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Monday, March 18, 2013

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Chair

Mr. Mike Wallace

Standing Committee on Justice and Human Rights

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• (1530)

[English]

The Chair (Mr. Mike Wallace (Burlington, CPC)): I call this meeting to order. I am using my BlackBerry time, not the clock at the back.

This is meeting number 64 of the Standing Committee on Justice and Human Rights. The orders of the day are, pursuant to Standing Order 108(2), a study of expenditure plans for Justice Canada in 2012-13. This is in regard to the supplementary (C)s, which I've brought with me if anybody wants to look at them. We are fortunate to have Justice officials here for half an hour.

At four o'clock we will go to Bill C-394. The mover of that bill, Mr. Gill, the member of Parliament for Brampton—Springdale, will be here for an hour. We should be done at about five o'clock.

For future reference, next Monday, a week from today, we will have witnesses on that bill, and then in the second half of the meeting we will do clause-by-clause consideration. On Wednesday we will have the minister here to speak on the main estimates for the upcoming year. That meeting will be held in Centre Block, so remember that it won't be in this room. The minister will be here for the first hour, and then we'll have officials for the second hour.

Next, I've had some preliminary discussions, but I have yet to speak to the Liberals. Massimo is sponsoring Bill S-209, which is the fighting bill, as I call it. We may deal with that on the Wednesday before the break; that would be a week Wednesday. We may do it all in one meeting if we get permission from everyone. We'll have the sponsor of the bill in this case, because it comes from the Senate, and some witnesses, and we may do clause-by-clause study on the same day.

That is the plan for the next two weeks, ladies and gentlemen.

With that, Mr. Pentney, I'll turn the floor over to you. The officials have a few opening remarks, and then we'll go to questions.

[Translation]

Mr. William F. Pentney (Deputy Minister of Justice and Deputy Attorney General of Canada, Department of Justice): Thank you, Mr. Chair.

I am delighted to be appearing before the committee today to discuss supplementary estimates (C).

[English]

I'm Bill Pentney, deputy minister of justice and deputy attorney general of Canada. I'm here with Don Piragoff, the senior assistant

deputy minister responsible for the policy sector, and Daniel Schnob, the chief financial officer of the department.

[Translation]

Since the committee has a limited amount of time, I will speak briefly to four items in the supplementary estimates (C). The department's overall net increase is \$750,000.

[English]

The net increase we're seeking for the department in the supplementary (C)s is comprised of four items. I'll speak very quickly to all four: \$1.4 million in additional funding to enhance the victims fund; a transfer from Justice to the Office of the Coordinator, Status of Women, in the amount of \$80,000; a transfer from Justice to the Commissioner for Federal Judicial Affairs in the amount of \$500,000; and a transfer to the Privy Council Office of \$68,000 for the Business Transformation and Renewal Secretariat.

The first item, \$1.4 million for the victims fund, implements the announcement in budget 2012. Of this new funding, \$1 million in contributions is allocated for the establishment or enhancement of child advocacy centres across Canada.

This funding will allow the centres to improve services to child and youth victims of crime by hiring, for example, forensic nurses and child mental health professionals. In addition, regions in Canada that do not currently have such centres will be able to apply for funding to establish new ones.

The remaining \$400,000 in grants will be made available to victim-serving non-governmental organizations for time-limited operational funding. This will enable these organizations to provide assistance and services to victims who are navigating the criminal justice system.

The budget 2012 funding for child advocacy centres, which these supplementaries implement, doubles the existing federal funding to support the creation of new child advocacy centres and the enhancement of existing ones. Announcements of federal funding have been made for centres in Winnipeg, Toronto, Vancouver, Regina, Saskatoon, Sioux Lookout, and Cornwall. Federal funding for these centres now totals \$10.25 million annually.

• (1535)

[Translation]

The second item is a transfer, at vote 5, of approximately \$80,000 to the Office of the Co-ordinator for the Status of Women, to support the development of knowledge for aboriginal service deliverers on the issue of sexual assault of girls. The Centre d'expertise Marie-Vincent does the program coordination for that.

The transfer spans three fiscal years and runs until the end of 2014-15. The Department of Justice's total contribution will be \$250,000.

[English]

The project aims to achieve multiple goals, including: offering more and improved services to young children in Montreal and surrounding areas who have experienced sexual abuse; supporting women whose daughters have been victimized; and strengthening the knowledge base of aboriginal service providers so that they can better address the issue of sexual assault of girls. This is a transfer to Status of Women Canada so that they can administer the contribution towards the program.

The third item is a transfer of \$500,000 to the Commissioner for Federal Judicial Affairs. I understand that this transfer was made to assist the organization in meeting its obligations under the Judges Act. As the department plays no role in the daily operations of this independent organization because our relationship is arm's length to protect the independence of the judiciary, I can only speak to this issue in general terms today.

The final item, which I'll treat very briefly, is the transfer of \$68,000 in vote 1, operating resources, to the Privy Council Office for the Business Transformation and Renewal Secretariat, which will support the work of the Priorities and Planning Sub-Committee on Government Administration, which was announced by the Prime Minister in September 2012. This secretariat was created to support the subcommittee and to provide strategic direction on whole-of-government transformation. The government has taken some steps already to improve and address the business of doing government. The Business Transformation and Renewal Secretariat will continue to support the work of the committee in looking for other ways to address cross-governmental business improvements, and this is Justice's transfer to support the staffing in support of that secretariat.

[Translation]

Those are the four items in supplementary estimates (C).

[English]

That's all I will say about the supps. I'm pleased to answer questions.

The Chair: First is Mr. Mai from the New Democratic Party.

[Translation]

Mr. Hoang Mai (Brossard—La Prairie, NDP): Thank you for joining us today.

I'd like to ask you about the Victims Fund. Could you tell us the expenditures that are not covered by the fund?

Mr. William F. Pentney: Yes. In the 2012 budget, funding for the Victims Fund was enhanced by \$7 million, so \$1.4 million a year. A total of \$1 million will go to establishing and expanding child advocacy centres. So the budget to support those centres is being doubled. A total of \$400,000 has been allocated as time-limited operational funding, meant to help non-governmental organizations develop processes and systems to assist victims. It's a start-up fund for those groups.

Mr. Hoang Mai: Does that money help fund provincial programs?

Mr. William F. Pentney: Not really. It's an area of shared responsibility. We've made an investment to help these groups set up victim assistance centres. The money is to support the centres, which help victims with proceedings at both the federal and provincial levels. It's not limited to federal proceedings.

Mr. Hoang Mai: Very well.

You can answer my next question in writing, as you probably don't have the information with you.

I'd like to know how many compensation claims the ombudsman for victims receives a year, and what amount they represent.

• (1540)

Mr. William F. Pentney: You want to know the number of compensation claims?

Mr. Hoang Mai: Yes, the number of applications the ombudsman for victims receives.

Mr. William F. Pentney: They don't provide compensation.

Mr. Hoang Mai: Very well. Can you describe what happens when the ombudsman for victims receives requests for help with certain steps?

Mr. William F. Pentney: Perhaps we could provide an explanation of how the ombudsman works in writing. In any case, the ombudsman does not grant any funds directly to victims to help them take part in proceedings or anything of that nature.

Mr. Hoang Mai: Would that money instead be administered through the Victims Fund?

Mr. William F. Pentney: Yes.

Mr. Hoang Mai: Would you be able to indicate, generally speaking, what the requests pertain to, who they come from and how much they represent?

Mr. William F. Pentney: We will endeavour to find that information and provide it to the committee.

Mr. Hoang Mai: Thank you.

That's all for now.

[English]

The Chair: Our next questioner is Mr. Seeback from the Conservatives.

