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Chair

Mr. Ed Fast

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• (1530)

[*English*]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order. This is the fourteenth meeting of the Standing Committee on Justice and Human Rights, on Monday, April 20, 2009.

You have before you the agenda for today. We're continuing our review of Bill C-14, An Act to amend the Criminal Code (organized crime and protection of justice system participants). I'm hoping that we'll be able to complete clause-by-clause review of the bill at the end of this meeting.

I understand that Monsieur Ménard has a point of order to make at the beginning of our meeting.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Chairman, I want to make sure of one thing.

[*English*]

I'll speak in French and let people hear the translation.

[*Translation*]

Mr. Lemay, who takes part in the regular work of the committee, will not be able to travel to Vancouver with us next Wednesday. For operational reasons which all of our colleagues understand, we do not intend to replace Mr. Lemay, but we want to ensure that pursuant to an implicit agreement, no motion which would lead parliamentarians to vote will be presented in Vancouver. May we conclude such an informal agreement so that I may reassure my whip, who like any good self-respecting whip is a tormented soul?

[*English*]

The Chair: So the question is whether there is an understanding here that there would be no items of business dealt with other than hearing the witnesses on organized crime in Vancouver.

Do we have a general consensus? Thank you.

You can accept that, then, Monsieur Ménard?

[*Translation*]

Mr. Réal Ménard: Very good, thank you.

[*English*]

The Chair: Today we have with us witnesses representing Statistics Canada, the Ontario Provincial Police, the Department of Justice of Quebec, and the Canadian Association of Chiefs of Police. We'll also be hearing some in camera testimony later on, between 5 and 5:30, and we have some special instructions for that.

Just by way of explanation for the organizations we have before us today, each organization will have 10 minutes for a presentation, after which we'll open up the floor to questions from our members. I'd also invite you to introduce the members of your delegation.

Ms. Barr-Telford, are you going to start?

Mrs. Lynn Barr-Telford (Director, Canadian Centre for Justice Statistics, Statistics Canada): Thank you, Mr. Chairman, for the opportunity to present to the committee regarding Bill C-14.

You should all have before you a presentation deck. I invite you to read along with me.

Statistics Canada does not take a position on the proposed amendments. What I will present are data that may inform your discussions of the bill. Please note that the data sources are clearly indicated on each slide, as are pertinent notes about the data.

At the end of the deck you will find some supplemental information on drug trafficking and production offences and on incidents involving organized crime. Given limited time, I will not speak to that information.

Of note, we do not have information relating to the extension of the duration of a recognizance. Also, we have not included firearms-related offence data because it's difficult to speculate which Criminal Code offences police are currently using in cases involving reckless use of a firearm.

My colleague Mr. Craig Grimes will assist me in answering questions.

The first several slides provide information relating to murder committed in connection with a criminal organization. The charts here show the number of gang-related homicides and the number of homicides not related to gang activity over the last decade. By gang related, we mean whether or not the police identified the homicide as involving an organized crime group or a street gang.

In 2007, police reported a total of 594 homicides in Canada. One in five of these homicides, or 117, was reported by police as being gang related. Gang-related homicides have been increasing since this information was first collected in 1991, and you can see the increasing trend over the last decade on the chart to your left. This upward trend contrasts with the trend in the number of homicides that were not gang related, and this is shown in the chart on your right. Also, Canada's overall homicide rate has been on a general downward trend since the mid-1970s.

Firearms are used more often in gang-related homicides than in other types of homicides. In 2007, 69% of gang-related homicides were committed with a firearm, eight in ten of which were handguns. Among those homicides that were not gang related, 20% were committed with a firearm, 54% of which were with handguns.

The next slide in the deck shows the breakdown of gang-related homicides by the type of violation; that is, if it was considered by police to be first- or second-degree murder or manslaughter. The homicide survey is a police survey, not a court survey, so this does not necessarily reflect any subsequent decisions of the crown or the courts. What you can see in the chart is that the majority of gang-related homicides were recorded by the police as being first-degree murder, about three-quarters of them in 2007.

The next two slides indicate where the gang-related homicides occurred. The first is a regional breakdown. Ontario, British Columbia, and Quebec had the highest number of gang-related homicides, followed closely by Alberta.

In the next slide you can see that each year approximately 80% of all gang-related homicides occurred in one of Canada's 27 census metropolitan areas, and most of these were in the nine largest. These cities accounted for over three-quarters of all gang-related homicides in 2007. Toronto, Montreal, and Vancouver had the highest number of gang-related homicides and together accounted for 53% of all gang-related homicides in 2007.

If you turn to the next slide, we'll look at youth accused of gang-related homicides. In 2007, in total, 74 youth were accused of homicide. Homicides where youth are accused often involve gangs. In 2007 there were 105 persons accused of a gang-related homicide; 34 of them, or 32%, were youth. For comparison, among all persons accused of homicide, youth accounted for 14%.

Because of small numbers, the rate of youth accused of gang-related homicide does fluctuate year over year. You can see from your graph on the left that the trend in the rate has generally been upward since about 2002.

● (1535)

In the next slide we'll make a transition to another of the amendments under consideration in Bill C-14: the creation of new offences regarding assaults of a peace officer. In 2007 police reported just under 9,800 incidents of assault against a peace officer. This was up from just over 6,300 a decade ago. You can see from the graph on the left of the slide that the overall rate of assault against a peace officer has been on a general upward trend over the last decade but has been more stable recently.

Most reported incidents of assault of a peace officer also involved another violation, and in 2007, 70% of them. The chart on the right

shows some of the more common of these violations. In the table below that, we've separated reported assaults against police officers from those against other peace officers. You can see that most of these assaults were against police officers.

The next few slides provide some information on how the courts process cases with at least one charge of assault of a peace officer. Consistent with what we just saw from the police data, most court cases with a charge of assault of a peace officer also have other charges in the case. In fact, 90% of these cases have multiple charges, compared to about 60% for court cases as a whole. These cases tend to have several charges in them. The average is five, compared to an average of three for court cases as a whole.

The chart shows some of the more frequently associated charges in cases with a charge of assault of a peace officer. For example, almost one-third also had a charge of obstructing a peace officer, and about one-third had a charge of escape or being at large without excuse.

To go on to the next slide, not only do these cases look different from cases in general in terms of the number of charges, but they also look different in terms of their conviction rates. Cases with at least one charge of assault of a peace officer have relatively high guilty findings and relatively high guilty plea rates. They have especially high findings of guilt on more than one charge in the case.

As well, when the peace officer assault charge is the most serious charge, the proportion found guilty remains relatively high. Two-thirds of the time, a peace officer assault charge was one of the charges for a finding of guilt in the case. In comparison, most violent cases with a finding of guilt have a single guilty charge, which was about 58% in 2006-07.

