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Chair

Mr. Anthony Housefather

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• (1520)

[English]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Good afternoon, ladies and gentlemen. Welcome to this meeting of the Standing Committee on Justice and Human Rights.

It's a great pleasure to welcome our Minister of Justice and Attorney General of Canada, Jody Wilson-Raybould, along with so many people from different departments that I'm not sure I can introduce everybody. I want to thank all of these people from all of the different departments and agencies who are here with us to provide backup and support to the minister and to the committee.

[Translation]

Very much appreciated. It is not always possible for us to thank everyone who works for the department and agencies. On behalf of all committee members, I would like to thank you for your conscientious work.

[English]

That being said, we are going to move straight to the testimony of the minister. Then we'll move to questions.

Minister, the floor is yours. Thank you for being here.

Hon. Jody Wilson-Raybould (Minister of Justice and Attorney General of Canada): Thank you, Mr. Chair. Certainly I always appreciate being in front of this committee, and I look forward to answering questions after I make some brief remarks.

Of course I want to acknowledge the territory of the Algonquin people.

For your benefit, Mr. Chair, and the benefit of the committee, I will note that I am joined by William Pentney, deputy minister of justice and deputy attorney general; Nathalie Drouin, associate deputy minister; Donald Piragoff, senior assistant deputy minister; and Johanne Bernard, assistant deputy minister and chief financial officer.

Today I'd like to talk to you about how the Department of Justice Canada intends to use its funds granted through 2017-18 main estimates to ensure a fair, relevant, and accessible Canadian justice system and a federal government that is supported by high-quality legal services.

Mr. Chair, as you are aware, the Department of Justice has a total budgetary authority of \$656.1 million through 2017-18 main estimates. This represents a decrease of \$22.7 million from main

estimates of the previous fiscal year. However, early this morning our government tabled the 2017-18 supplementary estimates (A). These include \$45.9 million announced in budget 2017 for the Department of Justice, which offsets the previously mentioned decrease resulting in proposed authorities in the amount of \$702.1 million to date.

In addition to the budgetary authority, the department is also granted a vote netted revenue authority of \$296.2 million to collect fees to offset a portion of the cost of legal services offered to other government departments.

Some of the \$385 million of this year's authority will be used to help support the stewardship of the Canadian legal framework by directing funding to the provinces and territories.

The 2017-18 main estimates also indicate departmental operational expenditures of \$234.3 million.

Mr. Chair, as the Minister of Justice and the Attorney General of Canada, I take my responsibilities and accountabilities very seriously. I would now like to speak more broadly about how the budget authority granted to the Department of Justice through the main estimates will help support my role as the steward of the Canadian justice system and ambassador of the Canadian Charter of Rights and Freedoms, which celebrates its 35th anniversary this year.

First, my review of the criminal justice system is ongoing. It is intended to ensure that our criminal laws protect Canadians, hold offenders to account, meet the highest standards of equity and fairness, show respect for the charter, and show compassion to victims. This, in turn, will help promote a justice system that protects Canadians, their communities, and their rights.

In March I introduced legislation that would remove or amend provisions of the Criminal Code that have been declared unconstitutional by the Supreme Court of Canada and appellate courts and that have no force in law. Removing these and other invalid provisions will make the Criminal Code clearer and more accessible and will help Canadians, including those involved in the criminal justice system, to better understand the current state of the law.

This is the start of our modernization of the criminal justice system to ensure that it shows the greatest possible respect for the charter and that it promotes access to justice.

Earlier this year I also worked with my colleague the honourable Mélanie Joly, Minister of Canadian Heritage to reinstate and expand the court challenges program. This program will ensure that the government remains accountable for protecting official languages, upholding human rights, and promoting access to justice for Canadians who need it most.

More recently I have been discussing the Supreme Court's decision in *Jordan* with my provincial and territorial counterparts. That decision proposed new ceilings and an interim framework for assessing when an accused's charter right to be tried within a reasonable time has been infringed.

● (1525)

At our most recent federal-provincial-territorial meeting, we identified mandatory minimum penalties, bail, administration of justice offences, preliminary inquiries, and reclassification of offences as priorities for legislative reform. Along with this most recent ministerial meeting, there have been continuing and ongoing discussions on access to justice among provincial and territorial ministers of justice and public safety, as well as other officials. We are all committed to ensuring that our criminal justice system is efficient and effective, and that Canadians can have the utmost confidence in it.

Moreover, our government will continue to address vacancies in our superior courts. Our process for judicial appointments emphasizes transparency, merit, and diversity, as well as the highest standards of excellence and integrity. Additionally, budget 2017 proposes additional funding of \$55 million over five years, beginning in 2017-18, and \$5.5 million per year thereafter, for 28 new federally appointed judges.

Mr. Chair, I am also committed to doing my part to renew the Government of Canada's nation-to-nation relationship with indigenous peoples based on the recognition of rights, respect, co-operation, and partnership. As a country, we know we have much work ahead of us in ensuring that indigenous peoples can take their rightful place within the Confederation. There is no question that indigenous peoples and communities are in a period of tremendous transformation and transition, rebuilding their nations. Our government recognizes that reconciliation requires an all-of-government approach, based on recognition of indigenous peoples and their rights, to address the colonial legacy in a substantive and meaningful way that will be transformative.

In addition to committing to implementing the United Nations Declaration on the Rights of Indigenous Peoples without qualification, the Prime Minister recently established a working group of ministers to review all federal laws and policies. I am honoured to have been asked by the Prime Minister to chair this new working group. Our working group's mandate is nothing short of transformative: to decolonize federal laws, policies, and operational practices, and to ensure that all aspects of Canada's relationship with indigenous peoples are rooted in the recognition of rights.

Mr. Chair, our government has also included measures in budget 2017 to support the implementation of the Truth and Reconciliation Commission of Canada's calls to action, including specific measures to address the overrepresentation of indigenous peoples in the criminal justice and correctional systems. Among these measures is

the indigenous justice program, formerly the aboriginal justice strategy. Budget 2017 proposes to invest \$55.5 million over five years, starting in 2017-18, as well as \$11.1 million per year ongoing. This would provide long-term and stable investment in this program to encourage the use of community-based restorative justice approaches as an alternative to the criminal justice system and corrections.