Mr. Kyle Seeback (Brampton West, CPC): Thank you, Mr. Chair.

You talked briefly about child advocacy centres. I think those are very important organizations in our communities, and I have a couple of questions with regard to them.

First of all, how many CACs are there in Canada right now?

Mr. Donald Piragoff (Senior Assistant Deputy Minister, Policy Sector, Department of Justice): I can only speak to those CACs we're involved in funding. The federal government has enhanced funding for four existing centres and has provided funding to develop 11 new ones. In total, 15 are receiving funding from the federal government.

Mr. Kyle Seeback: Do you know how many have received funding since 2010?

Mr. Donald Piragoff: The 11 new ones.

Mr. Kyle Seeback: The 11 new ones. Great.

The \$1.3 million in the supplementary estimates, will that be used to enhance CAC funding?

Mr. Donald Piragoff: It is actually \$1.4 million, and of that, \$1 million is dedicated to create or enhance the CACs.

Mr. Kyle Seeback: Thank you. Those are all my questions.

The Chair: Thank you very much.

Our next questioner is Mr. Casey from the Liberal Party.

Mr. Sean Casey (Charlottetown, Lib.): In connection with your reference to judges, at present are there any vacancies on the Federal Court of Appeal?

Mr. William F. Pentney: I'm sorry, I can't speak to whether there are vacancies; I simply don't know.

Mr. Sean Casey: Okay.

My question is whether all the federal judicial appointment committees in—

An hon. member: On a point of order, what does that have to do with the supps (C)?

The Chair: We'll wait and let him finish his question and then we'll find out.

Mr. Sean Casey: —the various provinces are all fully constituted.

Mr. William F. Pentney: Mr. Chair, I have no role in relation to the appointment of judges. That's a matter—

The Chair: Mr. Casey, this is about supplementary estimates (C), and they are senior officials on the financial aspects of the supplementary estimates (C).

Mr. William F. Pentney: I'm sorry to interrupt, Mr. Chair, but beyond supplementary estimates (C), we don't play a role in supporting, creating, staffing, or otherwise following the judicial appointment committees. That's a matter handled by the minister on the one side and others. The department is not involved in the judicial appointment process in that regard.

The Chair: Thank you.

Mr. Sean Casey: Thank you.

The Chair: Mr. Armstrong, from the Conservative Party.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you, Mr. Chair.

The Department of Justice is seeking our approval for an additional \$1.4 million for the victims fund, which is vote 5. The fund currently has \$11.6 million a year to give victims a more

effective voice in the criminal justice system. What are the priorities of that fund that you are looking for more money for?

Mr. William F. Pentney: The victims fund has served the purpose of enhancing the overall focus consistent with the government's agenda and enhancing the focus on victims through the criminal justice system, raising awareness in terms of the rights of victims, enhancing access to victims programming, working in cooperation with the provinces and territories to look to enhance access to victims, enhancing the use of technology to better enable victims to participate remotely or otherwise in criminal justice proceedings, and to be aware of them, and overall just to enhance the knowledge, awareness, and profile of victims' issues in the criminal justice system.

That's the victims strategy. As we talked about, the victims fund in particular has supported child advocacy centres by promoting awareness and enhancing participation.

• (1545)

Mr. Scott Armstrong: You talked about four child advocacy centres currently being funded and that 11 more are going to be funded. They seem to be getting good feedback across the country. I'm from Atlantic Canada. How many of those are in Atlantic Canada?

Mr. William F. Pentney: I'm looking at the list I have and I don't see Halifax.

Mr. Scott Armstrong: Halifax has one, but of the 11 new ones, is anything scheduled to be in Atlantic Canada, in Moncton, Charlottetown, or Saint John?

Mr. William F. Pentney: No. We'll get back to you.

Mr. Scott Armstrong: Thanks very much.

The Chair: Thank you.

Our next questioner is Mr. Jacob from the New Democratic Party.

[Translation]

Mr. Pierre Jacob (Brome—Missisquoi, NDP): Thank you, Mr. Chair.

My first question has to do with the Department of Justice's request that Parliament authorize a transfer of \$83,333 to the Office of the Co-ordinator for the Status of Women. The money is to support the development of knowledge for aboriginal service deliverers on the issue of sexual assault of girls.

Does this transfer tie in with the measures to tackle the problem of missing and murdered aboriginal women?

Mr. William F. Pentney: It is not meant as a direct response to the report that Mr. Oppal just released in British Columbia. At a more general level, it is intended to address the matter of sexual assault against women and children in aboriginal communities.

Mr. Pierre Jacob: Will those measures include a public inquiry into the disappearance and murder of aboriginal women in Canada?

Mr. William F. Pentney: No. The funding is actually directed at groups offering services directly to victims.

Mr. Pierre Jacob: What does "development of knowledge for aboriginal service deliverers on the issue of sexual assault of girls" mean?

Mr. William F. Pentney: It's a process whereby the program will expand the knowledge of those responsible for providing service. They need training to be able to recognize symptoms and address the needs when they suspect a sexual assault has occurred. This money will make it possible to improve the skills and abilities of those who deliver service to victims.

Mr. Pierre Jacob: Now let's discuss the \$1.3 million for the Victims Fund. The fund earmarks financial assistance in exceptional circumstances.

Could you tell us about those exceptional circumstances?

[English]

Mr. Donald Piragoff: Thank you.

In the past, exceptional circumstances were generally emergency situations for victims resulting from criminal victimization where there was no other source of funds. To a large extent quite often these were either situations abroad or situations in the north where because of the geography it's very difficult to provide services.

To a large extent, the emergency situations abroad have now been dealt with directly because there is a special envelope for victims services abroad. The window of emergency services has really narrowed now to simply providing extra money to the north. Originally it was both the north and abroad, but there's a special envelope now within the victims fund to deal with victims who are victimized abroad.

[Translation]

Mr. Pierre Jacob: Very good.

Thank you, Mr. Chair.

[English]

The Chair: Our next questioner is Mr. Goguen from the Conservative Party.

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): Thank you, Mr. Chair.

Thanks also to our witnesses for appearing.

I'm wondering about the request for transfer of \$500,000 from the department to the Commissioner for Federal Judicial Affairs for legal obligations under the Judges Act.

Could you elaborate on what those obligations are? Do we know?

• (1550)

Mr. William F. Pentney: I'm not really in a position to speak to it in detail.

As you know, under the Judges Act the Commissioner for Federal Judicial Affairs was established to ensure judicial independence from the executive in the administration of its affairs. It has a number of responsibilities, including support for the Canadian Judicial Council and supporting inquiries under the Judges Act in terms of the conduct process for judges and those sorts of things.

I can't speak to the specifics of this. This is a transfer within the minister's portfolio of resources in respect of something that has to do with an arm's-length organization. It would be best, if you wanted

more information, to call the Commissioner for Federal Judicial Affairs to speak to it. I'm sorry that I can't provide more.

Mr. Robert Goguen: They are very successful in keeping themselves independent.

Thank you.

The Chair: Are there any other questions?

Mr. Mai.

[Translation]

Mr. Hoang Mai: Thank you, Mr. Chair.

I wanted to speak again because there is something I'd like to know. This may not be directly related to supplementary estimates (C), but I would like you to enlighten me a bit. Do the budgetary expenditures earmark funding specifically for occasions when the Department of Justice might have to incur additional costs? An example would be if the government had to bear the cost of a case going to the Supreme Court.

Mr. William F. Pentney: No. Regardless of the supplementary estimates in question, (A), (B) or (C), the department operates on a cost-recovery basis when it provides other departments with legal advice or court representation during proceedings. So it's included in the department's spending.

