiate between such offenders, Bill C-15 permits no such distinctions. The likely result of this rigidity, of course, is that persons for whom imprisonment may be inappropriate could find themselves being incarcerated, nonetheless.

There is simply no reason for Canadian law to risk this type of injustice, as there are alternatives to mandatory minimum sentences that can minimize their negative consequences. Indeed, Parliament could instead set out presumptive minimum sentences, which would apply, unless the relevant court believes there are exceptional circumstances relating to the offence or the particular offender that would warrant diverging from the presumptive sentence in a particular case. The key distinction, of course, between these two options is that one takes final discretion away from courts and one leaves final discretion with courts.

● (1600)

As a result of the foregoing, our first recommendation regarding Bill C-15 is that all of its mandatory sentencing provisions should be excised. Such action would significantly reduce the potential for injustice created by the bill and in no way undermine its legitimate goals of promoting and protecting public health and safety.

A second point of concern set out in our brief relates to the aggravating factor under the trafficking provision that would require that a mandatory minimum sentence of two years' imprisonment be imposed on anyone trafficking certain substances—I quote from the legislation now—“in or near a school, on or near school grounds or in or near any other public place usually frequented by persons under the age of 18 years”.

While we take no issue with the notion that dealing drugs to or near minors could be an aggravating factor in assessing the appropriate sentence, we are deeply concerned by the broad and vague language used by the bill to describe such circumstances in its current form.

Indeed, there's no indication of what is meant by “near a school”. Are we talking about three kilometres, 300 metres? It's simply not clear. Similarly, the term “any other public place usually frequented by persons under the age of 18 years” could mean virtually anywhere in urban areas. This could include malls, parks, concerts, downtown streets, and so forth. Really, anyplace—other than those where minors are not permitted—could fall under that legislation, and thus require that a two-year minimum sentence be imposed.

This lack of clarity is of course particularly concerning in the context of mandatory minimum sentences. Basing a two-year imprisonment requirement on the extremely broad and unclear language of this provision is sure to result in people being sent to prison who perhaps should not be there. In our view, the overbreadth of this aggravating factor alone is sufficient to condemn its use.

Accordingly, we're recommending that to the extent that Parliament wants to make proximity to minors an aggravating factor in sentencing for trafficking offences, it should focus only on those situations where minors were present when the impugned conduct occurred.

Our third and final recommendation regarding the bill relates to its provisions regarding drug treatment courts. Such programs, of which we are generally supportive, have proven capable of effectively reducing rates of criminal recidivism, an outcome that is clearly in the interests of both society and individual offenders. By allowing certain offenders to avoid mandatory punishment by participating in such a program, these provisions of Bill C-15 will help ameliorate some—I stress, only some—of the negative consequences that the mandatory provisions in the bill do incur. In our view, however, drug treatment court participation is unduly restricted by the bill.

While we acknowledge that the presence of certain aggravating factors may be an appropriate basis for determining ineligibility for such programs, we believe such assessments, like the assessment of the appropriate sentence for a particular crime, are best made by the courts, who have an on-the-ground view of what's actually happening with a particular offender. Legislation is simply not sufficiently aware of a particular case to make that type of analysis, which is very complex.

The automatic exclusion of such offenders from drug treatment court will result in people who may need drug treatment going without it. Cycles will not be broken, and the risk of criminal recidivism will be less effectively addressed.

I would also point out, as Ms. Tara Lyons has pointed out, that there are only drug treatment courts in certain cities in Canada. This is not something that's going to apply everywhere where somebody could be charged with a drug crime. So we're going to be treating people differently, effectively by where they're located in the country.

As a result, we are recommending that Bill C-15 should permit broader access to drug treatment courts and not limit access on the basis of the enumerated aggravating factors.

Those are our remarks. Thank you very much.

● (1605)

The Chair: Thank you, Mr. Norton.

Dr. Darryl Plecas will be our final presenter.

You have ten minutes as well. Thank you.

Dr. Darryl Plecas (Royal Canadian Mounted Police Research Chair and Director of the Centre for Criminal Justice Research, School of Criminology and Criminal Justice, University College of the Fraser Valley, As an Individual): Thank you.

Thank you very much for the opportunity to be here.

First, I want to tell you I strongly support this legislation and I hope I can give you some solid reasons why you should too. Of course, I don't think for a minute, and I know you don't, that this legislation is the be-all and end-all, and certainly through sentencing practices, we are not going to make some of the kinds of gains doing something about the drug problem as we might through public education and treatment programs, the kinds of things you all know are being done right now through the national drug strategy. There's no question that all kinds of other things that could be done are being done.

We also know, looking at those kinds of things that are being done—it's true now and it's been true for a long time—that we still have a problem. None of those things work as well as we want them to. Nowhere is that more obvious than when you come to British Columbia. Certainly, when you talk about production and distribution of drugs, we have a serious gang/organized crime problem in British Columbia. Why do we have that problem? That can be traced directly to drug production. There is no question about that.

We also know, with regard to this legislation, and we certainly heard it here today, that people have a number of concerns about it. There are concerns we're going to limit judicial discretion; there are concerns we're going to sweep up people in the course of this; and that mandatory minimums are not effective at all anyway. I ask you to consider those criticisms in the face of what we know now about what's going on with respect to sentencing and correctional practices.

To begin with, on the matter of sentencing at judicial discretion, I would say strongly that you want to be attentive to what judges are doing now and what they have been doing for the last decade. They are, in a word, doing an absolutely terrible job at sentencing. We should be doing something to limit their discretion. Let me tell you why I think that.

One of the things judges are supposed to take into account is prior record. If they don't take into account prior record, at the very least, they argue, they take into account prior record on like offences. That is an absolute lie. Nothing could be further from the truth. I have studied that specifically. I know other research out there claims to have studied that, and I would argue they haven't studied that properly. When you look at that and drill down to exactly what's happened to people today and over the last two decades with regard to that, you will find—and I have some charts here, if somebody wants to look at those later—that if somebody is sentenced, for example, on their seventh offence and they're not getting any more time than they did on their first offence.... For example, somebody shows up in court for their seventh assault; those individuals get the same amount of time as they did on their first, and they walk into that seventh sentencing with over 30 prior convictions. It's the same kind of nonsense that I find whether I'm looking at break-and-enters, at assaults, at robbery, or at drug offences. It never changes. The claim that judges take into account prior record is not true, and I would challenge anybody to find otherwise.

The second issue is on what I also know from my own research about what happens in sentencing, and I have studied this under a microscope. I've studied entire communities of individuals who have been apprehended for one reason or another, before the courts for one reason or another, and one of the things I know for sure, and I'm not the only person who's made this observation, is that most people, especially people who are highly recidivist, can't even get through the sentence they're awarded without being convicted of another offence. We have a problem here with what we're doing. We're not even able to provide effective sentences in the first instance.

The third thing I call your attention to, which you may be aware of—and these are statistics hot off the press from StatsCan with regard to what's happened with sentencing over the last decade. That report came out in October and showed, if you can believe it, that 27% of people who are given a prison sentence in this country are given a sentence of eight days or less.

● (1610)

We also have a situation where we have people who are given a sentence of less than a year. That amounts to most sentences. We're not talking serious sentences here. As a matter of fact, that report calls our attention to the fact that those percentages, in terms of under eight days, has literally doubled in the last decade. Those claims that the judges aren't becoming more lenient certainly flies in the face of that Statistics Canada data.