Budget 2017 also proposes to provide \$65.2 million over five years, beginning in 2017-18, and \$10.9 million thereafter, to help reverse the trend of indigenous overrepresentation in Canada's criminal justice system and corrections, and to help previously incarcerated indigenous people heal, rehabilitate, and find good jobs.

Finally, Mr. Chair, the Government of Canada is unwavering in its commitment to ensuring that victims of sexual assault and gender-based violence are treated with the utmost respect and dignity. This commitment extends to Canada's judges and the judicial system. All Canadians should have confidence in the quality of Canada's judges and the judicial system.

To ensure that Canadian judges are sufficiently informed and sensitive to the evolving nature of Canadian society, as announced in budget 2017, our government increased funding to \$2.7 million over five years, and \$500,000 per year thereafter, for judicial training and judicial conduct with a gender and cultural lens. In addition, almost \$100,000 in new funding from Justice Canada will be provided to the National Judicial Institute to develop training for both federally and provincially appointed judges that will focus on gender-based violence, including sexual assault and domestic violence.

● (1530)

Moreover, the Department of Justice Canada will continue to fund programs and services to support survivors of sexual assault and gender-based violence, and will continue to work with Status of Women Canada on the federal strategy on gender-based violence.

To date, Justice Canada has approved more than \$10 million in funding to 46 projects over three years. Its ongoing review of the criminal justice system, as I mentioned earlier, will include a review of Criminal Code provisions related to sexual assault and consent.

To conclude, I certainly would like to thank your committee for the important work that you continue to do. Thank you for the opportunity to provide these opening remarks and overview. I look forward to answering any questions that the members may have.

Thank you, Mr. Chair.

The Chair: Thank you very much, Minister Wilson-Raybould, for those very cogent remarks.

We will start now with the first round of questioning.

I think, colleagues, we'll do two rounds while the minister is here. We are going to start with Mr. Nicholson.

Hon. Rob Nicholson (Niagara Falls, CPC): Thank you, Minister, and all those with you here today. Thank you for your appearance here. It is much appreciated.

There are so many different aspects of this department. As an attorney general, one of the responsibilities you have is to either intervene or get involved with all the lawsuits and applications before the court that could involve the federal government. I'd like to direct your attention to one in particular.

I'm sure you heard a couple of weeks ago the Supreme Court announce that it will hear a New Brunswick appeal of a lower court ruling that says citizens have a constitutional right to purchase alcohol in Quebec and take it into New Brunswick. I'm assuming, first of all, that you would support domestic free trade between the provinces and that you would support getting rid of limitations and restrictions on interprovincial trade.

• (1535)

Hon. Jody Wilson-Raybould: I'm incredibly proud of our government in terms of negotiating the Canadian Free Trade Agreement. I know that in terms of the work that the Minister of Innovation is continuing to undertake, he's certainly mindful of that lawsuit and will continue to work with his counterparts in terms of the application of that agreement.

Hon. Rob Nicholson: I'm sorry. I missed that. "...work with his counterparts..."? Who would that be, specifically?

Hon. Jody Wilson-Raybould: The minister is working with his counterparts.

Hon. Rob Nicholson: In terms of the legal actions before the Supreme Court of Canada, is it your intention to intervene and get involved in that particular case?

Hon. Jody Wilson-Raybould: I will continue to work with my colleague, the Minister of Innovation, and take the appropriate action, as we determine, moving forward.

Hon. Rob Nicholson: I think it would be very helpful. I hope when you're talking with this minister that you'll indicate to him that as important as it is to have a free trade agreement with the United States, NAFTA, or with Europe, certainly free trade within Canada somewhere along the line has to also be a priority. I hope that in your discussions with the minister you will encourage him to get involved in this case, with either intervenor status here or with support, because this is a critical one.

Will you take that advice?

Hon. Jody Wilson-Raybould: I will certainly relay those comments to the minister.

Hon. Rob Nicholson: Thank you very much.

Minister, one of the pieces of legislation that you have introduced is with respect to cannabis. When you were here just about a year ago, one of the questions I asked you was this: "Just to be clear, with any changes the government does bring forward on this"—which is marijuana—"it's still going to be illegal for children to have marijuana. Is that correct, Minister?" Your answer to that was "correct".

I was very polite. I said, "Thank you very much."

The Chair: You always do.

Hon. Rob Nicholson: What I'm concerned about, Minister, is the briefings we have received on this. Bill C-45 says that it is prohibited:

for a young person to possess cannabis of one or more classes of cannabis the total amount of which, as determined in accordance with Schedule 3, is equivalent to more than five grams of cannabis.

Then it goes on to say that it's prohibited for a young person to distribute more than five grams of cannabis.

Can I interpret from that—and I hope that it's not the case—that young people between the ages of 12 and 18 can possess and distribute, presumably sell, cannabis if they limit it to four grams?

Hon. Jody Wilson-Raybould: There's nothing in Bill C-45 that makes it legal for a young person to possess cannabis. We did, in developing the cannabis bill, have discussions around ensuring that we find some balance, recognizing that the ultimate objective of our legislation, of course, is to legalize, strictly regulate, and restrict access to keep it out of the hands of children and the proceeds out of the hands of criminals.

In having discussions around penalizing young people for possessing small amounts of marijuana, we sought to recognize and balance the ultimate objective that we are trying to achieve, along with ensuring that we do not criminalize young people for possession, which would lead to criminal records, but we are working very closely with the provinces and territories to see them move forward with regulation and laws similar to those for alcohol.

Hon. Rob Nicholson: What is going to be the status? The law is very clear that if you're in the schoolyard and I guess selling more than five grams, if you're a teenager or a young person, that's prohibited if you possess five or more grams, but I'm talking about the individual. Let's say he or she shows up in school with three or four grams. What is the status of that?