The minister will be back on Wednesday to discuss the main estimates. That element is covered more so under the main estimates. Here, there aren't any votes for a specific case or the department's needs in terms of providing more general legal services government-wide.

Mr. Hoang Mai: So we'll wait until the minister returns.

Mr. William F. Pentney: Very well. I will be here as well. We'll have another opportunity to discuss these issues.

[English]

The Chair: Are there any other questions for our witnesses?

Seeing none, I want to thank the witnesses for coming. You were requested to come to speak to the supplementary estimates (C).

Members of the committee, we will be voting on the supplementary estimates (C) on Wednesday night, so today was just for information because you have to deal with them. If the committee wants to approve them, not approve them, or reduce them, which are the three options available, you have to do that four days before the final opposition supply day in the House. This was strictly for information.

We appreciate your coming and we will see you again on Wednesday. Thank you very much.

We'll take a one-minute break while we ask Mr. Gill to move to the end of the table.

The meeting is suspended.

• (1550)

(Pause)

• (1555)

The Chair: I call this meeting back to order.

I'm referring to the order of reference of Wednesday, June 20, 2012, Bill C-394, An Act to amend the Criminal Code and the National Defence Act (criminal organization recruitment). It's a private member's bill introduced by Mr. Parm Gill, the MP for Brampton—Springdale, and he is here for an hour to talk about his bill.

The floor is yours, Mr. Gill.

Mr. Parm Gill (Brampton—Springdale, CPC): Thank you, Mr. Chair. I also want to thank my colleagues and the entire committee for giving me an opportunity to appear before you to discuss my private member's Bill C-394.

I would like to begin my submission by outlining some of the practical points of the bill, followed by some supporting research, and then conclude with some personal points on why I believe this legislation is necessary.

First and foremost, this bill is seeking to further protect our youth and our communities by criminalizing the act of criminal organization recruitment. Second, this bill is seeking to provide our law enforcement officials and our justice system with the proper tools to address gang-related issues. In doing so, this bill will provide prosecutors and law enforcers with the proper tools to address the issue of gang recruitment in communities across Canada.

Each one of us in this committee and every Canadian would agree that our youth will define the trajectory of this country, and that trajectory will be determined by the types of opportunities our youth are given. Young Canadians have a sense of vulnerability, and I think all my honourable colleagues here today will agree that this vulnerability is worth protecting.

Under this new amendment, anyone who for the purpose of enhancing a criminal organization solicits, encourages, or invites a person to join a criminal organization is guilty of an indictable offence, which carries a punishment of imprisonment up to five years. Furthermore, anyone who recruits, solicits, or invites an individual under the age of 18 to join a criminal organization will face a mandatory minimum sentence of six months in prison. These amendments will allow our justice system to appropriately hold accountable for their actions those who recruit individuals into criminal organizations.

I would now like to present some research to the committee that helps to support the need for this bill.

In a 2008 publication, the RCMP found that street gangs in Canada are increasingly aggressive with their recruitment tactics. In a disturbing trend, these criminal organizations are targeting youth under the age of 12 and as young as age eight. These ruthless gangs pursue our vulnerable youth for several reasons. They know that those falling within this age range cannot be formally charged with a criminal offence. They also know that our youth can easily be pressured to participate in a variety of criminal activities.

Our innocent and vulnerable citizens are being manipulated, coerced, and at times forced to embark on a life that no Canadian should ever experience. In 2006 CSIS estimated that approximately 11,000 street gang members were under the age of 30. The report cautioned that this number would continue to grow rapidly over the coming years.

In Peel region, which my family and I call home, the number of gangs has exploded in the last few years. In 2003 there were 39; today there are well over 110 street gangs in our neighbourhoods. This means more young people are targeted and more violence is used.

The 2002 Canadian Police Survey on Youth Gangs, conducted under contract to the Department of the Solicitor General, was the first of its kind in this country. This landmark study identified some startling figures that I would like to share with the committee.

Of 264 Canadian police services surveyed, 57% believe that the youth gang problem is getting worse. Most concerning is the fact that 44% reported that youth gang members have an established relationship with larger organized crime groups. These figures show there is a need to recognize this problem in Canada and do all we can as members of Parliament to help law enforcement keep our communities and our youth safe.

● (1600)

While I was in the early stages of drafting this bill, I took the time to travel across our great nation to consult with numerous departments, organizations, and stakeholders who are dedicated to working with youth involved in gangs. During these consultation meetings, I learned the stark reality that many of these youth who become involved in gangs face on a day-to-day basis. The vast majority of youth I met with told me that if they had a legitimate opportunity to exit the gang, they would do so, and that if given the choice, they would not have chosen that lifestyle.

One youth I sat down with told me that he had been involved in a gang for over seven years. This individual was only 19 years old. He explained to me that instead of being involved with school, friends, family, and sports, he was robbing drug dealers, attacking rival gang members, and selling drugs on the street. This was a kid who had excelled within that criminal organization because that was the only life he knew. I couldn't help but picture his work ethic allowing him to lead an extraordinarily successful and law-abiding life. Had this legislation been in place at the time that this young man was recruited, his recruiters may have been deterred and his life may have taken a more positive path as a result.

During my consultation in Winnipeg, I met with the president and CEO of the Boys and Girls Clubs of Winnipeg. He told me a story which I believe exemplifies the need for this legislation. For anyone who doesn't know about the Boys and Girls Clubs of Canada, it's a nationwide organization that works with troubled youth in urban areas, and as a result they often come into contact with youth involved in gangs.

The CEO told me that one of their inner-city club gang members would wait in the parking garage directly behind the building with the sole purpose of engaging young people in hopes of recruiting them into gangs. This is only a small example of the tactics that are used to target our youth. We need to provide our law enforcement agencies and courts with every possible tool to ensure our youth are protected and that these individuals are held accountable.

This bill was read a first time on February 13, 2012. Since then there have been countless instances of gang-related violence across our country. Whether it is in Vancouver, Edmonton, Winnipeg, Toronto, Montreal, or other parts of the country, time and again the most extreme instances of violence can be attributed to gangs. I urge this committee to consider the benefit of this legislation in helping to improve the future and well-being of our youth and our communities.

I would like to thank the committee again for inviting me here to speak. I look forward to discussing this bill and answering any questions you may have for me.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Gill, for that presentation.

Our first questioner is Mr. Jacob from the New Democratic Party.

[Translation]

Mr. Pierre Jacob: Thank you.

Right off the bat, I must tell you that you are right: recruiting by criminal organizations is a genuine Canada-wide, and even world-wide, scourge. Other countries are indeed in the same boat. In fact, given how serious this Canada-wide scourge is, I'm wondering why it's being addressed through a private member's bill as opposed to a government bill.

As part of the NDP's platform, we supported protecting our youth by making street gang recruitment illegal. So we're on the side of victims; we agree with repression. It's a step in the right direction. Like the Boys and Girls Clubs of Canada, who submitted a very insightful brief, by the way, we agree with tougher legislation. But it has to come with sound preventative strategies, such as an affordable housing program, and initiatives that support youth development, restorative justice and mental health. We have to offer these young people a genuine choice between life as a law-abiding citizen, which could allow them to accomplish great things, and life as a gang member, which limits their options to prison and a street gang lifestyle.

From a public safety standpoint, we are in favour of a balanced approach that merges prevention and repression. There is no question that approach would give us more tools, but in order for them to do the job, adequate police and human resources need to be assigned to the streets, in our communities. Prevention and an adequate police presence across the country is the leitmotif. That is one of the solutions.

So here's my first question.

In cases where the offender is convicted of several organized crime offences, is the parole inadmissibility period cumulative?

•(1605)

[English]

Mr. Parm Gill: I am not following the question. Could you please reword it?