To go to the next slide, cases with multiple convictions tend to be sentenced to custody more often. This is also true for cases with at least one peace officer assault charge. Forty per cent of these "guilty cases" were sentenced to custody on the most serious charge in the case. In comparison, custody was used in 32% of guilty cases overall. When a peace officer assault charge was the most serious charge in the case, 38% resulted in a custody sentence, which is similar to the use of custody in guilty cases of serious violent offences.

The average sentence length imposed in guilty cases involving an officer assault was 107 days. This is between the average for guilty common assault cases, at 51 days, and for major assault cases, at 166 days. What this data suggests is that these cases are treated relatively seriously by the courts, but it's difficult to conclude that it is simply because of the presence of a peace officer assault when so much else is going on in these cases.

The remaining slides you have within your deck are left for the committee's consideration. They're the supplemental slides I referred to at the beginning. This concludes my presentation.

Thank you, Mr. Chairman.

● (1540)

The Chair: We'll move now to Mr. Bingley.

C/Supt Ross Bingley (Bureau Commander, Organized Crime Enforcement Bureau, Ontario Provincial Police): Thank you, Mr. Chairman, and thank you very much for having me here today.

The Ontario Provincial Police supports all initiatives that enhance public safety. The Ontario Provincial Police welcomes the intent of the changes to section 270, the offence with respect to assaulting peace officers, but believes the changes would be more adequate if the new sentencing provided had a minimum sentence.

Public safety may be enhanced with the extension of recognizance conditions for a two-year period if imposed conditions can be monitored for breaches. The working group looking at policing justice strategies to address this issue of the repeat violent offender may wish to review the provision as to its potential use with respect both to intelligence and to containment.

Available policing capacity to use this provision is a factor that will need to be considered. Policing capacity and available resources may limit knowledge as to breaches of accused persons, weakening the effectiveness of the amendment as a public safety tool. The OPP's ROE, ROPE, and SAT units could assume this role if additional resources were applied.

The Ontario Provincial Police strongly supports current provincial strategies and initiatives—examples are the Toronto anti-violence initiative, the provincial anti-violence initiative, and the guns and gangs initiative—in addressing these types of offences. Policing has received strong government support in these areas.

The OPP believes that other federal legislation and policy proposals brought forward by policing bodies, including the OPP, would enhance the policing of organized crime, gangs, and serious drug-related crime. Areas previously discussed, such as lawful access, amendments to the Firearms Act, and a national gun strategy, are some examples.

In addition, the OPP supports evidence-based programs that prevent youths from joining gangs. Implementation of the recommendations of the LeSage report hopefully will provide a framework that enables all justice system processes to work in a more efficient manner. The OPP recommends that justice sector partners work together on pretrial motions and disclosure to assist in this area.

The new first-degree organized crime murder offence has updated current legislation to address the risk to public safety from gangs. OPP experience in regard to criminal organization offences is that they are very difficult to successfully litigate and require a lengthy amount of investigative time. Use of this offence could lead to challenges, significantly prolonging the final disposition of a case and likely increasing officer time associated with court appearances and evidence. However, we hope that with the recommendations of the LeSage report and the Justice on Target initiative, these issues may be offset.

Prior rulings relating to criminal organization crime have found that the definition of the term “criminal organization” is overly broad. It may be easier to prove second-degree murder in cases than to provide evidence that would end up in a guilty finding for a first-degree murder offence.

The possibility of a life sentence may lead to greater use of witness intimidation by offenders, increasing the challenge for police in identifying guilty persons. If so, the amount of time spent investigating gang-related murders would obviously increase.

A life sentence may provide family and the public with a sense of justice being served; however, victims' families and the public may believe and come to expect that more punitive retribution is also appropriate as a crime deterrence strategy. Jurisprudence that overturns mandatory sentences may make the public regard the justice system as not working. A life sentence is not considered to be an effective deterrent but will prevent that offender from engaging in future offences. Experience has suggested to us that incarceration may not necessarily prevent an offender from continuing to engage in criminal activities while incarcerated.

The new firearms offences will not likely deter public gunplay or drive-by shootings in larger urban areas, given the difficulty we've had in actually identifying the offenders. Other new offences could be effective in reducing these types of crimes. A handgun ban, for example, would provide an additional arrestable offence. The OPP has supported proclamation of the 2004 firearms marking regulations, legislation to address gaps given that possession and sale of gun parts is not regulated...nor any associated criminal liability and a prohibition of possessing ammunition or firearms in stipulated public areas.

Bill C-14 provides law enforcement with new tools for responding to gang violence; however, enhancing community safety ultimately requires both apprehensions and convictions. Solutions include providing police with more resources and other legislative tools and policies that will assist in increasing arrests and convictions, as police have requested, in such areas as lawful access. The gun and gang initiative has been very successful in the province in Ontario. By way of example, in 2006, murders in Ontario declined almost 14%, shooting murders declined by 44%, and shooting occurrences in general fell by 15.9%.

On adding weapons or injury provisions, or in some cases duplicating existing offences, bodily harm and aggravated assault are serious offences with lengthy penalties. Police officers as victims should be an aggravating factor that leads to lengthier sentences regardless of the specific offence. The impact of the breaches of the new recognizance conditions is not known. It will be the judge who decides if a person being released under the new recognizance provisions must report to the police or to Correctional Services.

Certain conditions, such as electronic monitoring, are now clearly permitted, and a peace bond may be for up to 24 months. It is expected that conditions may be used more consistently. However, it is the police who will be responsible for bringing forward any information to trigger the amended recognizance provision. Police also have the authority to arrest an individual without warrant if they believe a designated offence is likely to occur. To act on this authority requires happenstance, intelligence, or surveillance. Recognizance provisions represent a potential tool that police could consider as benefit and cost.

Surveillance may support warrantless arrests, enhancing public safety and providing other valuable intelligence. Police would require additional capacity to effectively monitor individuals released under these recognizance conditions. The OPP's ROPE, SAT and ROE units have the skills required, but they have little capacity to monitor persons in these high-risk areas. The OPP's repeat offender enforcement strategy, which continues to monitor high-risk offenders after their release into communities, is effective, but again, it has become a capacity issue.

Thank you.

•(1545)

The Chair: Thank you so much.

We'll move on to Mr. Richmond, representing the Department of Justice in Quebec.

[*Translation*]

Mr. Randall Richmond (Deputy Chief Prosecutor of Criminal and Penal Prosecutions, Organized Crime Prosecutions Bureau, Department of Justice (Quebec)): Ladies and gentlemen, members of the committee, thank you for having invited me to testify before you in the context of your study of Bill C-14.

I share your deep concern with regard to the fight against organized crime and the search for new means of combatting it.

Allow me to begin by stating clearly that I support Bill C-14 without reservation and that I hope that it will be passed without

delay. This bill, though not revolutionary, adds a certain number of tools to our tool box to fight organized crime.

Decreeing that a murder is murder in the first degree when committed in connection with a criminal organization remedies what I always considered to be an oversight in the 1997 anti-gang legislation otherwise known as Bill C-95. Parliament had at that time stated that murder was murder in the first degree when it was committed in association with a criminal organization and involved the use of explosives, thus excluding other homicides committed in association with a criminal organization.