• (1540)

Hon. Jody Wilson-Raybould: Again, in terms of young people being involved in selling or having other individuals use young people in trafficking, we have imposed in this legislation very serious penalties in terms of the maximum penalties, but again, in terms of less than five grams, this is something that we will continue to work on with the provinces and territories, to provide options, as they have around alcohol, to law enforcement officers to ensure that we don't over-criminalize young people. That's the balance that we strive to—

Hon. Rob Nicholson: I don't think we're trying to over-criminalize, but you can see that there's a gap here in the legislation. I suppose that if you're into the business as a young person just selling the stuff, you'd want to be careful not to put more than five grams in your pocket if you're going to start selling. I'll be very interested to hear what—if anything—is going to be the result of this, because it seems to me that one of the intentions of the bill was to so-called protect children. If you make it not illegal if you are buying or selling and possessing four grams of marijuana, I think that's a problem.

Hon. Jody Wilson-Raybould: Well, selling is always illegal with respect to cannabis, but again, we are working very closely with the provinces and territories to come up with a comprehensive regime that improves on the status quo, because the status quo simply isn't working.

Hon. Rob Nicholson: We'll go to just one more question, Mr. Chairman.

Again, the rationale behind or in part for this bill was to better protect children. Wouldn't you admit, Minister, though, that if every household in Canada can now have up to four marijuana plants, children will have the greatest access possible to marijuana if you have the plants in the house? Wouldn't you say that's an invitation to young people to get involved with marijuana?

Hon. Jody Wilson-Raybould: I will say that in developing Bill C-45 we had the benefit of working with health and safety experts, and we had the benefit of a substantive review and recommendations provided by the task force. Having four plants was a recommendation that was provided by the task force.

But I will say broadly, or on a high-level basis, that I want to reiterate the purpose of us introducing this legislation. The status quo is not working. It is very easy for a young person to gain access to cannabis right now. What we are seeking to do in legalizing is to strictly regulate and restrict access to cannabis in order to keep it out of the hands of kids and the proceeds out of the hands of criminals.

Hon. Rob Nicholson: It seems to me, though, that if you have four plants in the house, that's greater access than is allowed under the current law.

Hon. Jody Wilson-Raybould: Again, we're going to work with our counterparts in the provinces and territories to put in place a comprehensive regime that will provide strict regulation and restrict access.

The Chair: Thank you very much.

We're going to go to Mr. Boissonnault now.

Mr. Randy Boissonnault (Edmonton Centre, Lib.): Minister, thank you for being here today.

I appreciate your comments and your approach to your role as minister. As a member of indigenous caucus I'm particularly interested in all the good work you're doing to increase access and reduce the overrepresentation of indigenous peoples in the criminal justice system. I'm wondering if you could describe for us briefly the aboriginal courtwork program, why you believe this funding is important, and how it will improve access to justice. Then I have two other questions.

Hon. Jody Wilson-Raybould: The courtwork program has been around for a long time. I'm very pleased that we were able to inject \$4 million into the courtwork program and budget last year. The courtworkers provide indigenous peoples who are confronted in the criminal justice system with a friendly face, somebody who can assist them in navigating courtrooms and procedures, in some cases articulating within the courtroom on behalf of the individual, but providing a more comfortable place for individuals who find themselves in the courts.

Mr. Randy Boissonnault: I understand. I have to share a personal anecdote with you, Minister. I chose not to go to law school. So to be

a member of Parliament and sit on the justice committee and be able to ask questions of the justice minister is a particular geeky thrill for me today so I'm happy that you're here.

• (1545)

Hon. Jody Wilson-Raybould: I'm happy then.

Mr. Randy Boissonnault: What are we doing as a Ministry of Justice to protect and promote the rights of LGBTQ people in Canada?

Hon. Jody Wilson-Raybould: A geeky note I think is pretty fantastic. In the words of the Prime Minister, as a country we are strong because of our diversity, and as Minister of Justice I am committed, as is our government, to ensuring that the rights of all Canadians are upheld and propelled. In LGBTQ2 rights it was my great pleasure to build upon the substantive work that advocates of the trans community have been putting forward for years to introduce Bill C-16, which seeks to add gender identity and gender expression as a prohibited ground in the Canadian Human Rights Act, as well as make amendments to the Criminal Code to add gender identity and expression to the identifiable groups and add as an aggravating circumstance in sentencing to ensure that people can be free to be who they are, to express their gender identity and expression in a way they see fit. I'm also very pleased that the Prime Minister has put a substantive focus on LGBTQ2 people, and has appointed a secretariat headed by you, Mr. Boissonnault, to assist in this regard and to ensure that their rights are advanced in a substantive and a concrete way.

Mr. Randy Boissonnault: It's a great honour to serve in this role, and I thank you and the officials for the constructive relationship and the progressive approach that we have to a range of issues, including repealing section 159 of the Criminal Code, and I know there's more to come.

[*Translation*]

For a few moments, I would like to put on my old hat as parliamentary secretary for official languages and congratulate you on your work with Minister Mélanie Joly regarding the decision to appoint functionally bilingual justices to the Supreme Court. I consider this a tremendous step forward for official language minority communities right across the country.

[*English*]

We know that the official languages committee is studying the full implementation of the Official Languages Act in the criminal justice system. What are some of your goals or hopes; what would you like to see improved in providing access to the justice system to minority language communities?

Hon. Jody Wilson-Raybould: As an overarching statement, individuals have the right to be heard and to go through the justice system benefiting from both official languages. I was pleased to see \$2 million was provided to court administration services to further assist in making decisions available in both languages. You spoke about it, and again I'm really proud of the process the Prime Minister put in place to ensure that appointments to the Supreme Court of Canada are incredibly meritorious, diverse, and that all are functionally bilingual. We certainly received all those things with the Prime Minister's appointment of Mr. Justice Malcolm Rowe.

Mr. Randy Boissonault: Thank you very much.

The Chair: Mr. MacGregor.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Thank you, Mr. Chair.

Thank you, Minister, for appearing before this committee.

I want to read out something from the Liberal platform of 2015: "Arresting and prosecuting these"—cannabis—"offences is expensive for our criminal justice system. It traps too many Canadians in the criminal justice system for minor, non-violent offenses."

Minister, would you still agree with that statement?