The more important thing I would ask you to consider is, why would we be doing this anyway? What are we trying to do? The concern is that we're trying to get tough. Certainly, I wouldn't argue that there's a need to get tough, but there's a need to get effective. Sentencing is supposed to address rehabilitation, public safety, general deterrence, specific deterrence—of course, it isn't only deterrence—and denunciation of the offence. It's those five things. I ask anybody in this room, is there a single soul here who believes for a minute that you could address any one of those goals, let alone any collection of them, with an eight-day sentence? What are we doing?

I call this absolutely stupid sentencing. It's particularly tragic because we also know that we have an opportunity within our federal system. I know people have criticized the prison system. Well, the statistics and track record of federal corrections and national parole simply don't hold up in terms of the reported failure of those systems. It's simply not true. Most people who set foot in a federal institution in Canada never set foot there again. Of course, we should expect that to be the case, because what they have there and are not getting elsewhere are treatment programs and rehabilitation programs.

We also want to remember that it isn't only about treatment. People who find themselves in these situations come there with a multiplicity of problems. They need a multifaceted approach and they need stuff on post-release. What those prison sentences of two years or more do, which we can't get any other way, is an insurance policy that allows us to aspire to reach the goals of that sentencing, and if they don't work, then we have an opportunity to hold that person for the entire length of time.

People talk about mandatory prison sentences as though somebody flattens it. Nothing could be further from the truth. If you get a sentence in Canada of two years or more, as you all know, you can be released in as early as one-sixth of the time. Anybody who ends up doing more than one-sixth has gone through a battery of assessments that tells correctional officials and parole officials that there's some concern about public safety, rehabilitation, or whatever.

I would argue, why wouldn't we seize on that opportunity to have that multiplicity of assessments and give credit to those who deserve to be released early? As well, as I read this legislation, every person would have that opportunity. Why would we say we're not interested in that, but put it in the hands of a single individual, a judge, who, I'm reminded, may well be someone who has never taken a single course in psychology, let alone have the ability to make assessments about somebody's capacity or suitability for rehabilitation, public safety, or whatever?

I think we have to put this whole thing in perspective. What are we doing now? I would argue that if we don't do this kind of thing, doing what we're doing now is a colossal big zero. We have evidence that we can be effective and this points us in the right direction.

The other thing about which I would remind people is that we have, particularly in British Columbia, an outrageous disrespect for the criminal justice system. By various polls we have shown that 90%-plus of British Columbians believe that our courts are doing a lousy job, that politicians aren't doing enough, and that other people in the criminal justice system aren't doing enough. Of course they think that. They're mad, especially victims are mad, because we're not doing enough. We're not doing things that are effective. Again, the issue is not getting tough.

Finally, I caution you to be guarded when looking at that research that comes out of the United States. I would argue that it is seriously methodologically flawed. We have a wildly different situation here in Canada.

● (1615)

We are not talking about locking people up for forever and a day, 25 years, life, that kind of thing. Of course that's stupid. But when you're talking about sentences as proposed here, relatively short sentences, the only thing I would do differently is increase the length of minimum sentences by some distance, because even if you awarded somebody a six-year sentence, conceivably that person can be released after one year. Then we have the assurance, as a society, of the effectiveness of rehabilitation, public safety, deterrence, whatever.

Again, I feel good about it because I know the track record of the system that would be responsible for implementing it.

Thank you.

The Chair: Thank you so much.

We're now going to open it up for questions.

Mr. Murphy, I believe you are going to start. You have seven minutes.

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

Thank you, witnesses, for your testimony.

This bill is an interesting bill. I'm going to say right off that I'm intrigued by the drug treatment courts, DTC, aspect of the bill. A large part of my questioning will be on that.

First of all, Mr. Plecas, you mentioned that you had studies. Have they been tabled? You touched on some studies.

Dr. Darryl Plecas: I have them here.

Mr. Brian Murphy: Is that what we have?

Dr. Darryl Plecas: I thought there were only six people here for some reason, foolishly. People can see at a glance here what I'm talking about, the situation—

Mr. Brian Murphy: I can't see it from here.

Could we get copies of that, Madam Clerk, eventually? I don't need them now.

The Chair: Mr. Murphy, we have before us hard copies of presentations that were made by the first four witnesses. I am going to ask each of the witnesses, if you referred to studies or research that was done, could you get us copies of them? Especially Dr. Plecas, if you have some research you've done, or studies, could you table them with the clerk and we'll distribute them for you? We'll get it translated and then distribute it.

Dr. Darryl Plecas: I wasn't talking about studies that I've read. I'm talking about studies—

Mr. Brian Murphy: Studies you did—

Dr. Darryl Plecas: Over and over and over again—

Mr. Brian Murphy: No, no. Just to make it clear, you referred to research that *you* did—

Dr. Darryl Plecas: Yes.

Mr. Brian Murphy: I thought you put your hand like this. I would love to have those studies because we'd all be better informed.

I'll just say in passing that I'll give you a chance to repeat your comment that judges are not following the law in sentencing procedure with respect to considering past convictions. You have said that quite blatantly. Would you like to say it again—

Dr. Darryl Plecas: Yes, I will say it again.

Mr. Brian Murphy: —so that we can send that to the Canadian Judicial Council and make sure that all chief justices across the country...? The members of the Canadian Bar Association, all the prosecutors who I know, and their associations, would probably like to know which judges aren't following the law with respect to sentencing.

● (1620)

Dr. Darryl Plecas: I would say it is certainly the norm that they are not following that. I know, for example, that the chief administrative judge in British Columbia, Hugh Stansfield, said that not only do they take it into account, it is taken into account as the most serious aggravating factor. What I'm telling you is when I go down to look at who comes before the courts, who gets arrested for one crime or another, and then go back to look at their criminal histories, we find consistently that, for example, on their fifth, sixth, seventh, eighth, ninth conviction for a like offence, they will get the same amount of time. And I'm ignoring the whole matter of what their prior offences are overall.

When I did that analysis, knowing that it would be criticized, I also ignored “two for one”. I did it in British Columbia. I ignored any kind of sentences that were done outside of British Columbia, and I also ignored the reality that a significant number of offenders, at least in British Columbia, don't even have their convictions recorded.

Mr. Brian Murphy: That may be the case in British Columbia. I'm not from there. I've known a lot of judges and lawyers and prosecutors, and what you said just is not part of my 23-year history, so enough of that.

I do want to talk about drug treatment courts because I think the saving grace of this bill is that it's one of these rare cases where even though people have said that mandatory minimums do not deter people from committing the crime, this is a unique situation where people have the option of avoiding a mandatory minimum after a conviction or in the process of being sentenced. It is a bit unique. In other words, the mandatory minimum on the books might serve to get more people into drug treatment courts.

The general question—and I heard some evidence to the contrary —is, do we feel that drug treatment courts work? Second, do we feel that this bill would steer more people to the drug treatment courts? One of the witnesses said it would. I hope we won't take all the time in the world answering that, but I'll start over here, if we could, on those two simple questions.

Ms. Tara Lyons: Do drug treatment courts work? I guess it depends on how you evaluate success. In my opinion, a success of 10%.... The Canadian Centre on Substance Abuse claimed those standards of care are not acceptable at 10%. So I wouldn't say they are effective.