The 1997 provision was useless and was never used for two reasons. Firstly, if a murder is committed with explosives it is clear that premeditation was involved. Secondly, shortly after the death of young Daniel Desrochers in 1995, organized crime in Quebec practically abandoned the use of explosives there and turned to firearms.

It is a good thing that Bill C-14 will apply the rule to all homicides committed in connection with a criminal organization, whatever means are used.

•(1550)

[*English*]

The new Criminal Code section 231, proposed subsection (6.1), as proposed by Bill C-14, will turn an unused section of the Criminal Code into one with a much greater likelihood of real applications. Although many gangland murders are obviously planned and premeditated, others are not. A typical example we have seen on many occasions is this: two or more criminal organizations are present in a city or in a geographical area; the territory is divided up between organizations, each one controlling the rackets on its turf. Bars, taverns, and nightclubs are typically divided up between criminal organizations, and on their own turf they have a monopoly on the drug sales, prostitution, and other criminal activities. Occasionally, someone associated with, or perceived to be associated with, a particular organization shows up in the bar or nightclub controlled by another criminal organization. He is not welcome and is told to leave. He refuses, an argument breaks out and turns into a fight, someone pulls out a knife or a gun, and someone gets killed. No one planned for this to happen, so there is no premeditation. The normal charge would be second-degree murder.

But with the amendment proposed by Bill C-14, we could envisage a conviction for first-degree murder. We had a case just like this in Montreal where a completely innocent person was killed by a gang of thugs in a bar. It was a case of mistaken identity, because the victim in reality had no association at all with the opposing criminal gang, but his murder was nonetheless gang-related and gang-motivated.

As for the new offence of recklessly discharging a firearm, as proposed by Bill C-14, it fills the void presently existing between disturbing the peace by discharging a firearm, which is a summary conviction offence and therefore punishable by only six months maximum, or careless use of a firearm punishable by no more than two years, and discharging a firearm with intent to wound or endanger life, punishable by 14 years and a five-year minimum when committed with a handgun.

In the case of drive-by shootings, it can be very difficult to prove the specific intent to wound or endanger life. This can be even harder to prove if no one is hit by the bullets, yet the conduct is much more dangerous than simply disturbing the peace or carelessly firing bullets into the air. Drive-by shootings can and do kill people, including innocent bystanders. So the new offence of recklessly discharging a firearm as proposed by Bill C-14 would allow us to go for more significant sentences up to 14 years and with important minimums when committed with handguns or for a criminal organization.

The two new offences of assault against peace officers don't appear at first view to change anything, because the maximum sentences are no higher than those for similar assaults against any person. However, when viewed in conjunction with the new proposed section 718.02, one can see the significance of these new offences. Proposed section 718.02 will call upon courts to give primary consideration to denunciation and deterrence when sentencing for these offences. This should lead courts to give stiffer sentences and consequently this should lead to greater respect for peace officers. I believe this change is needed, for we're continuously reminded that there's increasingly a lack of respect for police officers and consequently their capacity to keep the peace is impaired.

The new proposed section 718.02 will also call upon courts to give primary consideration to denunciation and deterrence when sentencing for intimidation of justice system participants in general. This too should lead to greater respect for all those working in the interests of justice.

The amendments proposed by Bill C-14 for preventive peace bonds under section 810.01 are good ideas, in my opinion, but I have to admit that in Quebec we have never used this section of the code. That is probably because in our efforts to fight organized crime, we have concentrated our energy on gathering enough evidence to lay criminal charges and get criminal convictions. However, I do know that the organized crime recognizance is used in Ontario as part of their guns and gangs strategy, particularly for what they call "small fry"; in Quebec we call that *le menu "frettin"*. In Quebec we hope to start using these provisions in the future as a part of our own strategy against street gangs.

• (1555)

The Quebec Bar Association has expressed its opposition to a couple of the suggested conditions in the new legislation. The new legislation proposes certain specific conditions for the preventive peace bonds, and the Quebec Bar Association has expressed its opposition to those conditions, particularly the one involving participation in a treatment program and also the wearing of an electronic monitoring device.

Some lawyers say these are drastic measures for someone who is not even charged with, let alone convicted of, an offence. However, I believe that since these measures are at the discretion of the provincial court judge, we can trust our judges to use their discretion wisely and impose these conditions only where there are reasonable grounds to believe they are necessary, which will probably be quite rare.

So I support Bill C-14; however, I would like to point out that many of the legislative changes found in Bill C-14, as well as in Bill C-15, are dependent upon a determination by the court of the existence of a criminal organization. If you really want to give us a boost in our fight against organized crime, I would ask you to stop for a moment and consider why Parliament continues to treat criminal organizations so differently from terrorist organizations.

As of 2001, Parliament simply decreed that dozens of organizations set out in a list were terrorist organizations. Prosecutors don't have to prove that they are terrorist organizations; they are declared to be terrorist organizations by the Governor in Council. Most of these groups have never been convicted of terrorism in Canada. In fact, most of these groups do not even exist in Canada, let alone carry on terrorist activities here.

On the other hand, ever since the adoption of the first anti-gang act in 1997, Parliament has required that prosecutors prove that an organization is criminal in each and every case, even if it is the same organization. Consequently, each time we charge someone in the Hells Angels on anti-gang charges, we have to start from scratch and prove that the Hells Angels motorcycle club is a criminal organization.

In the past 12 years, there have been dozens of convictions establishing that the Hells Angels motorcycle club is a criminal organization. In Quebec, there were even full-patch members who admitted that they belonged to a criminal organization. On at least three occasions, courts in Ontario have decided that the Hells Angels motorcycle club is a criminal organization across Canada. These were decisions by the superior court of Ontario.

Yet courts in British Columbia, Ontario, and Manitoba have also decided that because of the present state of our law, those findings apply only to the particular accused in those particular cases. As prosecutors, we haven't complained, and we have gone about our duty diligently and successfully, but this constant requirement that we prove the same thing over and over again is monopolizing valuable resources that could be used elsewhere in the fight against organized crime.

Proving that a group is criminal organization is usually one of the most time-consuming parts of an organized crime prosecution. It can take literally months to make this evidence before the court. I'll give you some examples.

On March 28, 2001, in Quebec, police carried out a massive round-up of Hells Angels, called Operation Springtime 2001. There were 119 members and associates charged by the organized crime prosecutions bureau, in which I work, in three different files. Project Rush alone—which was part of these people being arrested—united 42 accused in one file, of which 36 were arrested, and 35 were denied bail.

A new courthouse had to be built just to allow a trial this big to take place. However, the justices of the superior court decided to break up the co-accused into smaller, more manageable groups. One trial involved 14 accused, lasted eight months before a jury, and heard 73 witnesses before a guilty plea was worked out.