Hon. Jody Wilson-Raybould: In terms of cannabis—

Mr. Alistair MacGregor: The fact that arresting and prosecuting for these offences is expensive for the criminal justice system, that it ties up the criminal justice system. Would you agree with that statement from the Liberal platform from 2015?

• (1550)

Hon. Jody Wilson-Raybould: In terms of that being on the Liberal platform, this is why we have introduced Bill C-45 to legalize, strictly regulate, and restrict access to cannabis in order to keep it out of the hands of kids and the proceeds out of the hands of criminals. We have had much discussion about simply decriminalizing, but simply decriminalizing would not achieve those objectives. That is why we are working extremely hard, based on the input of the task force and working with the provinces and territories, to ensure we move forward and have a comprehensive regime that in the near future will assist us in achieving those objectives.

Mr. Alistair MacGregor: Minister, I take that as a yes, a long yes.

When I've spoken with police forces in local areas, such as the police from Victoria and Saanich on Vancouver Island, and asked them about why they're not enforcing marijuana possession offences, charging people for it, they say they have more important things to look at. But when you look at police forces across the country, it's a real patchwork quilt. In other words, the law is not being applied equally, and I don't think it lives up to the standards of a Canadian being a Canadian across this great land of ours.

I'm wondering, with all the interim costs—and I understand you want to keep it out of the hands of children, but your government has admitted many times that it's easier for a teenager to get marijuana now on a street corner than it is to get alcohol or cigarettes. That's a fact. I'm simply wondering why your government feels it's still necessary to keep applying criminal law, which you have admitted is unjust, while we wait for legalization to come through. Surely it

would be a good gesture to get rid of criminal records, which I think we can all admit do a lot of harm to people's lives in terms of their job prospects, their ability to travel, and so on.

I'm wondering why you couldn't simply give directions to prosecutors, to police, across this country to make sure that instead of a patchwork quilt, we have equal application of law.

Hon. Jody Wilson-Raybould: On the latter question respecting criminal records, certainly the Prime Minister has indicated this is not within my domain but is something the Minister of Public Safety will ultimately be looking at with regard to criminal records.

In terms of unequal application of the law, this is the nature of our federation. Again, I'll underscore that we are working in a collaborative manner with the provinces and territories. We have taken the time we deemed necessary to ensure that we got a substantive amount of input from public health experts, justice, law enforcement, plus the task force on cannabis, to help contribute toward the bill that we introduced to get to the place where we can legalize, strictly regulate, and restrict access to achieve the objectives that I've reiterated many times, keeping cannabis out of the hands of kids and the proceeds out of the hands of criminals.

Until that time, until this piece of legislation receives royal assent, the law is the law and we expect local law enforcement officers to do their jobs.

Mr. Alistair MacGregor: Yes, Minister, but you just said in your statement that the unequal application of the law is the nature of our federation. Surely that is reason enough for the federal government in the interim to take the appropriate stance to make sure there is equal application of the law across this country.

Again, why haven't you stepped in, as an interim measure, to do that? Surely it begs the question.

Hon. Jody Wilson-Raybould: I appreciate your great interest in this and wishing to achieve the objectives that you've very clearly articulated. I would look to you, and to all the members of this committee and all parliamentarians, to move this legislation as quickly as possible through Parliament so we can get to the place where we achieve the objectives and the purpose that's articulated.

Mr. Alistair MacGregor: I think my time is getting close here. I think you said that the Prime Minister mentioned previously that pardons for criminal records for marijuana convictions might be on the table. He has stated there have been many situations in history when laws come in that overturn previous convictions, and a process for that will be set up in a responsible way.

Can you outline to this committee exactly what kind of discussions you've had with the Prime Minister and your colleague, the Minister of Public Safety, and how some sort of a regime for pardons may come about for those who have previous convictions for possession of small amounts of cannabis?

• (1555)

Hon. Jody Wilson-Raybould: The Minister of Public Safety, the Minister of Health, and I are entirely focused on ensuring that we move Bill C-45 forward, doing everything we can to work with our counterparts in the provinces and territories to assist them in developing whatever regime they deem appropriate. Once we move this legislation forward we may change our focus, but right now this is the focus and this is the entirety of the conversations we've been having with respect to cannabis.

Mr. Alistair MacGregor: Okay.

The Chair: Thank you very much.

Mr. Bittle, it's your turn.

Mr. Chris Bittle (St. Catharines, Lib.): Minister, thank you for joining us. I know a lot of Canadians would be terrified to enter a room with this many lawyers, but I thank you for being here.

I'd like to speak to the creation of 28 new positions in superior courts, an increase of \$55 million over five years, and \$15.5 million ongoing. My understanding is that this is addressing delays and responding to the Jordan decision that will require a multipronged approach, including collaboration with provincial and territorial leaders.

Can you discuss whether this funding is part of a broader strategy to address those delays?

Hon. Jody Wilson-Raybould: Yes, in addition to the revamping of the judicial appointments process, I and my officials have been speaking with many different jurisdictions around the need to have additional judicial spaces, and as you articulated, I was very pleased to see in the budget that we received the dollars for 28 new judicial spaces.

Twelve of the 28 have been allocated to Alberta, one to the Yukon, and my officials and I are continuing to work with other jurisdictions to understand their business case and need for additional judicial spaces. We will be continuing to do this work to allocate the remaining spots.

Broadly speaking, in terms of your question with respect to the Jordan decision from the Supreme Court of Canada, this is definitely a concern of mine and my counterpart ministers of justice and attorneys general across the country. We had the opportunity as recently as two weeks ago, I believe, to meet collectively and talk specifically about delays, and how we can assist each other in our shared responsibility for the administration of justice.

Without question, my counterparts talk to me about the need to have judicial appointments in their jurisdictions, but they also recognize that there's no one solution to delays in the criminal justice system, and we collectively identified a number of priorities we would address that seek to assist in reducing delays, priorities around minimal penalties, bail, the administration of justice, looking at the reclassification of offences, and preliminary inquiries.

I was very pleased with the collaborative approach that we were able to achieve at that meeting, and I look forward to the work we're going to be bringing forward in the near future and into the fall.

Mr. Chris Bittle: That's wonderful. Thank you so much.