Another concern with that is, do they work to further criminalize more people before they have access to treatment? Yes, if that's the measure of your success. Would they steer more people to drug courts? Maybe. But in terms of coercion, which drug courts work on, and some people will go through them.... But like the Winnipeg drug court evaluation says, they are the better-advantaged people already. Other studies show that they're the people with less minor addictions, whether it's marijuana or alcohol. But, for example, in the Ottawa drug court, you're not allowed in with alcoholism. More people might be steered in, but it's not going to increase the success rates.

Mr. Brian Murphy: Just so that everybody has an opportunity....

Is that all right? How much time do we have?

The Chair: About another two minutes.

Mr. Brian Murphy: I live in Moncton and there's no drug treatment court in Moncton, New Brunswick, so the issue about expanding and resources is a different issue. But with the two general principles—do they work and will there be more people steered there by this bill?

Mr. Craig Jones: May I build on what Tara said a moment ago? It's early days in regard to our understanding of how well drug treatment courts work. To the best of my knowledge, we have not had a thoroughly methodologically sound evaluation of drug treatment courts that rises to peer-reviewed levels. What we have are indications of promise in some circumstances. But here's the larger problem. When we're talking about drug treatment courts and drug abusers, we are also talking about people with pre-existing mental and psychological conditions. One of the many problems with this bill is that it does not comprehend the context in which it proposes to punish people. It does not take into account the fact that some of these people have pre-existing psychological disorders that they use drugs to treat.

I'll return to some other aspects later, but I want to give Richard a chance to speak on this.

Mr. Richard Elliott: Thank you.

Very briefly, the evidence on drug treatment courts, as the two previous speakers have suggested, is equivocal. There are any number of justice system actors in the U.S., where they have a much more extensive system of drug treatment courts, that are raising very serious questions about how those courts are structured and how they work and whether they actually have the benefits that are claimed.

I will share with the committee, by way of follow-up, some material that we prepared recently that reviewed the available evidence about drug treatment courts and showed that the outcome is equivocal.

The second thing I just wanted to say, though, is that even if you accepted for the moment that drug treatment courts were the way to go, and set aside the question of whether or not we should be spending money to use the criminal justice system to coerce people into treatment when we already know people don't have enough access to voluntary treatment, the way that Bill C-15 is written now casts the net so widely that many people would be excluded from being eligible for participation in drug treatment courts. We've given you some examples of that in our brief, so I won't elaborate on them here, but I think to some extent the gestures toward drug treatment courts in Bill C-15 are, to a certain degree, window dressing to try to make the rest of it more palatable, and it's just not.

● (1625)

The Chair: Thank you.

We'll move on to Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard: Thank you Mr. Chairman.

I'll start with a few questions for you, Mr. Elliott. I read your excellent brief while I was on the train. I don't think that the Bloc Québécois will be able to support this bill.

Let us take the example of two students sitting in front of or inside the Psychology Faculty at the University of Ottawa. Let us suppose that one of them passes a joint to the other, that both of them are occasional marijuana users, that they use marijuana three times a year, and that minors are nearby. I'm using the example of psychology students, but they could be political science students, history students or even students in administration—one should have an open mind and not discriminate.

Would I be mistaken in saying that if this bill were passed and these two students were brought before the courts, they could end up with a two-year prison sentence? Is that example a possible scenario? That is my first question.

In your brief you seem to say that despite the bill's intention to make drug treatment courts available to those who wish to use them, there are so many barriers and aggravating factors working against them that in the end, in fact, appearing before those drug treatment courts wouldn't actually be possible. I'd like you to tell us why.

I'll start with those two questions. I have others if time allows.

[*English*]

Mr. Richard Elliott: *Merci bien*.

Indeed, the example you gave would result in a mandatory minimum prison term of two years for that particular person—that's one of the examples in our brief—if there are reasons to believe that people under the age of 18 regularly frequent the campus of the University of Ottawa, and it wouldn't be hard to show this. To answer your second question, it is precisely that factor, which is defined as an aggravating factor in Bill C-15, that would prevent that particular accused from being eligible for participating in a drug treatment court.

[*Translation*]

Mr. Réal Ménard: Fine.

I would like to put a question to our other witness. I believe you are the RCMP research chair, if I understood correctly. I didn't quite understand what you were saying. You said that on average, the sentences that are handed down in common law courts result in prison terms of eight days or less. If this bill were passed, conditional sentences would not be relevant because the bill involves minimum sentences. Under the current law, for a judge to be able to consider conditional sentences, there cannot be minimum sentences. Therefore, we won't speak about conditional sentences because they do not apply in this case. However, I'm having considerable trouble in understanding the statistics that you provided and I'd like you to go into somewhat more detail, while being brief because I do have other questions.

[*English*]

Dr. Darryl Plecas: Yes. The statistic comes directly from Statistics Canada. It provides a comparison of the sentence lengths that were awarded by judges in the 2006-07 fiscal year versus a decade earlier. One of the analyses was on the matter of sentences of eight days or less. The analysis showed that, a decade ago, 14% of people given a prison sentence were given a sentence of eight days or less. That has since climbed to 27% of sentences.

● (1630)

[*Translation*]

Mr. Réal Ménard: But are the eight-day sentences you are talking about firm prison sentences, prison sentences being served intermittently? What was the context? I don't understand. You seem to be giving us a statistic that makes no sense, that is meaningless. You are talking about judges handing down eight-day sentences, but in what context?

[*English*]

Dr. Darryl Plecas: It's more than that. I gave one part of the report. The rest of the report speaks to the same problem. If you look at sentences awarded for less than a year, you'll see that the percentage of instances where that occurs has increased significantly over the last decade.

There's an overriding message in that Statistics Canada report, which tells us that there has been erosion in sentence length over the last decade. It's that simple, regardless of how you look at it. There are fewer instances of longer sentences and many more instances of shorter sentences.

[*Translation*]

Mr. Réal Ménard: There's an old Jesuit proverb that says that a text taken out of context can become a pretext and I think that would apply to your statement, which I do not think is very rigorous. First, I think if we're interested in looking into sentences, we should be looking at the Canadian Centre for Justice Statistics. Last week we heard presentations from the Canadian Centre for Justice Statistics and they in no way supported what you are saying today before this committee.

In any case, you know full well that when it comes to administering the law, each case is unique. Saying that 14% of judges hand down sentences of eight days or less, is meaningless, with all due respect. That being said, I will happily read the studies that you have tabled.

I would like to put a question, if I have the time, Mr. Chairman, to your neighbour from the Canadian Civil Liberties Association. You mentioned the possibility of establishing minimum presumptive sentences in some cases. What was the thinking behind that type of proposal?

[*English*]

Mr. Graeme Norton: The option of presumptive sentences would involve Parliament giving some sort of guidance to judges with respect to the types of sentences they would like to see imposed. For example, I won't suggest that this is the case, but if Parliament determines that sentences are not hard enough in a particular area of crime, they could suggest that, absent overriding mitigating factors, courts should be imposing sentences of, say, one year or two years.

However, if the court determines that the conduct was the result of an addiction or can look at any other mitigating factors and determine that maybe this isn't an appropriate case for that sentence to be imposed, they would be able to diverge from that sentence.