[Translation]

Mr. Pierre Jacob: In cases where an offender has been convicted on a number of organized crime charges, is the parole inadmissibility period cumulative?

[English]

Mr. Parm Gill: Yes.

Honestly, I'm having a difficult time understanding the question and what it has to do with my bill and how it implies—

The Chair: Is there a clause you're referring to, Mr. Jacob?

[Translation]

Mr. Pierre Jacob: I'll ask you another question, which will certainly ring a bell.

In your view, does the reverse onus at the bail hearing respect the Canadian Charter of Rights and Freedoms, in particular, the right to be presumed innocent and the right not to be denied reasonable bail without just cause?

[English]

Mr. Parm Gill: I'm sorry, Mr. Chair.

With all due respect this isn't part of my bill.

The Chair: Does any component of your bill deal with bail?

Mr. Parm Gill: No.

The Chair: No.

Thank you.

It doesn't affect your bill then.

[Translation]

Mr. Pierre Jacob: You don't connect them? Very well. I'll ask you something else, and it has a direct connection to your bill.

In your opinion, does Bill C-394 respect the Canadian Charter of Rights and Freedoms, in particular, the freedom of association, enshrined in section 2(d), and the principles outlined in the Youth Criminal Justice Act, in particular, the principle of diminished moral blameworthiness or culpability?

[English]

Mr. Parm Gill: With all the consultation we had leading up to compiling this bill, yes, my understanding is it is in compliance with all the laws.

[Translation]

Mr. Pierre Jacob: The courts have already ruled that criminal organization recruitment is covered by the current provisions for participating in the activities of a criminal organization under section 467.11 of the Criminal Code, and that instructing the commission of an offence for a criminal organization is covered by section 467.13 of the Criminal Code. In light of that, do you believe that Bill C-394 is necessary?

[English]

Mr. Parm Gill: Yes, absolutely, I do feel it's necessary. You are right that currently the Criminal Code covers the criminal organization part, but it does not cover the recruitment part. Everything I've done leading up to compiling this bill and the consultations I had with different organizations and stakeholders shows it's lacking with respect to recruitment.

I used one of the examples in my remarks. I met with the Boys and Girls Club in Winnipeg. The example they shared with me showed the frustration the law enforcement agencies and other organizations have when they know somebody is recruiting young people or other individuals into those organizations. There is nothing in the justice system or in our laws that targets those individuals. I believe this is the root of the problem.

We need to target this problem at the root, which is the recruitment. A big part of these criminal organizations and so-called gangs now have dedicated individuals to doing that; they are solely responsible for recruiting individuals into these criminal organizations. I heard lots of examples during my consultations, whether it was the law enforcement agencies or the other organizations that expressed their frustration in terms of why this is not a criminal offence.

• (1610)

The Chair: The next questioner is Mr. Armstrong from the Conservative Party.

Mr. Scott Armstrong: Thank you, Mr. Chair.

Mr. Gill, I'm sure you've had discussions with Toronto City Council about this, because recently, a lot of the press about gangs has been from the city of Toronto. What is the position of Toronto City Council on your bill?

Mr. Parm Gill: Thank you for asking me that question.

Toronto City Council has endorsed this bill. It was brought to the floor and a motion was put forward.

I would say gangs are a problem in every part of the country. No area is immune to this, but it is a serious problem in some of the major cities, including Toronto and the GTA as a whole. It's always very unfortunate any time you hear of a case in which young people are involved in shooting, killing, or any sort of criminal activity, but it's especially troubling when a young person loses their life or they're involved in this lifestyle, which is going to lead them to a dead end at the end of the day.

I was very thankful and very happy that Toronto City Council endorsed this bill.

I have not received any opposition to this bill from any group, any stakeholder, or any organization, other than the Liberal Party, whose members spoke against my bill in the House and obviously did not support it at second reading.

Mr. Scott Armstrong: That's unfortunate.

From my experience working with youth, they are often recruited into these types of organizations. It's almost as if they're intimidated, that if they don't join, if they don't acquiesce to the people recruiting them, they could face some pretty severe retribution, sometimes from some of their family. Did you find that in your research?

Mr. Parm Gill: Yes. That is a big part of the problem, especially for some of the vulnerable individuals and especially for youth. It is very easy to entice them to join a criminal organization using different methods, be they threats, giving them drugs or money, or a flashy car; you name it. There are tons of different methods of attracting individuals into joining gangs, especially youth.

That's not to say, Mr. Armstrong, that it's limited only to those individuals. During my consultations, I met with organizations. I met with victims' families who were living a perfect lifestyle, you could say, where the family was very well structured. The dad was a professional and the mom was a professional. It was a perfect lifestyle and a perfect family setting and so on, yet their kids had become victims of this criminal activity that goes on.

• (1615)

Mr. Scott Armstrong: After the passage of your bill, someone who is actually out there recruiting and trying to get someone to join an organization could be charged, whereas currently they can't be charged.

Mr. Parm Gill: Yes, you are absolutely right. Currently—

Mr. Scott Armstrong: If this bill is passed, Mr. Gill, and I'm a young person and someone tried to recruit me, I could report them. Instead of the police saying there is nothing they could do about it, I would be safer. I would know that if I report it, the police are going to deal with the person and I'm not going to be left to their intimidation and their threats.

Mr. Parm Gill: You're absolutely right. As I mentioned earlier, one of the biggest frustrations the law enforcement agencies have is that even if they know somebody is committing this crime, there's nothing they can do about it. Even if someone like you, or any other victim, reports this to a police officer and says that's what's happening to them, that these individuals, gangs, or criminal organization members are forcing them, recruiting them, or doing this to them, there's nothing the police can do under our existing law.

You're absolutely right. This would make it a criminal offence. Particularly if someone is recruiting or is caught recruiting those under the age of 18, they would be subject to a minimum mandatory sentence of six months and up to five years.

Mr. Scott Armstrong: That would get those recruiters off the streets and in jail where they belong so children can be safe, because it really is our children that they're approaching. What ages do these gangs target, Mr. Gill?

Mr. Parm Gill: It varies, but it was very troubling during my consultations to see some of the incidents that I came across. These gangs were targeting young people, as young as eight years of age. Eight years of age; you can imagine. I'm a father. I have three kids. My youngest is seven years old. Honestly, what does my seven-year-old really know?

It's a very serious problem. It's a problem that I feel is growing, as do a lot of other individuals who work very closely with this issue, and it's getting out of hand.

Mr. Scott Armstrong: This would allow parents also to call the police. If their child is approached, the parents can actually lay charges. It wouldn't be just the young people; it would be the parents as well.

Mr. Parm Gill: Yes, absolutely: anybody and everybody.

Mr. Scott Armstrong: Thank you very much.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Armstrong.

Thank you, Mr. Gill.

Our next questioner is Mr. Casey from the Liberal Party.

Mr. Sean Casey: Thank you, Mr. Chairman.

Mr. Gill, a couple of times you referenced your discussions with the Boys and Girls Club in Winnipeg. I presume you're aware that the submission made by the Boys and Girls Clubs of Canada to this committee called for prevention and a rehabilitative approach. This was actually referenced in Mr. Jacob's question, although I think when he asked the question, there was a disconnect and you weren't able to answer it, so I want to bring you back to that.

Given that the Boys and Girls Clubs of Canada has put a submission before this committee calling for a rehabilitative approach and a prevention approach, I'd like your comments on how you can square what I presume is your statement of support by them, given that what you've opted for here by the adoption of a mandatory minimum sentence is an approach of retribution, discipline, or punishment.