There's an increase in funding for the Canadian Judicial Council of \$2.7 million over five years and \$0.5 million ongoing.

Can you please comment on why you think judicial training is important, and what challenges you think will be addressed by this funding?

Hon. Jody Wilson-Raybould: Again, I was pleased to see these dollars allocated. I'm further pleased, since becoming Minister of Justice, to rebuild a substantive relationship with the Canadian Judicial Council and to benefit from appearing before from them twice now.

I recognize that we need to do everything we can in the justice system to ensure we are providing respect and dignity for the diversity of individuals who come before judges, as well as to ensure that judges receive the necessary training to account for our changing environment, whether that be understanding implicit bias or understanding how to deal most appropriately with victims of sexual assault.

The monies that have been allocated will go towards the Canadian Judicial Council in terms of doing the work to provide judges with the necessary training to be familiar with how to recognize implicit bias and how to assist in a dignified way in dealing appropriately with individuals who are victims of sexual assault.

• (1600)

Mr. Chris Bittle: We've had recent examples. I think you've touched on it briefly, but could you expand on it? There have been recent examples of problematic judicial conduct in Canada. Will this funding help prevent future instances of such conduct? If so, how?

Hon. Jody Wilson-Raybould: I believe that the intention of all training that is provided to judges—and certainly in a private member's bill that's been put forward to provide training to members of the legal profession who perhaps have the intention of becoming judges—is to assist in having that backdrop in the recognition that we're a country that has great diversity, and that sometimes individuals and marginalized communities can require certain approaches by or sensitivities from the judge they are appearing before.

I think it's always the objective in terms of training to provide the necessary tools to judges to increase their ability to be able to address individuals who come before them and, hopefully for all of us, to understand the different realities and circumstances that people are faced with.

Mr. Chris Bittle: Thank you, Minister.

The Chair: Thank you very much.

We're going to start our second round of questioning. Just for the committee's recollection, because we usually do this more informally, in the second round it will be Liberal, Conservative, Liberal, Conservative, and NDP.

We're going to start with Mr. Fraser.

Mr. Colin Fraser (West Nova, Lib.): Thank you, Minister, for being with us today, and to everyone else attending, thank you very much for taking the time to come in and offer comments and answer our questions.

I want to pick up on Mr. Bittle's questioning regarding judicial training. I know that funding to combat gender-based violence is something that our government sees as important, as is also ensuring that judges receive adequate training and education on matters relating to gender-based violence, including sexual assault.

I want to ask, Minister, is this type of training going to be offered both to superior court judges and to provincial court judges? Also, how are you working with the provinces to ensure that this type of education and this training are taking place?

Hon. Jody Wilson-Raybould: Thank you for the question. It gives me an opportunity to reiterate some of the efforts that we've been making in terms of addressing gender-based violence in the work we do.

In addition to the \$2.7 million that was talked about in terms of the Canadian Judicial Council providing training, we've also provided dollars to the National Judicial Institute to assist in providing the same type of training in terms of sexual assault and gender-based violence not only to superior court justices, but to provincial court justices. That's money through Justice Canada.

Again, further, we are working with—and I will continue to work with—the Minister of Status of Women in the incredibly important work that she's doing around developing a gender-based violence strategy. Through the victims fund, the Department of Justice, as I've indicated, allocated millions of dollars to support local programs. We have had the opportunity to have an information exchange among many professionals who work in the area of gender-based violence and sexual assault and have benefited from their experiences. Further, as I said, in terms of the criminal justice review, we'll be looking at how we can further refine Criminal Code provisions around sexual assault and at clarifying provisions around consent.

• (1605)

Mr. Colin Fraser: Thank you, Minister.

I believe you mentioned that \$100,000 was the amount that had been set aside under the gender-based violence education program for judges. That seems like a rather small portion to the overall justice budget.

I'm just wondering if I understood that correctly and if you could elaborate on what that \$100,000 represents.

Hon. Jody Wilson-Raybould: The deputy may want to add a bit here. The \$100,000 is for training, as I said, for superior and provincial court judges, in addition to the \$2.7 million that was identified in the budget.

With respect to our esteemed judiciary across the country, I have the utmost respect for the work they do and for their serious consideration and advancement of training and ensuring they have the necessary tools in place.

Deputy, do you want to make some comments?

Mr. William F. Pentney (Deputy Minister of Justice and Deputy Attorney General of Canada, Department of Justice): I'll make two points.

First, the National Judicial Institute is a creature of the judiciary in the sense that governments shouldn't be delivering the training directly. We should be proud that we have something like the National Judicial Institute. I think it's recognized as a jewel of the crown.

In terms of support for our judiciary, both in the superior court and at the federal level, and to the extent they can in supporting provincial judges.... It's a big country, and judges are very busy hearing cases. Part of what we hope the \$100,000 will allow the NJI to do is expand their already existing offerings and make them available online as well. The NJI already runs in-person training on social context specifically on sexual assault, on managing sexual assault trials, and those sorts of things. What we're trying to help them do as well is expand those offerings to them and make them more available online.

So \$100,000 doesn't sound like a lot, but in addition to the existing investments that have been made in judicial training and the new money in the budget, we think it will allow them to provide robust and comprehensive training both to the superior court judges and to the provincial courts.

Mr. Colin Fraser: Very good.

Switching gears a little bit to the judicial advisory committees and the new process for appointing committees across the country for judicial appointments, I'm wondering where we're at with those committees, how many of them have been put together, how many are left to be done, and what the timeline looks like on getting those all going.

Hon. Jody Wilson-Raybould: In terms of the judicial advisory committees, the vast majority of them are constituted, but I know the New Brunswick JAC hasn't been. My apologies, I don't have the exact numbers, but I can provide them to this committee. Most of them have been constituted.

They have been incredible in terms of the commitment to reviewing judicial applications on an expedited basis. When they review and recommend a particular individual, it comes across my desk very quickly thereafter, and I make a decision with respect to the individual and make decisions with respect to the urgent needs in the jurisdictions.