For us, one of the biggest problems with mandatory minimum sentences is that they're absolute sentences. They don't take into account those cases that may not warrant the sentence imposed by the legislation. A presumptive sentence could accomplish an expression by Parliament of the need for stricter sentences without incurring the same degree of injustice that a mandatory sentence would.

The Chair: Thank you.

We'll move on to Ms. Davies.

You have seven minutes.

Ms. Libby Davies (Vancouver East, NDP): Thank you very much.

First of all, thank you to the witnesses for coming today. It's very interesting to hear your testimony. We don't often have witnesses come to a committee and just tell us, point blank, to abandon this bill, to get rid of this bill, that it's no good from beginning to end. So I think that's a message we need to consider very carefully.

We had the minister here last Wednesday. I tried to get him to tell us what evidence he had that mandatory minimums work. Unfortunately, he couldn't offer any. I also wondered what the costs were going to be. I think that's so important. In terms of a royal commission and an independent panel, these are things that should be done before embarking on something like this, not after.

One of the two things I'd really like to get at is who this bill is really aimed at. There's a suggestion that it's going to go after the big dealers and the kingpins and get all of these violent people off the street. The fact that the drug courts are in there suggests to me that the more low-level folks are the ones who are the easy targets, and that it's those people this bill is really aimed at. I'd be interested in your observation in terms of who you think would be impacted most by this bill.

And second, in terms of the impact of mandatory minimums, both on individuals affected and on the justice system as a whole, former Judge Paradis, a provincial court judge from B.C., said that he thinks mandatory minimums in this case would be a great motivator for trials and would jam up the court system. Basically, people are going to plead not guilty. They're going to do everything they can to avoid a mandatory minimum.

We don't have the evidence before us, but I wonder—and I'm addressing this to Ms. Lyons, Mr. Jones, Mr. Elliott, and Mr. Norton—if you have any information in terms of what you think would be the impact on the justice system overall. Do we have any idea of what the cost would be? Has anybody tried to figure this out? You are holding up a very thick binder. Maybe there's some information in there.

I feel that the committee needs to know this before we blindly go ahead and adopt this very radical approach to something about which we have no evidence to say it will even work. Whatever we think about drug policy overall, will mandatory minimums work? That's really the question we're trying to grapple with.

● (1635)

Mr. Craig Jones: No.

Ms. Libby Davies: Do you have any information on costs?

Mr. Craig Jones: Yes. You can have this.

Ms. Libby Davies: What is it?

Mr. Craig Jones: This is a volume of peer-reviewed evidence, international in scope, studying the effects and consequences of mandatory minimum sentences. This is the evidence the minister wouldn't provide for you, because virtually all of it comes down against mandatory minimums.

Now I'll go to your direct questions.

The international experience—not only that of the United States—on mandatory minimum sentences is that they have a net-widening effect, number one. They gather up more and more people at lower and lower levels of criminality. Specifically in the United States, where mandatory sentences have been, as it were, perfected, they have had the effect of growing the rate of incarceration to historically high levels. You know, or you should know, that the United States is the world's leading incarcerator at this time.

Ms. Libby Davies: And has its drug use gone down, by the way?

Mr. Craig Jones: No, its drug use has not gone down, nor has the rate of crime gone down anywhere proportionate to the growth in the rate of incarceration.

Number two, they do clog up the court systems.

Number three, they transfer discretion to prosecutors and police officers, but surreptitiously. They do not have the intended effects on the discretion of judges, because in the international evidence, judges and prosecutors surreptitiously subvert the mandatory sentences in order to ameliorate the harsher consequences.

Ms. Libby Davies: Is there any disproportionate impact on race, disability, or visible minorities generally? That's something we've seen in the States. I don't know whether that's in some of the evidence that has been gathered.

Mr. Craig Jones: That is one of the signal lessons from the United States. Mandatory sentences fall most disproportionately on populations already disadvantaged or racialized. All of that is in the international literature, notwithstanding Dr. Plecas' finding that it is methodologically unsound.

I would really like to see his deconstruction of the methodological problems in the literature that he—

Ms. Libby Davies: As a matter of interest, how many studies are you aware of? Can you give us an estimate? Is there a whole breadth of studies on this issue? I know of some that are being done, or have been done, in the United States. Anyway, maybe you can provide that information.

Mr. Craig Jones: There are probably 35 in this volume alone, and this is out of date by a couple of years.

Ms. Libby Davies: Okay.

Mr. Elliott, could you respond?

Mr. Richard Elliott: I might briefly add some information from both the U.S. context and from Vancouver.

When you look at the experience in the U.S., studies have shown that just over 5% of federal prisoners who are in prison for offences involving crack cocaine and 11% of federal drug defendants are high-level dealers, but it's mostly low-level dealers who have been spending time in prisons in the U.S. In fact, to answer your specific question on the differential impacts on different populations, what we've seen with the introduction of mandatory minimum sentences in the U.S. is that the federal incarceration of women of colour, and specifically black women, has increased by 888%. They are the people who have borne the brunt of mandatory minimum sentences: poor people, black people.

In Vancouver, we have some data from the Vancouver injection drug user study, which samples some of those who are the most vulnerable and most street-involved people who use illegal drugs. Of those, 20% reported having dealt drugs, and it was usually small-scale dealing. In fact, it was people who reported factors associated with the highest levels of addiction, such as high-intensity drug use, who were most associated with drug dealing.

The activities they engage in as dealers are direct street-level selling, 82% of them; middling or carrying drugs, 35% of them; and steering or sending addicts toward dealers, 19% of them. The most common reasons they gave for engaging in this drug-dealing behaviour were to support their own drug addiction or to pay off debts related to drug use.

These are the people who are most easily targeted for the enforcement of mandatory minimum sentences. These are the people who are the most vulnerable. We've got lots of experience from the U.S. We've got data from Canada that says the same kinds of patterns would play out here.

● (1640)

The Chair: Thank you.

We'll move on now to Monsieur Petit.

You have seven minutes.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Good afternoon, gentlemen, and thank you for coming.

What you're saying is very interesting but I'm rather surprised by it. I'm going to explain something to you. I don't know if you have children. I myself have four. Fortunately they are now adults but once upon a time they were teenagers. I come from Quebec, from Quebec City. As you can see I speak French. Imagine small drug peddlers, as you have described them, selling marijuana or mescaline near schools and that 11- or 12-year-old teenagers buy from them, imagine that they are your children and that they can become addicted. The parents are the ones who will pay the price of this.

Today you're telling us to not be too strict, that the judge will take care of this, that we shouldn't worry and that there isn't a problem. You are sending us a message of tolerance; I have nothing against that but I do in the case of selling drugs to teenagers. I would like to know if you would accept drugs being sold, for example mescaline, to your teenage children, if you have any, and if you think that your theory should apply, that is, that there be no minimum sentence because this is not serious. A small peddler starts with young people and eventually becomes a big dealer. That's what needs to be understood. We have to stop them at the very beginning, therefore. You're telling us that we should allow the judge to decide and that we shouldn't be alarmed. Mr. Jones, you seem to be of a certain age. I don't know if you have any children. Mr. Elliott, I don't know if you have any children but I would like to hear what you have to say about this. What should we tell parents whose children will become addicted to drugs? How should we react? Is this a one-size-fits-all or do you make any distinctions when it comes to mandatory minimum sentences?

[*English*]

Mr. Craig Jones: Mr. Petit, thank you for that question. I just want to put on the record that Quebec City is my favourite city in Canada. I've been there many times.