A second group of 17 co-accused began another trial, which lasted three months before one jury and then had to start all over again before a new judge and jury when the first judge quit. The new trial lasted 13 months before a jury, saw 1,383 exhibits filed, and heard 151 witnesses. Some of the accused threw in the towel along the way and pleaded guilty. In the end, the jury rendered verdicts on the nine remaining accused and declared them all guilty.

The third trial, in English, united two accused, took three and a half months before a justice of the superior court, sitting without a jury, and also resulted in convictions. But in that case, it only took three and a half months because they admitted that Hells Angels was a criminal organization.

• (1600)

While the Hells Angels trials were getting under way, Montreal police were completing another investigation, called Amigos, which focused on the Bandidos Motorcycle Club. It culminated in another massive roundup that effectively put an end to the Bandidos club in Quebec. A trial was held for five of the accused in 2004. It lasted eight months before a jury; 68 witnesses were heard, and all of the accused were convicted.

Last week, we broke all our previous records when we charged 156 Hells Angels and their associates in one single file. This is considerably larger than in the spring of 2001. There will almost definitely be more than one trial, and each trial that is held will be very lengthy. We can predict this already. We will have to start all over again and prove that the Hells Angels Motorcycle Club is a criminal organization. Although we are confident of our capacity to be successful, the fact is that the longer the trial lasts, the greater the danger that something might go wrong along the way. For example, for the trial to abort, all you have to do is have somebody very important get sick. If the judge, the lead prosecutor, or more than two members of the jury get sick along the way and have to quit, it can cause the whole trial to abort, and you have to start all over again. The longer the trial, the more the chances that something will go wrong.

Consequently, I urge you to seriously consider legislation that will declare the Hells Angels Motorcycle Club to be a criminal organization once and for all.

Thank you for your attention.

The Chair: Thank you very much. That was a very helpful testimony.

We'll move on now to our last organization, the Canadian Association of Chiefs of Police. You have the floor.

[*Translation*]

Mr. Jocelyn Latulippe (Co-Chair, Organized Crime Committee and Chief Inspector, Sûreté du Québec, Canadian Association of Chiefs of Police): Mr. Chairman and honourable members, my name is Jocelyn Latulippe. I am Chief Inspector and Director of the Criminal Investigation Services Branch of the Sûreté du Québec. I am accompanied by Mr. Francis Brabant, Legal Advisor to the Sûreté du Québec and Member of the Law Amendments Committee of the Canadian Association of Chiefs of Police. I am appearing before you today as representative of the Canadian Association of Chiefs of Police and am the Co-chair of the Organized Crime Committee of the CACP. I would also like to take this opportunity to convey the distinguished salutations of our President, Mr. Steven Chabot, Assistant Director General responsible for criminal investigations at the Sûreté du Québec.

The Canadian Association of Chiefs of Police welcomes Bill C-14 as a long-awaited legislative response to the homicides and other acts of extreme violence committed by organized crime. At its annual conference held in Calgary in 2007, the CACP passed a resolution to support the efforts of the Attorney General and Minister of Justice of Manitoba aimed at bringing about reforms of federal legislation concerning organized crime.

Three of these reforms are to be found practically in their entirety in the bill: making any homicide perpetrated by an individual for the profit of, under the direction of or in connection with a criminal organization, murder in the first degree; the commission of a criminal offence for the profit of, under the direction of or in association with such an organization, as well as the creation of an offence concerning drive-by shootings, and finally the addition of conditions that may be imposed pursuant to section 810.01 of the Criminal Code in order to more effectively monitor those we suspect may commit criminal organization offences.

Moreover, Bill C-14 proposes the creation of specific offences involving armed assault against peace officers or assaults causing bodily harm to peace officers, and these offences would be severely punished. These provisions have a close bearing on police work and the protection of our police officers who are currently being particularly exposed to street gang violence. Moreover, the bill provides for severe penalties aimed at repressing the serious assaults too often directed at people who denounce crimes. The Canadian Association of Chiefs of Police would like to see these measures as well as all of the others in the bill adopted as quickly as possible.

I also want to take this opportunity to discuss the current situation of organized crime in Canada more broadly, as well as what the future holds for us in this regard if we do not take remedial action. I want to direct your attention to two extreme situations we seem to be experiencing in Canada in the context of the fight against organized crime.

Indeed, police services grapple with the constant challenge of having to adjust to two current and opposite realities involving the criminal world, that is the increase in inter-gang violence and the increase of the infiltration of legal economies by organized crime agents, all of this in the context of borderless alliances among organized crime members, which involve different situations in each province.

The first reality observed by police officers is related to the fact that street organized crime has become increasingly violent and unpredictable. In that context, the trafficking and use of firearms is becoming increasingly prevalent in some regions of Canada, thus increasing the risks for both citizens and police officers.

Conversely, the directors of large criminal organizations seem to be attempting to adopt a broader perspective. These high-level organized crime elements are becoming more strategic, attempting to look like businessmen and investors, in addition to having learned ways to protect themselves following each major investigation. Thus, certain high-level organized crime elements are attempting to profit currently from growing partnerships among criminal organizations, but also from the globalization phenomenon and the difficult economic situation.

Bill C-14 provides measures which we wholeheartedly support concerning the fight against organized-crime-related violence, but we also believe that it is just as important to see to the protection of our economies and of free enterprise against the growing initiatives being taken by traditional organized crime senior members who want to join the fray as economic actors, but according to the rules of their milieu. They further their activities by relying on intimidation, taking over the awarding of contracts and the setting up of monopolies activities, which in the medium and long term will certainly undermine the economy and discourage honest investors, especially during difficult economic times. The infiltration of organized crime within various market economies is a serious concern we must address.

• (1605)

A number of sectors are already at risk: construction, transportation, landscaping, construction equipment rental, towing, automotive. Our challenge is to find legislative ways and means to eradicate this phenomenon. It requires a lot of police resources over long periods of time but often produces limited results. Not to mention investigations that take a lot of time, since organized criminals know how to protect themselves during lengthy police operations by making sure that all traces of their dirty money are erased.

I want to make you aware of two ways in which our efforts can be supported. First, by blocking the assistance provided to organized crime by facilitators: lawyers, notaries, accountants, tax experts, real estate agents and currency exchange operators. These people are all either corrupted by organized criminals or turn a blind eye to the illegalities. Second, by providing ways to encourage partnerships between the various law-enforcement and intelligence-gathering agencies. That is a significant goal.

Whether it be for financial matters or for intelligence about the various organized crime players or supporters inside different corporations or professional organizations, cooperation between revenue agencies is needed on fraud committed against the

government or the many organizations or corporations that are the victims of identity theft, and so on.

Even in the exchange of information between police services and organizations, working together is a vital element that can contribute greatly to the fight against organized crime. Any other organization affected by organized crime must also support us, and we must find ways to encourage coordinated work in upholding existing laws and missions. We must work towards a broader partnership in matters such as intelligence and the exchange of information.