I've been very pleased over the last month plus to make judicial appointments on an ongoing weekly basis, and that is going to continue. We have appointed now 55 judges, 22 deputy judges, and more will be coming in the very near future.

The Chair: Thank you very much.

Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you, Madam Minister.

The first issue I want to raise is with respect to Bill C-39, which you made reference to. That's the bill, of course, to remove constitutionally inoperative sections of the Criminal Code. I want to thank you for your leadership in introducing that legislation.

I know our chair led this issue following the conviction on two counts of second-degree murder in the case of Travis Vader being vacated after the judge applied a constitutionally inoperative section. It's an issue that I raised, given the close connection that case has to the community that I represent of St. Albert. That bill was introduced on March 8. It has now been two months, and nothing has happened.

How many more months will it be before Bill C-39 is debated in Parliament?

• (1610)

Hon. Jody Wilson-Raybould: You acknowledged the chair, but I would acknowledge that the entire committee sent me a letter. I very much appreciate the urgency of advancing a cleanup of the Criminal Code. As I stated both in the House and outside, Bill C-39 is the first phase of the cleanup. I am hopeful that this piece of legislation will move as quickly as possible. I certainly don't know how quickly that will be, but I think it's very important. When it does come back, I'm hopeful that all members will support its moving quickly.

Mr. Michael Cooper: I'd like to turn to another issue, one that has been raised by Mr. Fraser: judicial advisory committees. You mentioned that the vast majority of judicial advisory committees had been filled. However, as of today, seven out of 17 judicial advisory committees have not been filled. That includes the Tax Court of Canada, southwestern Ontario, the Northwest Territories, Manitoba, Saskatchewan, New Brunswick, and Nunavut. How can you say that the vast majority of judicial advisory committees have been filled?

Hon. Jody Wilson-Raybould: As I said to Mr. Fraser, I would be happy to provide the list of the outstanding judicial advisory committees. The vast majority of judicial advisory committees in jurisdictions that have urgent need are working diligently to bring forward names. This is not to say that they're not all urgent; I'm committed to filling all vacancies. I would be pleased to provide the honourable member with a list of the outstanding ones. We will be working to have those remaining JACs in place soon.

Mr. Michael Cooper: Minister, I guess I already provided the list. In addition to that, Nova Scotia, Yukon, and Quebec—East were vacant as recently as a month ago.

You reconstituted judicial advisory committees in October. How do you justify the fact that it's been six or seven months and we have seven out of 17 of these JACs empty, and as recently as a month ago, 10 out of 17?

Hon. Jody Wilson-Raybould: I am working diligently to ensure that our new judicial appointments process moves forward. I'm pleased to have reconstituted the judicial advisory committees, and I am working with partners to ensure that we identify and appoint names to all of the judicial advisory committees, committees that certainly reflect a diversity among Canadians.

I'm pleased that the judicial advisory committees will receive implicit bias training. We redid the appointments process and the

judicial advisory committee process to ensure that we do as much as we can to end up in a place where my judicial appointments reflect the diversity of the country. I'm incredibly pleased with the inroads that we've made in that regard: in some jurisdictions appointing over 65% women...diversity, including indigenous peoples and LGBTQ individuals. I'm pleased with the way that the appointments process is unfolding and with the substantive calibre of the individuals who have been recommended or highly recommended to me.

Mr. Michael Cooper: I will tell you who is not pleased: the families of victims who have seen serious criminal cases, including first-degree murder, child abuse, and sexual assault cases, being thrown out. Thousands of cases are at risk. The Jordan decision is not new. It was issued last summer. The response that you took to that decision was to dismantle the judicial advisory committees.

We now have 62 judicial vacancies. You said you have appointed 55 judges. There are more judicial vacancies than you have managed to appoint in the last 18 months. Over the last 18 months, months have gone by in which you have failed to appoint a single judge. The number of judicial vacancies is at a near-historic level. It's just unheard of to have 62 judicial vacancies. It's not 62 this month; this has been the case for a long time.

What is it going to take before you fulfill your duty as Minister of Justice to fill the judicial vacancies in a timely manner? How many more cases are going to be thrown out before that happens?

• (1615)

Hon. Jody Wilson-Raybould: I am pleased to be fulfilling my role as minister in appointing substantive candidates for judicial appointments to our superior courts. You indicated that the Jordan decision is not new. I will say that delays are not new. They've been around for a long time. There is no one answer to solving delays in the criminal justice system.

This is why I've been working very collaboratively with my partners in the provinces and territories, who have responsibility for the administration of justice in 99% of the criminal cases in provincial courts. This is why we are taking a substantive, collaborative approach to do as the Supreme Court of Canada directed us to do, which is to have a culture shift in the justice system, and a culture shift requires a rethinking of all the actors within it. We are going to collectively look at mandatory minimum penalties, which lead to delays. We're going to be looking at preliminary inquiries, bail, and the administration of justice so as to ensure that we do everything we can to reduce the delays. It is simply not true to think that just by appointing judges, which I am committed to doing on an expedited basis, we are going to solve the delays in the criminal justice system. For 10 years, the previous government did not address these delays, which have been around for a lot longer than that.

The Chair: Thank you very much.

Mr. McKinnon.

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): Thank you, Chair. Thank you, Minister, and thank you, officials, for joining us today. Some of these faces are becoming very familiar.

I'm interested in the indigenous justice program. I wonder, Minister, if you could describe this more fully and tell us why you believe it's important to make funding permanent.

Hon. Jody Wilson-Raybould: I'm really pleased that the money for the indigenous justice program has been made permanent. We can look at many examples across the country where there are culturally appropriate community approaches to addressing individuals who find themselves in the criminal justice system. This is something that I applaud and want to continue to pursue.

The overrepresentation of individuals, marginalized individuals, indigenous peoples in the criminal justice system needs to be addressed through innovative practices, through culturally appropriate practices, and through prevention. This will help us to address the ongoing reality of the colonial legacy and to pursue restorative justice measures.

This is where the indigenous justice program is so great—it assists us in finding what other measures we can support to do as much as we can to create off-ramps so that individuals, indigenous peoples who find themselves in the justice system, can take advantage of those off-ramps, of those restorative justice measures. I've been pleased to have many round tables, along with my officials, across the country where we learn of substantive examples that communities are undertaking in this regard.