Mr. Parm Gill: I'm not against the rehabilitative approach. I think we should use any approach possible to help eliminate or help reduce this problem as much as possible. All I'm saying is that this would be another tool that the law enforcement agencies and our justice system would have in their tool box to use for individuals who obviously are clearly responsible for this.

With regard to the submission from them, I'm not aware of it. I actually did not get a copy, or I haven't seen it. But I used the example which the president and CEO shared with me during my consultation process. I travelled to Winnipeg. I sat down with them. We discussed this issue for about an hour. Some of the things that I heard during that meeting were pretty troubling.

• (1620)

Mr. Sean Casey: Given that you haven't seen their submission, I can tell you, sir, that their submission also indicates that the experience of incarceration actually strengthens the influence of criminal networks, and that incarceration is likely to reinforce gang affiliation. We see that prison gangs are inextricably linked to street gangs.

Given the concern of the very entity you hold up as one which is supportive of your bill—their concern is about the effect of incarceration on the proliferation of these gangs—do you not share my concern that mandatory minimum sentences not only will not achieve the goal you seek, but actually will exacerbate the problem of organized crime and the proliferation of gangs?

Mr. Parm Gill: I disagree. For individuals who are responsible for this sort of act, especially when it comes to youth and minors, and from all of the consultation that took place up to the compiling of this piece of legislation, I'm obviously in support of a minimum mandatory sentence.

There was a reason we came up with this. It wasn't just something I dreamt about one night and decided to put on a piece of paper the next day. This is a serious problem. The people who are responsible for recruiting vulnerable Canadians and destroying their lifestyle, especially when it comes to youth, need to be held accountable. A minimum mandatory sentence would send a very strong message to these individuals that if they are going to do this, they will be held accountable.

Mr. Sean Casey: Just so I understand it then, are you saying that you disagree with the Boys and Girls Club of Canada when they say that the experience of incarceration strengthens the influence of criminal networks? Do you disagree with the Boys and Girls Club in that regard?

Mr. Parm Gill: I did not say I disagree with that. What I'm saying is that I disagree that minimum mandatory sentences are not the way to go.

Mr. Sean Casey: Can you point me to a single study, can you point me to a single experience that supports your view on that? We see numerous failed instances in other jurisdictions. Is there absolutely any academic study, any empirical study, any experience in another jurisdiction, that supports your theory on that?

Mr. Parm Gill: I don't have a study that I can back that up with; no, absolutely not.

Mr. Sean Casey: Thank you.

Given that the Supreme Court in British Columbia in the Shek case, and in Ontario in the Smickle case, struck down mandatory minimum sentences as being contrary to the charter, do you not have serious concerns about the constitutionality of your bill?

Mr. Parm Gill: My understanding is that the ruling is being appealed. We'll wait to see when the appeal decision comes forward.

Mr. Sean Casey: Can you point to a single instance, one instance, of where the current provisions of the Criminal Code were found by a court to be inadequate for the purposes of prosecuting gang recruitment?

Mr. Parm Gill: It's not about an instance. This bill is about protecting our youth, about protecting our communities.

As I mentioned earlier, this bill was compiled after a fair bit of consultation that I did leading up to it. All the information I received from discussions with stakeholders who work very, very closely, including law enforcement officials and front-line police officers, and so on...that's how I came up with it. This bill is supported by them.

The Chair: Thank you, Mr. Casey.

Thank you, Mr. Gill.

Our next questioner is Mr. Calkins from the Conservative Party.

Mr. Blaine Calkins (Wetaskiwin, CPC): Well, show up one day for a justice committee meeting and you're on the agenda right away. Thank you very much, Mr. Chair.

Mr. Gill, I certainly appreciate your testimony and your efforts.

I'm going to ramble on a little here. I represent a rural community in central Alberta. In my community are the four bands at Hobbema: the Samson Band, the Ermineskin Band, the Louis Bull Band, and the Montana Band. They are notorious for gang activity. They are notorious for having had upwards of 13 gangs operating there several years ago and for drive-by shootings. The drive-by shooting of a young girl, Asia Saddleback, made national news. I went to Ethan Yellowbird's funeral. He was a five-year-old boy who was shot, incidentally, through suspected gang activity. The community is largely silent because they fear repercussions and retribution if they were to speak out about these organized crime elements.

The Government of Canada has invested a lot of money in youth crime prevention initiatives there and in expanding the size of the RCMP detachment. Those are some of the common-sense things that we're doing there and that we don't get any credit for, particularly from our friends across the way, but the community also has gotten involved. They've had enough of it.

Nothing creates an environment of tolerance for crime other than tolerance for crime; I mean, that's the way it is. If you don't tolerate it, if you're not going to tolerate it, and if the community stands up and says they've had enough.... The numbers of gangs and their activities have gone down immensely. Notwithstanding the fact that we've changed some of the laws and invested in police, it's just the willingness of the community to partake in this.

I sense that the community would be willing to partake in your piece of legislation here, Mr. Gill. I applaud you for your efforts in trying to do something constructive, even though others may be detractors with regard to your legislation.

For one such detractor, I would ask you this. Let's say hypothetically that your bill has passed and that someone is in jail, incarcerated and convicted for trying to lure somebody into a gang. During their term of incarceration, how many young people exactly—give me a real hard-and-fast number—will they be able to recruit while they're incarcerated?

• (1625)

Mr. Parm Gill: My answer would be none.

Mr. Blaine Calkins: Well, that's a great number. That works for me. That's good enough for me. The experts, who I like to call the folks with good, old-fashioned common sense, I think would agree with your assessment and would say that zero is probably the right number.

I do have some technical questions for you. I'm not sure if I'm going to get offside with this, but as you know, we have Bill C-43, the faster removal of foreign criminals act. If somebody who's not a resident of Canada and not a citizen of Canada, but is in Canada, and is convicted based on the legislation that you're proposing here, would that meet the threshold for them to be removed from the country if they were deemed to be a threat to Canadian citizens?

Mr. Parm Gill: This is a criminal offence. Depending obviously on the outcome and if they are found to be guilty, I would assume that this would meet the threshold.

Mr. Blaine Calkins: I would hope so as well.

Do you think there should be, at any point in time.... I'm not trying to muddy the waters here, but I hear about the same thing that you talked about in your testimony. Some of these really young people are being recruited into these gangs to be used as mules, or whatever you want to call them.

It's not uncommon in my constituency where these gang issues are a problem to see youth targeted, under the age of 12 in particular, because of the protections they're afforded in not being criminally responsible for any of their actions, no matter how heinous their actions might actually be. It's usually in a situation where they're brainwashed, or convinced, or threatened, to do things that any normal child at that age shouldn't even have to imagine, much less be coerced into doing.

Was there any consideration given at any time to creating a different threshold for trying to recruit somebody under the age of 12?

Mr. Parm Gill: No. The age that we kept as the benchmark was obviously anyone under the age of 18.

You're absolutely right in terms of these criminal organizations targeting our young people, especially as young as eight. To give you an example, during my consultation I met with someone who was trying to exit the gang lifestyle. It was at an organization called RAGS, Regina Anti-Gang Services, and he shared a story with me.

This individual was about 18 or 19 years of age. He said, "You know, I use my younger siblings, my brothers and my sister, to carry weapons, to carry drugs, and for these other illegal activities." It was for the same reason that you just mentioned. The younger brother or the sister who is under age cannot be formally charged. If he gets caught, a police officer is able to interrupt them and intercept, but there's nothing anyone can really do.

So, yes, these criminal organizations, these gangs, do use young people to carry out most of the dirty work.

• (1630)

Mr. Blaine Calkins: Thank you for your courage, Mr. Gill.

I support your legislation.

The Chair: Thank you, Mr. Calkins.