I'd also like to introduce you to my daughter, Hapriel, who is sitting at the laptop back here, writing, working on her novel. So, yes, I'm a father. I have two daughters, 16 and 13.

Mr. Petit, drug prohibition doesn't work. As we have practised it for the past century, it has only made worse everything we deplore about drug use and drug addiction. Mandatory minimum sentences don't work. If they worked, if they actually deterred, I would be taking quite a different position. In my opinion, and with great respect, simply saying it sends the right message is lying to the Canadian people.

Mr. Richard Elliott: I think I was asked to respond as well.

The Chair: Yes, please.

Mr. Richard Elliott: I am not a parent. I would take exception, however, to the implicit suggestion that those of us who are not parents somehow don't care about the welfare of young people. I think that's clearly not true. I have young people in my life; I care about them very much.

I think Mr. Jones has answered the question sufficiently to point out that if these kinds of provisions worked to the benefit of young people, to protect young people, then I think we would be having a very different conversation. The evidence is there, simply, that they don't. I think raising that fact, which is well-supported by many, many studies, does not somehow lead to the conclusion that we don't care about protecting young people from the harms that can be associated with drug use. Of course we do, and that's actually what's motivating our concern against this kind of legislation, that this is actually going to do damage to young people. It's ill-thought-out legislation, and that's one of the reasons for it.

● (1645)

The Chair: Ms. Lyons.

Ms. Tara Lyons: Echoing what Richard just said, we absolutely care about young people—we are young people—and that's why we're here today. We're concerned about the bill harming people.

I don't have children yet, but by the time I do, hopefully, the time will have come when we have instituted honest and realistic drug education, so that when kids are in a situation, they'll know how to respond to it in the appropriate ways. I don't think every student or youth who is approached is going to take that opportunity, nor will they necessarily become drug addicts.

I also wanted to add that I haven't heard a message of tolerance here today; I've heard a message of human rights by the first four people speaking.

Mr. Graeme Norton: If I could speak to that briefly as well, I'll start by saying I'm not a father, but I'm scheduled to become one in August, just to get that off my chest.

With respect to targeting offenders dealing to young people, that may be a legitimate objective. It's already in the Controlled Drugs and Substances Act that courts should look at it as an aggravating factor. The language used in this legislation is incredibly broad. It does not target that objective; it targets things so far beyond that objective that the fact that you might be trying to achieve it through the legislation would simply be lost in the flurry of who gets charged under this act, in my view.

The Chair: Mr. Plecas.

Dr. Darryl Plecas: Well, the first matter is that it's been referred to here a number of times that we have a concern about young people. The fact of the matter is, if you look at the individuals generally involved in the drug trade, they're everything but young people. I know this, having looked specifically at over 30,000 grow-op situations in British Columbia. The average person involved in drug production in British Columbia, for example, is 33 years old; they have seven prior convictions and a 13-year criminal history. I'm still waiting to see the stats on this notion that somehow we're arresting people for possession and throwing them in jail for long periods of time. I know what the average person had in their possession on a production case in British Columbia: it was 92 plants—that's for possession.

The other thing is that it was also mentioned that the drug problem has not declined in the United States. That is not true, particularly if we're using, as one beacon, the University of Michigan's *Monitoring the Future* survey, which over the last decade has shown basically year-over-year declines in virtually every type of drug, including alcohol and tobacco. By the way, we've also had declines here, not across Canada necessarily, but certainly we've had that in British Columbia. So there's no question there have been declines.

There have been dramatic declines on the production side in certain types of drugs in the United States, particularly methamphetamines. In several states, they had one initiative or another, and they basically crushed it. The notion that it's not effective is just completely wrong.

The Chair: Thank you.

We'll go to Mr. Murphy. You have five minutes.

Mr. Brian Murphy: I just want to get back to this drug treatment court and the efficacy thereof. Unless we've been given bad material—just kidding over there—there are various studies that suggest they are effective. I see the Latimer, Morton-Bourgon, Chrétien study—with a name like Chrétien you have to go with that on this side, right? Cost-effectiveness was not indicated in that study, but they do reduce crime among offenders with substance abuse programs.

Our briefing notes, from what I've read anyway, indicate that these things work. In the United States they've been in existence since 1969. Only a very small percentage of program graduates reoffend.

We need to know here. Are we getting bad information? Maybe you have other information that completely refutes this by the peer review process. How are we wrong in saying or believing as a matter of policy and it's in fact a matter of our laws that the DTCs work? If they didn't work, I don't think I'd be as supportive of this bill or that part of the bill that gives the offender the chance to go to the DTC to avoid the mandatory minimum. As I said, this is a very unusual mandatory minimum. I've been here since they started rolling them out when they first got on the podium.

Go ahead.

● (1650)

Ms. Tara Lyons: I feel ill-prepared all of a sudden. I want to come back to this idea of what you mean around it working, because we have the Canadian evaluations, and they're still new in Canada and they work differently from the way they do in the States. We have six operating in Canada. The Ottawa Drug Treatment Court, the last I heard, has a 9% success rate, and they often aren't full either, and it goes up to around 17%. The Winnipeg one had two graduates out of twenty in their first year as well.

Mr. Brian Murphy: Just to be clear, because you had a somewhat sarcastic answer there, do you think it's successful?

Ms. Tara Lyons: No, I'm not trying to be—

Mr. Brian Murphy: To be clear, I think this is how they measure it in these limited studies, the degree of reoffending. The court program would be considered a success if that person who went to the DTC did not reoffend.

Ms. Tara Lyons: I apologize if I came off as sarcastic. That wasn't my intention. It's a methodological question in terms of how you actually operationalize a variable to measure what works or what success is. I was referring to success in terms of graduation rates.

In terms of recidivism, on that study you're referring to, is it a U.S. or a Canadian study?

Mr. Brian Murphy: There's a study—it's a Department of Justice backgrounder, whatever that is—that says a small percentage of program graduates reoffend. There is a further study. It's a justice department study—it has the three authors whom I mentioned—that says it reduces crime among offenders who've gone through the program.

So I don't know. I didn't read the study; I read the notes from the study.

Ms. Tara Lyons: It doesn't give me much to work with.

I can't speak right now to the recidivism rates in Canada, but I'm more than happy to give that information to the committee. I will pass on as well the Canadian studies, because I think it's really important to make a distinction of how the courts are operating in Canada and the U.S., because they are different, and I will ensure that recidivism is addressed, the graduation rates. It's also really important to emphasize again that women have a very low success rate, that aboriginal people have a low success rate in the drug treatment courts. That's across the U.S. and across Canada.

There's a national study being conducted right now out of Carleton University trying to get at why women don't stay in the drug court.

So in terms of my measure of success, it can't be disproportionate like that, either. That's just something else I want to leave you with. I will give you that information as well, happily.

The Chair: Thank you.

We'll go on to Monsieur Lemay.

You have five minutes.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Thank you, Mr. Chairman.

I practised criminal law for the defence for 30 years, and I have great difficulty in accepting that we tell a court of law to hand down minimum prison sentences. I think that goes against everything we have passed in Canada, especially in the context of the Canadian Charter of Rights and Freedoms. I'm thinking of two very important principles, one being the independence of the judiciary and the political authority, and especially—and this is one of the very important principles—the tailoring of sentences.