With respect to indigenous peoples, we are looking at different approaches to rehabilitation, different off-ramps, to assist in what I believe is a fundamental obligation to look at rehabilitation in the criminal justice system. A substantial number of individuals are there because of marginalization, poverty, mental illness, and addictions. We need to find ways to ensure that we are doing everything we can as a government and as a society to assist those individuals and give them the help they need to address those addictions.

• (1620)

Mr. Ron McKinnon: Thank you, Minister.

I'm going to move on. I was fortunate enough to have a chat with the deputy premier of Nunavut yesterday. I note that through the access to justice services agreements the Department of Justice supports the delivery of access to justice services in northern communities. This includes criminal and civil legal aid, indigenous courtwork services, and public and legal education and information.

Are these funds specifically for the territories, or are northern communities in the provinces also included? Are the eligibility criteria for legal aid different in northern communities?

Mr. William F. Pentney: Perhaps, Mr. Chair, I can take that question.

Recognizing the differences in the territories in terms of size, scope, and scale, we've combined a series of programs. As you said, we've been for many years now combining a variety of programs through access to justice agreements. Given the jurisdictional responsibilities that provinces and territories have for legal aid, they each establish their own eligibility and administration requirements. We have found in collaboration with the territories that the access to justice agreement offers them a degree of flexibility. Given that they have a lot of land and few people, if I can put it that way, their administration of justice is different.

There are similarities, for example, if you go from northern Quebec to northern Ontario, across the northern parts of the territories. Certainly, provinces collaborate through that, but we provide funding for legal aid and other programs to the provinces. I would say, though, if you like, there is a northern collaboration, south of 60°, given the similarities there; but the truth is the provinces have a program administration capacity that's different from what the territories currently possess, so we transfer program by program to the provinces.

Mr. Ron McKinnon: Thank you.

Mr. Chair, I'd like to share the rest of my time with Ms. Khalid.

The Chair: Sure. You've about a minute left.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you, Chair.

Thank you, Minister, and everybody, for coming before us today.

Minister, I was reading in the paper today that a certain Ms. M, whose testimony had proved vital to the expulsion of a senator from our Senate, felt that she could not access the Ottawa police because she feared for her identity being made public, and didn't feel safe to enter into that system.

We've really undertaken an in-depth study as to access to justice. I personally have found that women tend to not have as much access as others. For example, women tend to need family court a lot more than males do.

We heard testimony with respect to unified family courts. I'm wondering if you can expand on what our government is doing with respect to investing in this type of process to assist with more equality in access to justice for women.

Hon. Jody Wilson-Raybould: In terms of women, and women who have faced gender-based violence or sexual assault, we've talked a lot about what we've been doing here at this committee and beyond. We'll continue with those efforts to ensure that we provide a safe space for individuals to feel more free to come forward, and that they're provided with the necessary protection.

In terms of the unified family courts, as you know, it's in my mandate letter. Unified family courts are showing substantive benefits and progress in terms of providing increased access to justice in jurisdictions. I've had the benefit of speaking with a number of my counterparts in the provinces in this regard. I have had the opportunity to ask my counterparts whether they have an interest in either increasing their unified family courts, or becoming more involved in an initiative in that regard. That work is ongoing. We, my officials, more importantly, continue to have discussions within the provinces to see how big the interest is. I'm hopeful that we can move forward with respect to unified family courts in the next year.

Ms. Iqra Khalid: Thank you.

The Chair: Mr. Falk.

• (1625)

Mr. Ted Falk (Provencher, CPC): Thank you, Minister, for coming to the committee.

I was recently watching a panel discussion in which you and the Minister of Health were discussing the proposed marijuana legislation. I forget who the host was. Of particular interest to me was a comment you made, that you had not ever been a cannabis user, nor did you expect to be after this legislation was passed.

I have two questions for you.

First, why is it not a good thing for you, but it's okay for others—even for the youth of our society—to have access to cannabis as a recreational drug? I commend you for your personal position.

Second, I'm looking at the legislation your government has presented so far in the last year and a half, which you say you're very proud of. Bill C-14, the medical assistance in dying legislation, now allows Canadians to legally have their lives terminated with the assistance of a physician. Bill C-16 addresses what I think is an imaginary gap in both our Canadian Human Rights Act and our Criminal Code. Bill C-32 repeals section 159 of the Criminal Code, which addresses anal sex. Bill C-37, which repeals the Respect for Communities Act, will now make it easier for safe injection sites to be located in different communities across Canada. The most recent one, Bill C-45, is of course on the legalization of marijuana.

My question on all those issues is, I think, quite simple. These pieces of legislation seem to have a particular theme to them. I'm wondering what it is that motivates your government to, in my opinion, be so bent on and recklessly determined to destroy our social and moral fabric?

Hon. Jody Wilson-Raybould: I completely disagree with your last statement.

Mr. Ted Falk: It's a question.

Hon. Jody Wilson-Raybould: Our government is committed to ensuring that we uphold the Canadian Charter of Rights and Freedoms, ensuring that everybody has the freedom to be themselves, and ensuring that every individual is accorded the same respect and dignity in a country as great as Canada.

As Minister of Justice and the Attorney General of Canada, I will not ever apologize for putting legislation forward that provides the means for individuals who qualify to access medical assistance in dying. I will not apologize for ensuring I protect the rights of those who have a different gender identity or expression. Section 159 of the Criminal Code has been deemed unconstitutional, and we are going to move that legislation forward.

Again, we as a government are making decisions that ensure that we uphold what makes this country great, which is its diversity. We benefit from having a Charter of Rights and Freedoms, and it is my most important job to ensure that we uphold those rights. If I didn't do that, I wouldn't be doing my job. I will not apologize for those pieces of legislation, but I will stand up and shout from the rooftops as to the substantive public policy that stands behind each of those pieces of legislation and those bills. I would be happy to have a conversation with you, sir, about the public policy reasons behind all of those pieces of legislation.