In summary, the two aspects that need focus and appropriate responses to the threats that confront us in the spread of organized crime are the facilitators and the exchange of information. We also have to deal with existing problems, such as the ever-growing and ever more complex disclosure of evidence.

I hope that I have been able to provide you with some awareness about the present situation and the realities we face as we investigate organized crime. The two aspects I have described are on the increase and will need to be explored more deeply in the future. Solutions exist and, as an association, we are ready to be part of any work that moves the fight against organized crime forward in the context of these new realities and the mounting threat.

Thank you.

• (1610)

[English]

The Chair: Thank you very much to all of you.

We're going to open up the floor for questions, but first I have a comment to the members. Given the fact that we have only 50 minutes left to ask questions of these witnesses, if you do the math, even at five minutes apiece not everyone is going to get a question. Is there some consensus to start with five-minute questions rather than seven-minute questions? Is that okay?

Some hon. members: Yes.

The Chair: Excellent. Thank you.

The first question goes to Mr. Bagnell, I believe. You have five minutes.

Hon. Larry Bagnell (Yukon, Lib.): Thank you.

Because there's general support for this bill, my questions will be more in a general area, not just totally on this bill, but related.

On the statistics, a number of times before committee I've been frustrated. Your organizations come here, which is great and very helpful, but I'm frustrated with the lack of resources you have or the lack of statistics we have in Canada on crime, which could certainly help us improve legislation. Can you tell me if you see that's a problem? Personally, I think there needs to be a whole overhauling of the system with a lot bigger investment in the collection of this information. Is that a fair assessment?

Mrs. Lynn Barr-Telford: What I can speak to are some of the recent efforts that we've been putting into trying to gather more data around street gang activities as well as around organized crime activities. We began to work at Statistics Canada in 2005 with police services to try to gather more information around these activities, not just specific to offences in the code but more broadly speaking. We've been looking at that for a number of years. We will be continuing to release some information on street crime activity, but we've had to step back and take a look at how we measure organized crime activity.

My answer to that is that we are working on it. We are working closely with our police service partners and our justice partners to look at how we can collect more and better data on these.

Hon. Larry Bagnell: Thank you.

Mr. Richmond, regarding your point about labelling organized crime groups, in Canada, for another reason, we label international terrorist groups. That system seems to be working. We haven't been caught up, and it hasn't been challenged or disavowed for anything. Is there any reason we could not have a similar system for listing organized gangs? There would then be ways of getting on and off the list, but at least we'd have an ongoing list. Do you think that would be possible?

Mr. Randall Richmond: That's what I'm proposing. However, you don't have to start off with a long list, as you did with terrorist groups. That's a very drastic measure. Perhaps we could name some others, but Hells Angels is the most obvious example of a group that has been convicted so many times and that has so much evidence of its criminal nature already established by juries or judges of our Canadian courts that I don't think we need any more evidence to establish that fact. It would be very simple to declare at least that organization to be a criminal one.

As for other organizations, perhaps we should wait until we have enough convictions and wait until the evidence is clear, but I think you could start off at least with the groups already identified clearly by court decisions that have been upheld. It wouldn't be a radical measure.

Hon. Larry Bagnell: I have two questions for the police association. One is about trafficking in firearms, which we all know is a big problem. What's the most important thing we could do to reduce to reduce trafficking in firearms?

My second question is related to your point on globalization. What can we do to help break the connections of the globalization that's increasing crime? Do we need more technical authority? Do you need more technical authority? I've always said we need to invest more in Interpol, for instance. How can we help out in those areas?

• (1615)

[*Translation*]

Mr. Jocelyn Latulippe: For firearms trafficking to be reduced, we feel that laws that contain deterrents are important. Minimum sentences, specifically, send a clear message that using a firearm during the commission of a crime in Canada is considered very negatively. Partnerships between the various agencies involved in fighting firearms trafficking is also essential. We are already moving in that direction, but we believe that it is important to encourage all

agencies, those working on our borders and elsewhere, to do whatever they can to be part of the effort to stamp out the trade in firearms. Partnerships between police services are also vital.

As to the influence of globalization on criminal activity, clearly information and intelligence exchange between organizations is essential, both in Canada and abroad. Many non-police organizations have information or intelligence from other countries about the inroads being made by organized crime and it makes no difference where they come from. We have a number of examples of cases currently under investigation where criminals from outside Canada are trying to take over markets here. There are organizations that have that information. It is important for information of that kind to be provided to police, even when it comes in the form of financial transactions or transactions where the facilitators know that people from outside are trying to place dirty money in Canada. It is important to make this information available both inside and outside Canada.

[*English*]

The Chair: Thank you.

Before we move on to Monsieur Ménard, could I ask you, Mr. Richmond, to provide us with the citations for the cases you mentioned in which the courts have declared the Hells Angels to be an organized crime organization, and perhaps for summaries as well? That would be helpful.

Mr. Randall Richmond: Yes, I have those.

The Chair: Thank you. You could deliver them to the clerk.

Go ahead, Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard: Mr. Chair, I just want to tell the committee that I already asked the Library of Parliament to do some research into the Lindsay case and that they have done so. I think it was Mr. Valiquet who did it. If it is ready to be distributed, I think it should be because it was the Lindsay case that established the Hells Angels as a criminal organization.

Mr. Randall Richmond: There were two other decisions, last September and last December in Toronto, in which Mr. Justice McMahon of the Superior Court stated that the Hells Angels were a criminal organization everywhere in Canada.

Mr. Réal Ménard: I am prepared to have the material distributed to my colleagues, if that is the will of the committee.

I have three quick questions to ask, because I see that my clock is ticking now, Mr. Chair.

Mr. Richmond, I have provided the clerk with a motion that will be debated on Wednesday, and that I feel that all my colleagues will support. The motion seeks to designate the Hells Angels as an illegal organization. I really like the idea of having a conviction-based list, that is, a list showing all the organizations that have been declared criminal under section 467 of the Criminal Code. To my knowledge, only the Hells Angels have been declared a criminal organization, but the Criminal Intelligence Service Canada claims that there are 38 criminal biker groups. So I would like to know who I should include in the motion, on which we will be voting on Wednesday. That was my first question.

Here is my second question. The gentleman from the Ontario Provincial Police seems to be saying that the provisions on recklessly discharging a firearm would not be effective, while Mr. Richmond brilliantly refuted that in his testimony. I would like to understand what makes you doubt its effectiveness. We were under the impression that the provisions in the bill allowed you to arrest people. But you are telling us that the provisions will not reduce drive-by shootings. Could you please explain that view?

My third and last question goes to Mr. Latulippe. Is all the infiltration into the legal economy done through numbered companies? What can you tell us about that? Can you give us more information? It does not have to be a list of the names of people who have set up numbered companies. But, in an ideal world, it would be.

Let us start with Mr. Richmond, followed by the OPP representative and finishing with Mr. Latulippe.

Mr. Randall Richmond: In terms of organizations that have been declared criminal by the courts, I mentioned the Bandidos earlier. This is an international organization that has been convicted by a jury in Quebec. That is one specific example.