Thank you, Mr. Gill.

Our next questioner is Mr. Mai from the New Democratic Party.

[*Translation*]

Mr. Hoang Mai: Thank you, Mr. Chair.

Thank you, Mr. Gill.

As my colleague, Mr. Jacob, mentioned, we all support efforts to combat street gangs. When you come from the riding of Brossard—La Prairie, on the south shore, across from Montreal, you're also familiar with what's going on. This is a scourge that needs to be dealt with.

My colleague asked you a question that the Library of Parliament researchers prepared regarding your bill. It had to do with section 467.11 of the Criminal Code. I won't read all of it, but you must know that the case law has shown that recruitment is punishable.

My colleague asked you whether this bill was really necessary, given that the Criminal Code and the courts already punish this behaviour. I heard your answer, but could you tell me whether you know of a specific case in which a recruitment charge did not result in a conviction? It could be a case where someone was accused of recruiting members to contribute to an activity of a criminal organization, or facilitate or commit a crime.

Has there been a case where the system could not deal with that because your bill was not in place?

[English]

Mr. Parm Gill: Obviously, because the bill does not exist, I'm assuming it would not be a criminal offence for somebody to carry this out or if somebody were currently caught recruiting an individual.

Mr. Hoang Mai: Well, that's the argument, that it is included. Section 467.11 of the Criminal Code, in the first paragraph, talks about "participates in or contributes to any activity of the criminal organization". If you look at the jurisprudence, it has included recruiting. You may not be aware of that.

Also, with respect to something that Mr. Casey and Mr. Jacob mentioned on prevention, I think it is very important for prevention. We had this argument when there was a bill from Ms. Fry regarding cyberbullying. Surprisingly, your colleagues were talking about prevention and saying that what would happen with that private member's bill was that we would put the wrong people in jail; for instance, we'd put youth back in jail. That's why your colleagues actually opposed that bill.

One of the problems I see is, and I want to hear from you on this, isn't it a fact that we're going with repression rather than prevention? I understand what you're trying to get at, but are mandatory minimum sentences the solution? Do you think it's better than prevention?

Mr. Parm Gill: Prevention is always the best way to go. As I mentioned earlier, I'm all for prevention. Obviously, I'm all for having different programs so this problem never starts. I wish it never did, and I hope it never does in the future, but the reality is that it's there. Even though we have tons of programs offered at different levels in different organizations and so on, the problem still exists. This bill is going to target individuals who are responsible, who are committing these crimes. That's what this bill is going to do.

I'm all for prevention. Please do not misunderstand me.

• (1635)

Mr. Hoang Mai: It's just because the last time we were studying a private member's bill here, your colleagues said that putting people in jail might not be the right solution in terms of cyberbullying, for instance. One of the things Mr. Casey raised was something that we've always felt, that basically, if you put people in jail, we all know it's a school for criminals, right?

More specifically to your bill, there are provisions regarding consecutive sentences. Do you know if they apply to young offenders as well?

Mr. Parm Gill: I would have to go back and look to give you an accurate answer. I'd be happy to look into it and get back to you. I don't want to give you an answer that is not accurate.

Mr. Hoang Mai: For sure, because obviously we want to know how far it goes. If you put young offenders in jail for an additional period, again, what are the impacts for youth? You understand, and I think we all agree, that prevention is better, but when you put youth in jail....

That's it, Mr. Chair?

Thank you, Mr. Gill.

The Chair: Thank you very much, Mr. Mai, and thank you, Mr. Gill.

Our next questioner is Mr. Albas from the Conservative Party.

Mr. Dan Albas (Okanagan—Coquihalla, CPC): Thank you, Mr. Chair.

I want to thank my colleague, Mr. Gill, for coming in today.

I've been hearing quite a number of concerns from the opposition benches today.

One of the things is mandatory minimum sentencing. Mandatory minimum sentences have a long tradition in Canada. Since the turn of the 20th century we've had them. Usually it's in cases where there are particular crimes that the public at large finds both offensive and heinous. So for members to bring forward legitimate concerns and say that the other argument given on another bill...it doesn't apply in this case. We are finding that this particular aspect of the gang problem, where someone is recruiting youth and entering them into a life of crime, is particularly offensive to my constituents. For us to say that this is a heinous crime that needs to be stopped, we do need to put some mandatory minimum sentences to communicate that.

The previous bill did not even add clarity to the existing Criminal Code. This bill would. It would send a very broad message that gangs are a problem in our Canadian cities and we need to have a full range of tools available to law enforcement, particularly a mandatory minimum sentence.

Our government's support for this bill is consistent with a long-standing commitment to improving existing responses to crime, including organized crime, as reflected in many of our election platform commitments and speeches from the throne. For example, you have, from 2008, Bill C-2, which created mandatory minimum penalties for serious gun crimes involving organized crime; Bill C-14 in 2009, which deems murder committed on behalf of criminal organizations to be automatically first degree murder, and creates a new offence targeting drive-by shootings; the enactment of a serious offence regulation in 2010 for the purposes of organized crime provisions in the Criminal Code; and most recently, Bill C-10, the Safe Streets and Communities Act, which proposes mandatory minimum penalties for drug crimes committed for the benefit of, at the direction of, or in association with, a criminal organization.

Mr. Gill, your bill proposes to create a new indictable Criminal Code offence that would prohibit the recruitment, the solicitation, the encouragement, or the invitation of another person to join a criminal organization for the purpose of enhancing the ability of that criminal organization to facilitate or commit indictable offences.

I'll stop there, Mr. Chair, because that clarifies that this particular aspect of organized crime is unacceptable in our society. That's why this adds clarity, in my view, to the Criminal Code, specifically because it highlights this heinous activity. There are many activities that may go on in organized crime. I appreciate Mr. Mai's wording of his concerns, but by the same token, this is one of the parts where we have to say that no more is acceptable.

Anyway, though many in the opposition say that mandatory minimum penalties are ineffective, this offence would be punishable by a maximum of five years' imprisonment, with a mandatory minimum penalty of imprisonment of six months if the individual who's recruited is under the age of 18.

Mr. Gill, getting back to your testimony, how do you think this mandatory minimum penalty would help get these gangs that prey on the most vulnerable in our society? What kind of message would that send to the broader criminal element? Again, as you said, Toronto City Council has said this is a recurring problem. They support your bill.

How will a mandatory minimum sentence send a signal to those who would perpetrate these crimes?

● (1640)

Mr. Parm Gill: Thank you for the question.

This bill would send a very strong message to would-be recruiters or existing recruiters who are committing these crimes that we take this very seriously, that we will hold those responsible accountable for their actions, and that there will be very serious consequences.

There are a lot of sophisticated ways nowadays, obviously.... We're living in the age of the Internet. Gangs use tons of sophisticated methods to recruit vulnerable individuals again and again, especially in targeting our youth in a big way.

On this minimum mandatory sentence, from my consultations and from everyone I have spoken to, all the victims and other organizations, for the most part everyone is on board. Everyone supports this idea. The question that is often asked is, why is it six months and why can't we make it longer than that?

Mr. Dan Albas: Again, I think it goes back to minimums.

Do I have any time left?

The Chair: No, not really.

Mr. Dan Albas: Well, Mr. Chair, I just wanted to comment that you're looking great. You're doing a great job as committee chair.

Voices: Oh, oh!

The Chair: You still don't get more time, Mr. Albas. Thank you very much.

We have Mr. Marston from the New Democratic Party.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair.

The issue of mandatory minimums is something that our two parties disagree on when it comes to a judge's discretion,

Prisons or reformatories are breeding grounds for crime. They're breeding grounds for recruitment. I know of a guy—I worked with him years ago—who was out on a joyride and who was involved in a couple of scrapes. He went to jail, to a reformatory environment, and in five days he was raped three times. You have to give some consideration to the impact on an individual's life.