As to whether or not I've smoked cannabis, that is completely irrelevant. What is relevant is the public policy reason for putting forward Bill C-45. That is to ensure that when we legalize, strictly regulate, and restrict access to marijuana, that we do better than the status quo right now, and ensure that we keep it out of the hands of kids, and keep the proceeds out of the hands of criminals.

If you want to challenge me on the public policy reasons behind the legislation, I'm happy to engage in that discussion.

The Chair: Thank you very much.

Mr. Nicholson has asked to have one short question at the end of Mr. Falk's time. Mr. Falk is sharing his time with Mr. Nicholson.

You have a very short time.

Hon. Rob Nicholson: On the subject of judicial delays, one of the suggestions, which I know has come from the attorney general of Ontario and some others, is to have a look at the area of preliminary hearings.

In your opinion, do you think this might help expedite the criminal law process, and would you consider it?

•(1630)

Hon. Jody Wilson-Raybould: As justice ministers across the country, we agreed that this is one area we would look at. I know that preliminary inquiries are not without controversy in terms of different approaches. I've been approached by, as you say, the Attorney Generals of Ontario and Manitoba to consider this; and that is the work that we as justice ministers are going to undertake over the summer. We will come back in the fall to see what we can do not only in the area of potentially preliminary inquiries, or maybe other modes of disclosure that we can address, but also at bail, the administration of justice, and sooner than that, at mandatory minimums. All of these things contribute to delays in the criminal justice system.

The Chair: Thank you so much.

Last question, Mr. MacGregor.

Mr. Alistair MacGregor: Thank you again, Minister. I'm pleased to have this follow-up.

Your government has now been in power for nearly 19 months. We had the Jordan decision rendered in the summer of last year. I agree with you that it's not just appointing judges that will fix the delays in our justice system. There are many different areas. I think the Canadian Bar Association came out with a top 10 list. I think number one was appointing enough judges. Our criticisms are valid in that it has taken a while to get to this process and we would urge you to do it a bit faster. Nineteen months is a fairly long time. But they've also talked about adequately resourcing legal aid, and as you know this committee is currently conducting a study on legal aid, and I certainly hope you will listen to our recommendations.

Also, one of the biggest ones was resourcing the system. On that particular point, I want to concentrate on the resources because, of course, courts need a lot of administrative staff. They need the places in which to sit. There are a lot of people involved in making sure that a well-functioning court system is operational. I think you would agree with me that Canadians need to have faith in our justice system. It's one of the main pillars of our democracy. I know that you're concerned, as we are, that when serious criminal charges are being stayed or withdrawn, Canadians start to lose faith in that. It's a very real issue.

In light of the resource part, I want to know from you, from your department, in your opinion, how many resources in our courts and in our police are currently tied up with the crime of cannabis possession? As a follow-up, does the Department of Justice have any figures on the number of people who have been charged and arrested for minor cannabis possession since your government came to power?

Hon. Jody Wilson-Raybould: Thank you for the last two questions. I don't have those specific answers. I know once I leave here that the Public Prosecution Service will be here. If we don't have the specific answers, we're very happy to do what we can to follow up and provide you with those answers in terms of the resources and in terms of charges. I'm happy to do that, as a short answer to your question.

In terms of resources, generally, I'm very happy to have made additional investments into legal aid.

Mr. Alistair MacGregor: It's cannabis. If Jordan is a big problem and issue for our justice system, how many of our court resources are being tied up with something that's going to be legalized by your government next year? Wouldn't that be a good fix in the meantime, Minister? That's what I'm trying to get to.

Mr. William F. Pentney: Certainly the Public Prosecution Service would have more, but if you look at the top 10 offences as reported by the Canadian Centre for Justice Statistics, you see that impaired driving will be number one or number two. Offences, broadly speaking, against the administration of justice will be probably three out of the top five in all jurisdictions. We will be happy to provide you with further information about simple cannabis possession, but if you look at volume impaired driving, as I say, you see it's number one or number two; and easily three of the top five would be offences against the administration of justice. If you look at the elements that are driving delay, you see there are a variety of those contributing factors. The Public Prosecution Service could, at least, I'm sure, provide you further information on their prosecution efforts. You'd have to ask the RCMP and other police in respect to police resources.

Mr. Alistair MacGregor: Thank you.

The Chair: Thank you very much. I know the Minister and Mr. Pentney have another engagement, so I would like to thank you, Minister, for coming before our committee and answering our questions so eloquently. Mr. Pentney, as well, it is much appreciated.

Colleagues, do you have questions for the services beyond the questions that have already been asked of the Minister? No.

Mr. Bittle had a short motion.

•(1635)

Mr. Chris Bittle: I have a very short motion. I move:

That the Miscellaneous Statute Law Amendment Act be referred to the committee on May 18, 2017.

(Motion agreed to)

The Chair: Thank you very much.

We have the motions on the main estimates.

ADMINISTRATIVE TRIBUNALS SUPPORT SERVICE OF CANADA

Vote 1—Program expenditures.....\$52,628,925

(Vote 1 agreed to)

CANADIAN HUMAN RIGHTS COMMISSION

Vote 1—Program expenditures.....\$19,222,932

(Vote 1 agreed to)

COURTS ADMINISTRATION SERVICE

Vote 1—Program expenditures.....\$68,590,696

(Vote 1 agreed to)

DEPARTMENT OF JUSTICE

Vote 1—Operating expenditures.....\$234,300,919

Vote 5—Grants and contributions.....\$350,315,319

(Votes 1 and 5 agreed to)

OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

Vote 1—Operating expenditures.....\$8,779,358

Vote 5—Canadian Judicial Council—Operating expenditures.....\$3,525,036

(Votes 1 and 5 agreed to)

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Vote 1—Program expenditures.....\$161,657,167

(Vote 1 agreed to)

REGISTRAR OF THE SUPREME COURT OF CANADA

Vote 1—Program expenditures.....\$24,916,433

(Vote 1 agreed to)

The Chair: Shall I report these votes, less the amounts voted in interim supply, to the House?

Some hon. members: Agreed.

Mr. Ted Falk: On division.

The Chair: Thank you very much, colleagues. I wish everybody a very good rest of Thursday.

The meeting is adjourned.

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