I would like to raise two points. First I hope you'll speak to your young students. In fact, if you haven't already, I'm telling you that under this bill, section 3 amends paragraphs 7(2)(a) and (b) of the Controlled Drugs and Substances Act, the one under our consideration. Under this bill there would be a minimum sentence of six months of imprisonment for a young adult of 18 years or more who has three cannabis plants in his home, because that would fall under the 201 plants or less. I put this question to the minister last week and that is exactly what he answered. Can someone here explain to me what the difference is between a 17-year-old and an 18-year-old youth. I still don't understand. We would tell a 17-year-old to not do it again whereas we would hand down a minimum six-month sentence to an 18-year-old, even if that 18-year-old has no past record. If that adult does have a past record, then the sentence will be one year.

Mr. Plecas, here is the problem I submit to you. Should we repeal section 718 of the Criminal Code while we're at it? That's what the people opposite think we should do. What do you think? Section 718 deals with sentences and what should guide the courts. You have given us statistics that I have never seen. What about the 2008 Supreme Court ruling in R. v. L.M., according to which sentences should be tailored? In your opinion, should the priority be tailoring sentences or handing down minimum sentences, even if that means disregarding what the Supreme Court ruled and disregarding one of those important principles, which is the tailoring of sentences?

● (1655)

[*English*]

Dr. Darryl Plecas: From my perspective, tailoring is still allowed because there's a maximum that goes with it. There's a minimum, but you can still have it up through the range of that maximum. Beyond that, I would argue there is an ability to tailor sentences through correctional practices because people are eligible for release after serving one-sixth of their sentences.

I wish I didn't have to say this and argue for mandatory penalties, but I find over and over again that judges simply don't do what they say they're doing. I would stake my life on that. There is no chance they're doing that, despite their claims.

[*Translation*]

Mr. Marc Lemay: Mr. Elliott.

[*English*]

Mr. Richard Elliott: Thank you.

We've heard a number of times that the concern that should be driving mandatory minimum sentences is that judges aren't sentencing harshly enough. Whether or not that is true is quite debatable, and we've heard some debate about it. Even if it were true, it doesn't logically follow that the answer is to impose harsher sentences, including minimum prison sentences, when all the evidence suggests they don't have an impact.

The Chair: Monsieur Lemay.

[*Translation*]

Mr. Marc Lemay: There is a problem, and it is the Conservatives, the government in power. They want to impose minimum prison terms. However the problem isn't getting them into prison, it's letting them out of prison. These individuals come out too soon; they do not serve their full sentence.

I'd like to hear Mr. Jones, then Mr. Plecas

[*English*]

The Chair: Mr. Jones.

Mr. Craig Jones: Thank you for that question. I actually have the opportunity to talk to judges quite often, and this topic comes up a lot. One of the things they tell me is that the reason they don't give out harsh sentences is because every time they see these people in front of their bench, they are worse and worse and worse, and they get worse in prison.

The Chair: Thank you.

We'll move on to Mr. Rathgeber. You have five minutes.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): I thank you very much, Mr. Chair.

First, I thank all the witnesses for their attendance and presentations here today. However, I'm a little disturbed by what I've heard here in the last 90 minutes. I'm disturbed that apparently the Bloc Québécois is withdrawing its support for Bill C-15, and I'm confused and concerned that Ms. Davies believes that throwing drug dealers in jail for specified periods of time is a "radical approach".

Let me tell you a true story that happened this weekend. I live in Edmonton and I represent northwest Edmonton. It's a city, by all accounts, that has both an organized crime problem and a drug problem that is the fuel of that organized crime. Thankfully, our problem is not as acute as Vancouver's, but it's certainly a problem in Edmonton. This weekend—and many of you may have heard about this in the national media—a 14-year-old girl went with another young lady to West Edmonton Mall, a public place that is frequented by young persons, not exclusively by young persons but certainly young persons attend the mall frequently. This 14-year-old girl purchased a single dose of ecstasy. I'm sure some of you have heard about it.

Although the facts are only slowly beginning to trickle in, apparently the individual who sold it to her misrepresented the dose. In any event, both girls took it, and one became very, very sick but thankfully survived. The 14-year-old girl was not so lucky and she accidentally overdosed and died yesterday.

Now, if I were inclined to withdraw my support for Bill C-15, and I want to state emphatically for the record that I am not, I think I would have a difficult time explaining that position to the parents of this 14-year-old girl, who are currently planning her funeral in Edmonton, Alberta.

I suppose I will accept the representation made from the John Howard Society and the Civil Liberties Association that this bill is targeted to the so-called low-level distributor or low-level dealer. You may be correct that it may not be as effective as we would like in going after the kingpins. I may accept that. But even if that is true, how can you tell me and tell the grieving parents of the 14-year-old girl that the low-level dealers are not a problem and that the elimination of the criminal enterprise—which is what the kingpins you refer to feed on—by taking those guys out, is not a solution to this epidemic problem in cities such as Edmonton and Vancouver?

I will start with Mr. Jones.

● (1700)

Mr. Craig Jones: It is because the historical experience shows that the kingpin you take out today will be replaced tomorrow, until you repeal the laws of supply and demand. Mandatory minimum sentences do not repeal the laws of supply and demand. You have a drug crime problem in Edmonton, sir, because you have drug prohibition.

Mr. Brent Rathgeber: Are you suggesting that we legalize drugs such as ecstasy and methamphetamines? Is that your solution, sir?

Mr. Craig Jones: Okay, let me be very clear about this. Currently in this country we regulate the production, consumption, and distribution of illicit drugs. I repeat, we regulate the production, consumption, and distribution of illicit drugs. We don't call it regulation. But in effect what we do is hand it over to the contest between the police and organized crime and let them fight it out. That's our form of regulation. It goes by the name of prohibition. It is the most dysfunctional form of regulation we could have imagined. So you will have organized crime and you will have unregulated and unspecified and unknown dosages of ecstasy and all other drugs for as long as you have prohibition. I'm afraid it's a "cake and eat it too" proposition. You cannot have drug prohibition without organized crime.

Mr. Brent Rathgeber: I understand that. I understand that there's an economy for these prohibited products. My question was, is it your solution that we abolish prohibition and make these substances legal?

Mr. Craig Jones: My solution is that we re-regulate the production, consumption, and distribution of illicit drugs to suppress organized crime; introduce widespread harm reduction measures: and educate, treat, and ameliorate the worst conditions that fall out from prohibition.

Mr. Brent Rathgeber: You have your hand up?

Mr. Richard Elliott: Yes. I would like to say two things.

First, of course, we have the historical example of alcohol prohibition. We repealed prohibition. We regulate alcohol. It's worked a lot better.

The second thing I'd like to say is that we have lots of evidence to say that even if you take out the low-level dealer, the next day or the next week there will be another person in that position. Prohibition is not a sustainable exercise. Yes, you can take somebody off the streets temporarily, but others will fill that void. That's how the laws of supply and demand work.

The circumstance you've described is tragic. But mandatory minimum sentences will not prevent it from happening. Harsher prohibition will not prevent it from happening.

● (1705)

Mr. Brent Rathgeber: You talk a lot about deterrence—

The Chair: Mr. Rathgeber, you're at the end of your time.

Mr. Brent Rathgeber: I was just getting started, Mr. Chair.

The Chair: I know you were. You might get another chance.

Mr. Murphy, you have five minutes.