I really appreciate the work you've done. When I listen to you talk about it, and about the people you've talked to, I can understand why you came up with some of the ideas. It's too bad you didn't see the

report from the Boys and Girls Club, because they talked about providing kids with a genuinely safe place to stay, with access to programs that support education, employment, and life aspirations, that help repair the damage done to them when they've been part of a gang.

I was a school board trustee on the public board in Hamilton for two terms. I saw the outcomes of some of the gangs, and it was horrific. I don't think anybody here would disagree with that side of it.

It strikes me that, really, for one MP to undertake this work, it must have been one heck of a challenge.

To my mind, this required a comprehensive response from a government dealing with the pre-emptive, dealing with stopping these guys before they get to the roots in the community and other aspects of it.

In clause 14 you're reintroducing a new offence into the reverse onus, which will create a bit of a problem. There's a variety of things here.

I really commend the effort you're making to try to address this, and I don't disagree with anybody who says that this is a scourge, but as you can tell, I'm a little flabbergasted. There's so much more to this problem, and there is so much more that needed to be done by the government on this.

I'm almost beside myself as I try to go through some notes. I have about six or seven pages of stuff I've scribbled down here. I won't even try to get into it because I'm not here to pick apart your bill. I'm here to say that yes, you're working on a significant problem, but go back to your government and get them onside with the remainder of the problem, the advance work that needs to be done to prevent people being put into this position.

Let's look at homelessness, for instance. Let's look at the thousands of young people who live in homes, where they've been taken out of their own homes and have been parked, and the abuses that happen there. There are so many avenues that can be worked on, and I think still more can be done. How do you not support it?

The only true issue of a real problem with this is the mandatory minimums and taking away the judge's discretion. Mike Harris in Ontario put in a last resort.... I forget what they called it—Mike, you may recall—but if a kid showed up at school with any kind of a weapon, he was automatically expelled. There used to be the discretion of the trustee: you could go before the trustee; you could talk to them; the group could rule, and maybe you'd get a pass.

We had a 12-year-old who had a penknife this big. He was across the street from the school. He showed the penknife to a girl and said, "I should cut you." He didn't mean anything by it. He was carving something. He said it was his idea of a joke. He was a grade A student. He was suspended for a year. He had to go from Hamilton to Waterloo to a special place for a year. We had to pay his transportation.

That's what happens when you take the discretion out and the mandatory minimum is removed. That was a case in which we could have prevented that misery.

Now, as far as I know, the kid.... He sat before us with his dad, crying his eyes out. He had made a mistake, and the discretion should have fixed it.

That's the problem with mandatory minimums. The judges have a lifetime of experience in dealing with individual cases, and you're taking that away from them.

Again, I know it sounds ironic to say this, but I commend you for the work you've done on this. I just don't think it goes anywhere near the problem it needs to go.

I'm not going to ask any questions. Obviously, Mr. Chair, I'm too cranked up right now to figure one out.

• (1645)

The Chair: Mr. Marston, thank you for your intervention.

Our next questioner is Mr. Seeback from the Conservative Party.

Mr. Kyle Seeback: Thank you, Mr. Chair.

Sometimes I sit here and listen to comments that are made.

You know, I feel the same way you do, Mr. Marston, but perhaps on the opposite side. I shake my head a little bit at comments like "prisons are just breeding grounds for new criminals". Well, to some extent maybe they are, but if that were the case, then there should be a 100% recidivism rate, and quite frankly there isn't. It's not always the case that incarceration turns a person toward a life of crime.

You made a comment on reverse onus and how that's terrible.

Mr. Gill, one of the things in your bill is that with respect to release pending trial, the person would now have a reverse onus; they would have to prove that they should be allowed out in the community. To me that seems like a good thing, because somebody who is recruiting someone into a gang maybe should have to prove why they should be back in society, where they'll likely try to recruit more people.

Perhaps you could comment on why you think that might be a good aspect of this bill.

Mr. Parm Gill: I could kind of hear you, but I think I lost my earpiece. I don't know whether it's a problem just with me or with everyone else.

Mr. Kyle Seeback: I was talking about the provision for release pending trial. When a person has been charged but is pending trial, normally the crown has to prove why that person should stay in jail. With respect to your legislation, the accused would now have to prove why they should be let out. In the circumstance when they're recruiting young people into gangs, it seems to me to be a good idea.

Could you comment on that?

Mr. Parm Gill: Absolutely.

When you speak to the victims and their families, they feel the same sort of frustration. Why is it that the accused or the criminal or a convicted individual has all of the rights? Why is it that the victims and their families have absolutely no rights? Why is it, as you mentioned, that it's the crown or the victim's side who have to prove why the criminal needs to be sentenced or put behind bars when this

terrible thing has happened? Common sense should tell you that it should be the other way around.

Mr. Kyle Seeback: That's right.

Sometimes what I think members on the other side forget is that in the justice system, not only should justice be done but you also have to have the appearance of justice being done. The public at large has to believe that justice is being done. That's why I think something like you're talking about, with a mandatory minimum penalty for someone who is.... We have to remember that this is for recruiting someone under the age of 18. They're recruiting young people into a gang.

One thing members keep talking about is why you aren't addressing issues with a more restorative approach. I would remind my colleagues that this is a private member's bill. This is your legislation. This is not government legislation. He's decided to tackle a particular issue.

My colleagues raised some issues about the Boys and Girls Club. I noticed that they say:

Boys and Girls Clubs were pleased to hear the Government announce the next phase of the Youth Gang Prevention Fund to support proven and promising crime prevention initiatives in communities that are impacted by gang activity.

This is not just a stick approach; we do have a carrot approach to the justice system.

Could you comment on that as well, and how important those two things are together?

• (1650)

Mr. Parm Gill: As I mentioned earlier, Mr. Seeback, I am in favour of prevention. I wish this problem had never started. I wish it never existed. I wish it weren't there.

We do have the carrot part. There are tons of programs available at all different levels of government. There is funding that's put out by different levels of government, and organizations such as the Boys and Girls Clubs, which are doing a tremendous job. I am in support of all of that.

At the same time, you have to understand that this is a very, very serious issue, especially when you're dealing with youth, protecting our youth, protecting our communities, and protecting our neighbourhoods. Ultimately, it's about protecting our future. Our youth are our future. Unless we take serious steps to protect them, this is going to get out of hand.

This may not be everything to solve the problem. All I'm saying is that my bill would do a little bit. Even if that little bit at the end of the day saved one life, I would be very happy. I would have achieved the success that I've set out to do.

The Chair: Thank you, Mr. Gill.

Thank you, Mr. Seeback, for those questions.

Our next questioner is Mr. Mai.

Before you start, you did ask a question earlier that Mr. Gill wasn't sure about. I'm going to ask the analyst to respond to whether this affects youth or just adult court.

[Translation]

Mr. Dominique Valiquet (Committee Researcher): As far as minimum sentences and consecutive sentences are concerned, I'd like to clarify that they do not apply to young offenders, pursuant to section 50 of the Youth Criminal Justice Act. The same goes for bail hearings, bail and parole, all of which are governed by specific rules for young offenders.

The bill is in line with what is done in relation to the three criminal organization offences. It's very well done and is totally in line with what is already in place for the three current offences.

[English]

The Chair: The five minutes are still yours. Thank you.

Mr. Hoang Mai: It answers the question.

I want to reiterate, in case it's not clear, that we know it's an issue. We think it is important to actually tackle gangs, and it is a tool that moves us in the right direction. Obviously, we mentioned prevention. You chose to use this line, and I agree it's a private member's bill; you're entitled to do that. Maybe you could tell us why the government's not doing enough on that side, but I'm not sure you'll do that.