In Montreal, there were also guilty pleas to charges of gangsterism by members of a group called the Italian Mafia; in the United States, it is called the Cosa Nostra. A number of other groups have been convicted, but, most of the time, these groups have no name. There are Hells Angels feeder groups that have been declared criminal organizations, but these are often just a lot of people working together in drug trafficking. They do not necessarily have a name, they do not wear patches, and they are not set up like the bikers.

I am not proposing that we abolish our present system. I am simply proposing that, in some specific cases where the criminal nature of the organization is clear, we should not have to prove it every time.

• (1620)

Mr. Réal Ménard: Okay, I understand.

[English]

C/Supt Ross Bingley: Yes, my concern relates to urban areas, and I certainly don't want to speak on behalf of any of the big metropolitan police agencies, because that's not where we police, although we police in a joint force environment with them. The concern in relation to drive-by shootings has been and always is the fact of witnesses' reluctance to come forward.

If I can specifically speak about the Toronto area, the gangs literally own that turf and area. Many gang members in Toronto proper and downtown Toronto have never seen Lake Ontario. They

literally do not leave that area, whatever the square block may be. There is a reluctance by witnesses to come forward. I don't know that changing in this manner will be sufficient to cause these people to come forward to be able to convict people of these offences. The issue is the actual identifying of the drive-by shooters, based on the lack of witnesses stepping forward.

The Chair: Thank you.

Monsieur Ménard, did you have another question?

[Translation]

Mr. Réal Ménard: Yes, my last question was for Mr. Latulippe, if I may. With your permission, of course.

[English]

The Chair: If you can, keep it very short.

[Translation]

Mr. Jocelyn Latulippe: The problem is not just with numbered companies. There are also dummy companies, trusts, shells. They are all part of a collection of mechanisms used by organized crime to put roadblocks in the way of police and to lengthen investigations. When investigations are longer, we have to take certain actions. When we take those actions, the criminals become aware of our movements. So they manoeuvre and manipulate their money so that it is always impossible to trace. So, in cases like that, our investigations have limited success; the financial manipulations can go through as many as five different levels.

[English]

The Chair: Thank you.

Mr. Comartin, you have five minutes.

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

Thank you all for being here.

Ms. Barr-Telford, are you tracking the proceeds of crime litigation at the provincial level?

Mr. Craig Grimes (Senior Analyst, Courts Program, Canadian Centre for Justice Statistics, Statistics Canada): We have some data on proceeds of crime. There are some problems with collecting the information because of the numbering of the Criminal Code and the systems we're interfacing to.

Mr. Joe Comartin: I'm sorry, Mr. Grimes, I'm asking about provincial legislation that can seize proceeds of crime. Are you tracking that legislation?

Mr. Craig Grimes: Do you mean the amount?

Mr. Joe Comartin: Yes, and the number of files.

Mr. Craig Grimes: We have supplied data to FINTRAC in their efforts to track that information, but Statistics Canada isn't tracking the amount. It's not part of what we're collecting.

Mr. Joe Comartin: Are you tracking the number of cases?

Mr. Craig Grimes: Yes. The same issue exists with that legislation and our tracking that information. Some jurisdictions provide us the information using the section of the code, but within their systems they're only able to capture five characters. Changing those systems is very expensive. There are legacy systems, and it takes a long time. There are huge training issues associated with that. I have some data on laundering the proceeds of crime, section 462.31.

Mr. Joe Comartin: On the number of incidents you're showing in the supplementary information, do you have a comparable figure on the number of incidents where provincial legislation was used to go after proceeds of crime?

Mr. Craig Grimes: We don't have it related to provincial legislation.

Mr. Joe Comartin: Thank you.

Mr. Richmond, the point you are making has intrigued me for some time because of what we did with terrorist groups. In that legislation we basically relied to a great extent on international designations and simply adopted them holus-bolus. None have been challenged up to this point. If I understand your proposal, you are suggesting we first have a designation determined by a court and a judge—maybe a judge and a jury. You've detailed what you want to do almost on a theoretical basis. I'm looking for some of the practicality.

• (1625)

Mr. Randall Richmond: That's one way of doing it. I know some people have proposed it. I believe Mr. Ménard proposed something along those lines recently.

The other way is to simply ask Parliament to receive the evidence available on the question and let Parliament decide. That, in effect, was done with terrorist groups. In the case of terrorist groups, you didn't even ask for evidence to be presented; you just received a list of organizations from foreign authorities declaring that they were terrorist groups. You accepted that evidence and declared them, by order in council, to be terrorist groups. So there was no intervention by a court authority to decide whether that was justified or not. But at the same time, in your terrorist legislation you said that if some group wanted to have its name taken off the list, they could apply to a court to have that issue studied.

All of those options are favourable.

Mr. Joe Comartin: On the system used with the terrorist groups, we have people who are still on that list. In fact, I think four or five of them don't even exist anymore. On the adequacy of that process from a Charter of Rights position, using that system when we're going after organized crime would be very troubling for me, especially looking at some of the street gangs and the potential for abuse if it's more of a political consideration than a judicial one. I'm looking for what system we would use. I would not be comfortable with the one we're using for terrorist reasons.

Mr. Randall Richmond: I'm not proposing that you adopt a system exactly the same as the one for terrorist groups, because in the case of terrorist groups you put names on a list without receiving any evidence as to what those groups have done. I'm proposing you wait until sufficient evidence has come from Canadian criminal courts declaring groups to be criminal. Once you have that evidence

before you, then Governor in Council or Parliament can put that name on a list.

The Chair: Thank you.

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

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

Thank you to the witnesses.

For Statistics Canada, I do appreciate the information that you provided. I think the most telling graph is the first one, which shows the rise in victims and gang-related homicides on page 2, but also interesting, I found, is page 4. I don't know if the other witnesses have your material, but there we see spikes in gang-related homicides by regions, and since we have witnesses here from Quebec and Ontario, I'll refer to Quebec, where there seems to be a pretty dramatic spike in 1998, 1999 and 2000, and in Ontario in 2003 and 2005. Could we hear from some of the witnesses?

We know some of the high-profile news stories that help contribute to these numbers. It is interesting to see it in the perspective of a number when each one of these also represents a life.

Can you talk a bit about how we do witness spikes in gang activity, gang-related homicides, and then we see a drop and then perhaps a spike again? To what do you attribute even what we're seeing now in Vancouver, where there can be a relatively calm period and then a lot of gang-related activity?

• (1630)

[Translation]

Mr. Jocelyn Latulippe: If I understood the question correctly, the drop was probably a result of the gang war that occurred between 1996 and 2002. That could explain and perhaps influence the statistics that you can see.

An hon. member: It is not a drop, it is a spike.

Mr. Jocelyn Latulippe: You are right, it is a spike. But there was a drop after that gang war.

[English]

Mr. Rob Moore: Okay.