Mr. Brian Murphy: Thank you.

I want to get into the role of the players, I guess, in the system. I don't want to sound like the *Law and Order* introduction, but there are the police, there are the prosecutors, there are the judges and the defence lawyers. They all have a role, and I hope we all admit that.

But you know what? I've heard for some three years now what I think is a more or less unintended attack—I won't say it's an intended attack—on judicial discretion. And I want to key in on the civil liberties aspect of this.

Yesterday I listened to Borovoy on the CBC—that's the public broadcaster that you guys cut money to—and it was a wonderful interview. How fair he was on all subjects. He didn't come off as a raving lefty or righty or whatever.

Mr. Norton, you haven't had the hard questions today yet. I feel bad about doing this to an expectant father, but I still have to ask this.

Since when does the Civil Liberties Association feel that judicial discretion is a good thing? In the old days, it gave us things like the Spanish Inquisition. Why wouldn't the association want a set of laws that was in the window, where everybody got the same, I guess like the mandatory minimum?

It's a bit of a philosophical question, but....

Mr. Graeme Norton: I think I can respond to that by suggesting that we're not opposed to Parliament providing some sort of guidance to courts as to the sentences that they see most fit. But on the idea that a predetermined sentence can fit perfectly every crime that's to come of that, to us that flies in the face of the logic that underpins judicial discretion, which is that each case has to be looked at on its own. There very well may be a standard sentence that fits most cases, but there are always going to be exceptions to that. We've provided some samples of that in our brief.

There's a case from the Ontario Court of Appeal where the court somewhat reticently approved constitutionally of a mandatory minimum sentence. But in imposing the sentence, they said that although they viewed it as “unduly excessive”—I believe those were the words they used—they were required to do it nonetheless.

There are other cases like this. There was, famously, the Robert Latimer case. The courts all the way up felt that on the specifics of that case, the sentence that was required by the legislation was excessively harsh.

There's also a case set out in our brief of a police officer who shot an individual in the process of investigating a crime. He was sentenced to six months' imprisonment. The laws have changed since then. Currently under the law he would be required to go to prison for four years.

So there are exceptions to rules. Human reality is very complex. Those complex realities, in our view, are best dealt with on a case-by-case basis rather than in a system where, as you've described it, one size fits all when you get a certain conviction.

Mr. Brian Murphy: I guess you are for the retention of judicial discretion in general, then.

Mr. Graeme Norton: Sorry, could you say that again?

Mr. Brian Murphy: I guess you are for the retention of judicial discretion, as are the people to your right.

Mr. Graeme Norton: Yes, certainly. Our position—

Mr. Brian Murphy: I'm going to go Mr. Plecas, because I'm sure I'm running out of time.

You would favour less judicial discretion and have these errant judges follow the script of the brain trust up here in Ottawa who make the laws—

Dr. Darryl Plecas: Yes, absolutely.

Mr. Brian Murphy: —which, by the way, you're looking at, sadly.

Voices: Oh, oh!

Dr. Darryl Plecas: Absolutely. And don't take my word for it; look at the behaviour of judges over the last couple of decades.

We have to be very, very careful of what data we look at here. I know there's been plenty of so-called evidence put forward to say that judges aren't becoming more lenient and there's no need to limit discretion, but I would say there are serious problems with the way they've done that analysis.

At the end of the day, I think there's a fundamental flaw here. Judges claim they take into account—and we know they do because they're required to—rehabilitation, deterrence, education, denunciation, public safety. Only an idiot would believe this is occurring given the current sentencing practices. Only an idiot would say they've done one of those things with a one-month prison sentence.

This is just nonsense. We have to move away from this. I would argue that means it basically needs an overhaul of that business.

The Chair: Thank you.

We'll move on to Mr. Moore, for five minutes.

● (1710)

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

And thank you to all the witnesses. I think your testimony has been helpful on this bill.

Ms. Lyons mentioned AAWEAR.

Was that you who mentioned AAWEAR?

Ms. Tara Lyons: The organization?

Mr. Rob Moore: Sorry, it was Mr. Elliott who mentioned their proposal that we address the issues of homelessness and prevention and that type of thing.

We're dealing very specifically with this bill, but I do want to assure that group, as well as you, that our government has taken many initiatives on homelessness and low-income housing, and on prevention. Just yesterday one of our ministers made another announcement on prevention, on targeting youth at risk. We believe in targeting youth at risk, prevention, and in helping those in need.

But this deals very specifically with the Controlled Drugs and Substances Act, and the Criminal Code as it relates to the penalties that most Canadians believe, to some degree, should be in place for those who traffic in, or produce, undeniably very harmful substances.

Specifically, AAWEAR made mention of targeting the high-level offenders. That's exactly what this bill does: a one-year mandatory prison sentence for dealing drugs; a two-year mandatory prison sentence for dealing drugs such as cocaine, heroin, or methamphetamines to youths; tougher penalties for those running large marijuana grow-ops. And we haven't touched on it today at all, but in GHB, more commonly known as a date rape drug....

If we accept that there is a role for the federal government, the Criminal Code, the Controlled Drugs and Substances Act, to play in combatting the trafficking in illegal drugs, and most of us accept that, Mr. Jones, what you said took me aback a bit. Essentially my interpretation of what you said was that we gave up. We don't try to prevent someone from selling heroin or cocaine to young people. We gave up our opposition, as a government, and as a people collectively, to those who are trafficking and producing these substances. I reject that outright. To give up is to take a major step backwards. I think we have to have appropriate laws in place.

What we've heard from the people we represent, and what we've seen, is that the current Criminal Code provisions were not effective. They sent the exact wrong message. They did not result in a fair or just outcome, and people are not getting the help they need, quite frankly.

None of us around this table, no matter what party we belong to, want to see people in prison. None of us wants to see those who are addicted to drugs go without help. Hopefully, we all share that goal.

I will ask each of you, whoever wishes to comment, and we'll start with Dr. Plecas, whether there is a role for us, as keepers of the Criminal Code and the Controlled Drugs and Substances Act, in protecting young people and Canadians from these drugs: date rape drugs, heroin, cocaine. Some people want to focus specifically on one kid with a joint. Even if we rejected that part of the bill about marijuana entirely, what about these serious offences, more serious drugs? Is there a role in preventing them and not enhancing their availability in society?

The Chair: Unfortunately, we only have half a minute, so we'll have a very quick answer from Dr. Plecas and perhaps one from Mr. Jones.

Dr. Plecas.

Dr. Darryl Plecas: I think you can, and you absolutely have to, and I would remind everyone here to look very closely at who it is we're actually talking about. We keep hearing that young people are being drawn in, but young people are not involved in crime anywhere near where they used to be in Canada. That's not our problem. It's certainly not people who have ever done a federal sentence either. It's a small collection of highly recidivistic people whose primary source of income is the production of and trafficking in narcotics.

We're basing our analysis on misinformation. I say to go back to the front end of the business, ask who is it who's getting caught by police, and then look at that population of people. I assure you that it will be a very different picture that emerges from the one most people are thinking of at the moment.

● (1715)

The Chair: Mr. Jones, very quickly.

Mr. Craig Jones: Yes, there is a role, but it has to be driven by evidence, not ideology. I would further say that you cannot make prohibition work better.

The Chair: We have one more opportunity to ask questions.

Mr. Storseth, you have five minutes.