Coming back to some of the things we raised with respect to mandatory minimum sentences, in terms of the charter, because obviously, we're going towards taking away a certain right that is protected by the charter, I was wondering if—and I think Mr. Jacob has asked this—you have looked at that aspect of it. Has anyone, for instance, any expert or someone you would have met or a stakeholder, said that they have looked at it from the charter's perspective? We know that normally when it comes from the government, there is an obligation to look at it on that front, although we're not sure it's always being met. In your case, could you tell us if you looked at that aspect of it and who you consulted?

Mr. Parm Gill: Yes. During the initial stages when we put the idea together, we did seek some help from the legal team that is available to members. We discussed this idea with them. We went back and forth. There was more stuff that I would have liked to see in there, but we couldn't exactly, from the charter point of view, the legal point of view... My understanding, from all the advice I got from the legal experts available to us, is that this bill meets the charter, and there is no issue with it.

• (1655)

Mr. Hoang Mai: If we go back to mandatory minimum sentences, who are the people asking for those, who are actually in favour of them? You mentioned a couple of names, but could you expand on the people who support that position and the stakeholders you've met who are supporting that position?

Mr. Parm Gill: Honestly, for the most part the organizations, the stakeholders, the victims groups, and the citizens I've met... I even conducted a survey in my riding. I conducted two separate very detailed surveys in my riding before I compiled this piece of legislation giving my constituents different options and asking them to provide me with their input. Even on that, very close to 100% of people were in favour.

If anything, honestly, one thing people asked was why, at the end of the day, it was only six months. Why wouldn't the mandatory

minimum sentence apply to everyone? Why was it only for individuals who recruited somebody under the age of 18? Could we not go further and make it mandatory for recruitment, period, and eliminate the age limit we've set out in this bill?

Obviously, I feel that somebody who targets youth—those under the age of 18, especially as I mentioned, those as young as eight, or between the ages of eight and 12—is committing a bigger offence than is somebody who is targeting adults, those over the age of 18 who have maybe a little more understanding or sense of what they're getting into and what they may be doing. That's a problem.

Mr. Hoang Mai: I just want to reiterate the fact that we're not always against mandatory minimum sentences. In certain cases for particular reasons, sometimes we will think they are the right tool. In this case, since we're here to actually understand and to ask questions and to go further, can you explain to us why you chose six months?

Mr. Parm Gill: The six months came from looking at other similar legislation, similar laws we have in place, along with the advice I got from the legal experts, as I mentioned earlier. Balancing all of that, I was basically given the figure of six months.

Mr. Hoang Mai: What types of activities did you compare it to in terms of the six months?

Mr. Parm Gill: Well, other similar offences, such as criminal offences. I can't give you one off the top of my head, but when we looked at it and compared our notes and stuff... I'm no lawyer by profession; it was the legal experts who gave me these.

Mr. Hoang Mai: Okay.

Thank you very much.

The Chair: Thank you, Mr. Mai.

Our final questioner for this afternoon is Mr. Goguen.

I think you're sharing your time with Mr. Wilks. Is that correct?

Mr. Robert Goguen: If we have time, I would very much like to do that.

The Chair: Okay. You're the last questioner.

Mr. Robert Goguen: This is not a philosophical question. It's a question of construction and interpretation.

Clause 12 amends paragraph 486.2(5)(a) of the Criminal Code, aids in testimony, and your bill proposes to amend existing language in the French version.

Currently, the French version reads “*une infraction grave présumée avoir été commise*”. In English that's “presumed to have been committed”. The bill proposes to replace this language with “*une infraction grave censément commise*”, an offence supposedly or purportedly committed.

Censément is not used elsewhere in the Criminal Code to describe the alleged commission of an offence, whereas the phrase “*présumée avoir été commise*” is. Moreover, *censément* is not an appropriate concept with respect to criminal law offences. Principles of legislative drafting would dictate that the words “*présumée avoir été commise*” be maintained to ensure their consistency in use and meaning across the Criminal Code.

The question of the hour is, are you okay with this?

Mr. Parm Gill: I am absolutely fine with it.

Mr. Robert Goguen: I will now share my time.

The Chair: Thank you, sir.

Thank you, Mr. Goguen.

Mr. Wilks, you have four minutes.

• (1700)

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you.

Thank you, Mr. Gill, for your insights on this bill. I'd like first to say that recruitment has changed over the years. From my days as a police officer in my undercover work dealing with the Hells Angels, things have changed. I think that's what is missed in all of this. It's that the gangs we speak of today are much more immature and much more brazen than those such as the Hells Angels or the Bandidos, which try not to get involved or put themselves in light of criminal offences because they don't want to get caught.

The biggest thing I've noticed over the years is intimidation. Intimidation is normally used for one or two reasons. Someone else does the crime and the recruiter reaps the benefit, or the recruiter may elude jail time and let a younger person go to jail for them. Intimidation normally happens by harming family or friends. That's normally how it works, and it works very well.

I completely agree with you with regard to this.

I have one question. In the time you went across Canada on this bill, were you able to determine whether there was a rise in recruitment for females?

Mr. Parm Gill: That's a good question. To be honest with you, when I met with some of the current and former gang members, I did not come across a female gang member, nor did this question come up during my consultations with the different stakeholders, such as boards of education, police agencies, and others. I'm sure it's there, but it's honestly not something that came up or that I looked into.

Mr. David Wilks: Thank you.

The Chair: You have one more question.

Mr. David Wilks: It's just a statement. When we dealt with bullying as it still goes on, we recognized that both males and females are not to be taken lightly when it comes to that, so it is of interest to me. It may be something you may want to look at later—

Mr. Parm Gill: Yes, absolutely.

Mr. David Wilks: —with regard to females.

The Chair: Thank you, Mr. Wilks.

Thank you, Mr. Gill, for coming here and talking about your bill.

For the committee's information, I have a reminder that we will continue this discussion next Monday. For the first hour, we will have two witnesses coming for sure. The Minister of Justice from Manitoba will be here, as will the vice-president of the Winnipeg Police Association. That is one from the Conservative list and one from an NDP list. If the Liberals have anybody they'd like to see here, we'll be happy to have them. Hopefully, we'll get done in the first hour, and we can go to clause-by-clause study.

For Wednesday of this week, I have a reminder to check the location. We're going to be in the Centre Block for Wednesday's meeting, with the minister for the first hour and the officials for the second hour, to deal with the main estimates.

The Chair: Ms. Boivin.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): I can't sit through this meeting without saying something.

[*English*]

I just want to translate what I said to our chair outside this room. I was a bit surprised to see that on Wednesday we have the minister because that was not what we had set as dates. I understand that he's making himself available.

I find it a bit weird that we'll have him the day before the actual budget. We'll have main estimates of a budget that will come down the next day. I'll say to him—and he's always very agreeable on that front—that he will probably have to come back, so I find it a bit sad for him to spend his time being grilled on the main estimates which might all be changed in the budget the next day. Anyway, so be it.

That's all I want to say. If we work on an agenda maybe it's nice to stick with it, and if there's a change—

The Chair: We actually did not have anything scheduled. I'll take full responsibility. We did not have anything scheduled for Wednesday. We could have had Parm's piece, a continuation of today's piece, but the minister, based on our invitation for today, which he couldn't make, said he could make it on Wednesday. I took the initiative and invited him to come for the main estimates then. I'll take full responsibility for that, but from here on in, I'm happy to do it through a subcommittee on agenda.

Anyway, with that, thank you very much.

We are adjourned until Wednesday.

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