C/Supt Ross Bingley: Obviously we have found in Ontario that it is based on what is the environment at that time, who's taken over what turf, who's pushing, who's pressing. You have eight Bandidos killed in one outing and it causes a spike, and so that's the 2005 spike. Those kind of things, whatever internal cleansing, as we call it, in the bike world occurs—or if it's not internal cleansing it's a clash—then those obviously cause spikes. Again, in the urban centres the street gang activity is that they are trying to grab more turf, and therefore that causes spikes, but I can't put my finger on it specifically for you.

Mr. Rob Moore: I mentioned it because one of the telling things from the statistics that have been provided is that just because things go down in one area and one part of the year doesn't mean we should drop our vigilance. We should be continually looking at ways to combat organized crime.

One of the things this bill does is in relation to drive-by shootings. I believe, Mr. Richmond, you mentioned some of the difficulties in proving a case involving a drive-by shooting and some of the inherent difficulties that are there. Could you talk a little bit more about that? When we talk about gang violence and gang activities, a lot of people think about drive-by shootings. We obviously take that offence very seriously. Why is it difficult to deal with?

Mr. Randall Richmond: With the present legislation, without Bill C-14, there are two major difficulties. One is identifying the people involved, and that's what Mr. Bingley mentioned in his representations this morning. But even if you get past that obstacle, the second difficulty is establishing the specific intent, because the present legislation requires you not just prove that somebody drove past a building and fired shots in the direction of the building, you have to prove that there was a specific intent to wound people while those shots were being made. Under Bill C-14 what you are proposing is that it will no longer be necessary to prove what was in the mind of the person. If you can find the person who made the shots, you're pretty much home free then, because the state of mind that the prosecution will have to prove is that of recklessness, which is much easier to prove than specific intent to wound someone.

Mr. Rob Moore: Does anyone else want to comment specifically on drive-by shooting?

C/Supt Ross Bingley: If I may add to that, my colleague's comments are very accurate. My position is that the actual establishing of witnesses is the difficult part, and that's certainly not part of the legislation. That's the reality of the fundamentals of those types of investigations.

The Chair: Thank you.

Before we move on, we'll do another round of five minutes and then maybe we'll go to three minutes each to see if we can get everybody in.

Ms. Fry, you have five minutes.

Hon. Hedy Fry (Vancouver Centre, Lib.): Thank you very much, Mr. Chair.

My question is a little tangential to what you're talking about, but it is with regard to murder committed in connection with a gang. What we talk about are drive-by shootings, as Mr. Moore said, and what we talk about is the obvious violence, but I'd like to talk about a very important gang-related activity in my part of the world, Vancouver. I mean trafficking in people, bringing people across the border either to sell drugs or to engage in prostitution in massage parlours, as they're called.

Some of the people who work in this situation aren't really Canadian citizens, but foreign nationals. The gangs are located not just in Canada, but in other parts of the world, and the trafficking in human beings for the sake of selling drugs or for the sake of prostitution falls between the cracks. I know that murder is committed in these instances, but the people who are murdered tend to be illegal aliens, so to speak, so what would you suggest we do? How does one tie this in? It's at the heart of a lot of what organized crime is doing these days. They're multinational crimes now, they're not Canada-based only, so how do you deal with that?

• (1635)

Mr. Randall Richmond: I believe human trafficking is covered by federal legislation and is usually investigated by the RCMP. Unfortunately, they're not here among your witnesses today, but that's one of their specialties and one of the fields they investigate.

From the point of view of prosecutions, it's usually federal prosecutors who handle those cases. I'm not a specialist in that field, but I believe you have legislation to cover that already. The difficult part is enforcement, and of course that takes a lot of resources. I think that's your main obstacle.

Hon. Hedy Fry: I think criminal activity with gangs is, as I said, multinational and cross-border. How do you see yourself working with countries that...? In Vancouver we have people coming up from Colombia and El Salvador and some of those countries. They come in, they sell drugs, they're part of it, they disappear again, and then they come back in again. They're related in a lot of these shootings. Do you see some way of connecting the dots here in the killing of people?

Mr. Randall Richmond: There's a lot of cooperation between police forces in terms of exchanging information and helping to obtain evidence in foreign countries, but we've never treated international criminal organizations as one entity. I'm not aware of any occasion on which we've actually prosecuted organizations on an international level and had prosecutions going on in more than one country at the same time. That's not how we've done it historically, and we haven't got to that point yet.

Perhaps it would be a good idea, because certainly many criminal organizations extend their membership all across the world. There are organizations with approved membership in dozens of countries, so perhaps we should be looking towards more international cooperation in prosecutions, but right now we have our hands full just prosecuting the groups in our own territory.

Hon. Hedy Fry: Yes. That extends the concept of the terrorist groups that are international as well.

[Translation]

Mr. Jocelyn Latulippe: There are certainly measures that could be taken in inspecting licensed establishments. We know that a number of those establishments employ people with no status in Canada, whether it be for adult dancing or massages. There is also the whole escort industry.

We have to have powers of inspection and increased powers over employment income, which is in provincial jurisdiction. Those tools allow us both to detect the crimes and to ensure that the employees are in good standing.

We must also remember that police services make considerable efforts to establish relationships of trust with various communities. The main obstacle to our investigations into crimes of this nature, especially human trafficking, is the mistrust that people from overseas have for Canadian police, which they often see as forces of repression. Police forces work hard on this. All the various community outreach programs and neighbourhood policing will help establish a level of trust, but that is a long-term process.

[English]

The Chair: Thank you.

We'll move on now to Monsieur Lemay.

[*Translation*]

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

I have been listening carefully, and I have some questions. I am a criminal lawyer by profession, so I know you.

Mr. Richmond, one thing caught my attention. With each trial involving the Hells Angels—and, Heaven knows, there are going to be a lot of them soon—you have to establish that it is a criminal organization.

Mr. Randall Richmond: We have to start from square one.

Mr. Marc Lemay: Is that by voir dire or do you have to prove it for a jury?

Mr. Randall Richmond: For a jury. It is the finder of fact, whether that be the jury or the judge sitting alone, that must decide whether the group is a criminal organization within the meaning of the Criminal Code.

Mr. Marc Lemay: Let us take a murder trial as an example. Assuming that Bill C-14 is passed, you will have to show that the crime was committed by order of the Hells Angels. You will have to show that the order came from the Hells Angels.

Mr. Randall Richmond: I am not sure that I understand your question.

Mr. Marc Lemay: I will make it clearer.

Do you have to show that the Hells Angels are a criminal organization at each trial?

• (1640)

Mr. Randall Richmond: We do when we want them to be convicted for gangsterism.

If Bill C-14 were passed and we wanted to use the provision under which a murder committed by a criminal organization is automatically first-degree, we would have to prove that the group in question is a criminal organization. That takes a long time to prove.

Mr. Marc Lemay: You saw me coming.

How long does it take to make that case in a murder trial. For example, in the spring of 2001, how long, how many days, did it take you? Could it have been three quarters of the total duration of the trial?