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

Mr. Plecas, I'd like to go back and talk about the situation we have, for example, in the Lower Mainland, in Vancouver. Can you talk to me about that, and maybe elaborate a little bit on how the organized crime situation in Vancouver demonstrates the need for mandatory minimum sentencing and how it can help disrupt organized crime?

Dr. Darryl Plecas: To begin with, if we back up here, again, why do we have a problem in British Columbia with organized crime? It's very clear. I think everyone understands now that it's not just about marijuana; it's about cocaine and other drugs. But it is all rooted in drug production, and that drug production has ultimately enhanced capacity to traffic, to export, and that kind of thing.

By the way, in terms of the argument on prohibition, it's largely an export market, so prohibition is going to do nothing on that front here. But those people need to get the message that they cannot, as they commonly do—and we all know this—wiggle their way out of sentencing through making deals, through plea bargains. We have to send a strong message, especially to high-repeat offenders, which the bulk of them are, that this will not be tolerated, and that if you get caught you're going to get a certain sentence—count on it.

Once you see that, as we have—there are a lot of recent examples in British Columbia and in the United States—and once people get this awareness that, hey, they're going to go to jail for a substantial period of time, watch how fast they change their tune. Almost to a person, they're very quick to start making a deal and turning in all of the other people involved.

Of course, that's the situation, and it's a basic matter of human nature and an understanding of the facing of consequences. We absolutely need that. I wish that weren't the case. I'm not arguing generally for tougher sentencing. All I would be asking for is, for God's sake, let's have effective sentencing.

Let's have a system whereby we can give people treatment when they need it and let's provide for the capacity to have deterrence. If we can't do that, then why are we pretending we're doing it? This is crazy. No drug dealer is going to be deterred by a month-long sentence, if, by the way, by some stretch of the imagination, they go to jail. Because you want to remember this: in B.C. recently, only one in ten people involved in a grow operation is going to end up in jail. That is not deterrence by any stretch of the imagination.

Mr. Brian Storseth: Some of this that I've heard today absolutely blows my mind. Your statistics of seven prior convictions and a 13-year criminal history for the average is what you're talking about.

Dr. Darryl Plecas: Yes. I've also studied that in the province of Alberta for every single grow-op that came to the attention of police over a period of nine years, and it's the same kind of situation.

It doesn't matter what crime you're talking about. By and large, on average, the population of people committing offences in Canadian society are recidivists. That's for starters. And they're over 30.

Mr. Brian Storseth: I agree with you. I'm from rural Alberta. I talk to our RCMP staff sergeants all the time. They tell us that one of the largest problems they have is the fact that they catch these guys who spend no time in jail and then are right back out on the streets doing the same thing, because they know there's no real punishment for what they're doing.

I'd like to switch the subject a little bit here. Your statistics that you were talking about earlier show that more jail time equals a higher success rate in stopping drug use. What is it that occurs during this jail time that helps in those statistics when they get outside of jail?

Dr. Darryl Plecas: Thank you for that question.

I think one of the things you get with a longer jail sentence is, for starters, more sophisticated diagnostics in terms of why somebody is there in the first place and what their needs are. We all know it's a multiplicity of things. It isn't just that they're drug-soaked, or whether they are. It's a lot of different things that need a lot of different people helping them out along the way.

The kinds of problems people face take time and take multiple assessments to give the offender and society the assurance that they're making progress. What you have within the prison walls in the federal system is sophisticated diagnostics, sophisticated and multifaceted programs, diagnosis for post-release, conditional release, and then wraparound services while on conditional release to ensure that what happens in prison carries over its effect to the community.

Again I would remind people to look at the track record of the National Parole Board for the last decade. The fact of the matter is that it is a record of improvement over the last decade. Most people who are given day parole succeed on that; likewise, so do most people who are given full parole. It works down towards the other end, in that the people who go to warrant expiry have the highest recidivism rates.

We should take a lesson from that. We have things that work. They work extremely well. Why don't we continue to build on those things and make them better? If we do that, we don't need to be talking about getting tougher; we are getting more effective.

● (1720)

The Chair: Thank you.

I want to thank all of you for taking the time to present to us. We're certainly going to weigh the evidence we've received, and hopefully we'll come up with some resolution on this bill.

Ms. Libby Davies: I have a point of order, Mr. Chairman.

I didn't get an opportunity to ask a second question because of the way the rounds go, but I would like to point out that I didn't say it was a radical approach to put drug dealers in prison. That's the status quo. I said it was a radical approach to bring in mandatory minimum sentences.

I'd just like to have you respect the words that were actually used.

The Chair: Thank you. I'm not sure that was a point of order.

Thank you to all five of you for appearing today. We'll move forward.

We also have some business to take care of, so you're free to leave, and we'll just continue on with committee business.

Members of the committee, you have before you an operational budget request for the witnesses we're hearing on Bill C-15. Obviously we'll need approval for that.

Go ahead, Ms. Davies.

Ms. Libby Davies: I'd like to ask a question about this.

We had witnesses today, and I know the committee is travelling to Vancouver this week and hearing witnesses on Bill C-14. Maybe—

The Chair: No. Actually, it's—

Ms. Libby Davies: Oh, I'm sorry; you're doing a study on organized crime.

The Chair: It's the organized crime study. That's correct.

Ms. Libby Davies: Yes. Excuse me.

In terms of what happens when the committee comes back and what you have down here for witnesses, could you tell us what is contemplated in terms of the number of days we will have for witnesses when the committee returns from its travels?

The Chair: Actually, Ms. Davies, we don't know how many days it will take. Originally the motion from Monsieur Ménard was to conduct a four-meeting study, and we're already well beyond that.

Ms. Libby Davies: Do you mean for the study of organized crime?

The Chair: Yes.

Ms. Libby Davies: Okay.

I'm just trying to get a sense of the timeline of what's going to happen with the witnesses for Bill C-15 when you come back. Do we have certain days slotted in? I haven't seen that arrangement.

This is a pretty major bill. Obviously I am aware that quite a few people want to be heard, as you and I discussed. My concern is to ensure that people who want to be witnesses are not cut off. So in terms of hearing further witnesses on this bill, do we have the timeline of what we'll be doing when the committee comes back?

The Chair: No, we don't have a timeline set yet. We'll be having a steering committee meeting in the week following this one, after we come back from Vancouver. I believe we've accommodated the witnesses you provided after our discussions. All of those we had agreed to hear will be heard. I believe quite a number have already been scheduled to be heard. We'll just move forward with as much time as is required.

I've also asked the other members of the committee for their witness lists. I expect we'll have a few more added along the way. There's no fixed time set right now, although I believe initially we were talking about three or four days. However, we don't know if we'll be able to accommodate all the witnesses.

You have before you the budget request. What's your will?

Ms. Libby Davies: Could I just ask a further question, then?

If we approve this today, are we saying that in terms of Bill C-12 witnesses, that's it? What are we actually approving here?

I see there are seven in Vancouver and Victoria, four in Toronto, and one in New York. Are we saying that's the end of the list, or do we mean it's only at this time?

● (1725)

The Chair: No, it's just that we need to have some kind of budget for the known witnesses we have right now. If there are additional witnesses added, presumably we can amend the budget going forward.

We have a motion by Mr. Murphy to adopt the budget.

Mr. Brian Murphy: Yes.

(Motion agreed to)

The Chair: The meeting is adjourned.

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