Mr. Randall Richmond: I would say it would be perhaps half the time. In a long trial with a number of accused, it can mean several months. It depends on the evidence available. Sometimes, we are lucky enough to have a witness from inside the organization who will say it quite quickly. But that witness can also be cross-examined...

Mr. Marc Lemay: ... and that can take four days.

Mr. Randall Richmond: ... and that can take two weeks.

Mr. Marc Lemay: Right.

Mr. Randall Richmond: After that, we have to support that testimony by backing it up with other facts. So we have to find more evidence.

Mr. Marc Lemay: Okay.

You are suggesting that we should use the example of the Anti-terrorism Act to come up with a section that would allow for an automatic declaration. I understand that.

I have questions for Mr. Latulippe and Mr. Brabant.

This is all driven by money. If you can trace the money back, where do you lose track of it these days? What is the biggest problem in finding out that the money that has gone into a crane company, for example, is dirty? I will not go into more detail. Is the question specific enough? Where do you lose track of the money? What is the problem?

Mr. Jocelyn Latulippe: In most industries where businesses are taken over by criminals, we lose track of the dirty money quickly, for various reasons.

First, they often use dummy companies. So we have to deconstruct them, get past them and that is a complicated case to make. And when huge amounts of dirty money are involved, these people are able to get a share of the market very quickly and generate profits.

Take any construction company as an example. They put in a very competitive bid, because their intention at the time is not to make a profit, but to launder money. Their bid is unbeatable. So they win most of the contracts on offer; other companies go out of business, and their company makes bigger profits.

We very quickly lose what we call the “window of opportunity” to prove that money is being recycled. The “window” is open for a very short time: a few months, less than a year.

Mr. Marc Lemay: Forgive me for interrupting you, but this is important.

How can we as lawmakers help you use that little “window” better? What exactly do you need? Should we amend a clause? Where is the problem?

Mr. Jocelyn Latulippe: The Proceeds of Crime (Money Laundering) and Terrorist Financing Act has given Canada a framework, a solid basis for establishing rules on recycling money. But once the first “window of opportunity” for recycling has closed, we find what we call second, third and fourth generation recycling. The only remaining common thread is made up of the facilitators, the lawyers, the notaries, the accountants, the tax experts who know that they are dealing with criminals who have no legitimate income, who have never been to school, but hold huge company portfolios. Those are the people who do the transactions.

Mr. Marc Lemay: Yes, but...

[*English*]

The Chair: We're at the end of our time.

[*Translation*]

Mr. Marc Lemay: Already?

[*English*]

The Chair: I'm sorry.

We'll go to Monsieur Petit.

[*Translation*]

Mr. Marc Lemay: You have to give me some time.

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): My question goes to Mr. Jocelyn Latulippe.

You brought up something else. I imagine that you are familiar with the bill, because you say that, while it is not revolutionary, it is a step in the right direction. You mentioned something very specific: that organized crime infiltrates into the legitimate economy. We are aware of that already. If you were as old as I am, you would know that the Cliche Commission found organized crime in the FTQ-Construction. That was who was involved. Exactly 34 years ago, a group of people sat on that commission, including a prime minister of Canada. They declared that organized crime had infiltrated into the construction industry unions, and so on.

Mr. Lemay talked to you just now about cranes and the like. At provincial and federal levels, governments are soon going to be providing \$42 billion over five years for construction projects. People smell money. One investigation has already found that organized crime has infiltrated into certain areas. I go back to what Mr. Richmond said. Would you be ready to state that the FTQ-Construction could pose a problem? That is what all the journalists tell us. Would you be ready to go that far to stop the spread of organized crime? I am just following up on Mr. Lemay's question, since that is what he seems to be saying, in a way.

• (1645)

Mr. Marc Lemay: No, no.

Mr. Jocelyn Latulippe: It is true that organized crime infiltrating into the legitimate economy is not a new phenomenon. Well before my father's time, or the time of people around this table, organized crime had already taken over construction companies, ice cream manufacturers and all kinds of other businesses. It is just that it is all about profits at the moment. There is a staggering amount of money to be made, and economic times are tough. So of course there are risks. Investigations are under way at the moment. I do not want my testimony to give the impression that only one sector is involved. You are going to become aware of a number of things in the months ahead. Other sectors are being investigated, not just construction. I do not want to talk about injections of money, or any kind of link with any organization or union. Rather, I feel that it is important to bear in mind that our planned investigations show that the facilitators have their eyes on all these areas at the moment. There are more and more of them, and it is more and more difficult, not to say impossible, to fight sophisticated people who know their areas well. They are well educated; they have used state support to acquire their knowledge. They are now supporting organized crime and there is nothing in our present legislation that can touch them and their recycling.

Mr. Daniel Petit: Does the bill before you, the one that you have made yourself familiar with, address the needs that you have expressed, albeit partially? If it does not make you feel perfectly well, do you feel a little better?

Mr. Jocelyn Latulippe: We feel better: maybe very good. We think that, with some amendments that would increase the penalties for offences dealing with organized crime, violence and the use of firearms, Canadian values for a safe and peaceful society will be better supported.

At the far end, the violent crime, we will be very well served. But the object of my testimony was to remind you that organized crime is now looking to spread in another direction. We are going to have the evidence of that in the months to come because of the procedures and processes that have been put into place. The goal is never again to have to deal with dirty activities or operations on the ground.

Mr. Daniel Petit: Thank you.

[*English*]

The Chair: Thank you.

I think the Liberals are passing, so we'll move on to Monsieur Lemay for three minutes.

[*Translation*]

Mr. Marc Lemay: Thank you, Mr. Chair.

I am going to keep going, Mr. Latulippe, because I think it is important. I gather that you were almost about to tell us that, possibly, we were dealing with a trade secret. I see from your smile that I am not far from the truth.

When I was president of the bar in my area, we required all our colleagues to declare whenever a client made a transaction with more than \$100,000 in cash. We are federal lawmakers and we are going to have to make changes to the Criminal Code. How do you see that? Amending the Criminal Code can take years. How urgent is it to open up that little window?

• (1650)

Mr. Jocelyn Latulippe: The first thing to do would be to send a clear message to the people who are facilitating the financial actions taken and the inroads made by organized crime, because that is undermining the country's economy and free enterprise. The first step in that direction is to establish penalties for people aiding criminal organizations.

As for the next stages, we just think that you have to consult all the organizations and police services involved in order to come up with solutions. When the time comes, we will be able to make proposals. Basically, we are bringing this up to say that you have to quickly come to grips with the matter and the things you can do about it.

I do not want to start talking about the things we are considering right now. But, when the time is right, we will have suggestions.

Mr. Marc Lemay: In your opinion, how much time do we have?

Mr. Jocelyn Latulippe: It is difficult to say, but you should know that the practice is being used more and more. We see an astounding number of facilitators involved in high-level organized crime, and we know in advance that we cannot touch them.

Mr. Marc Lemay: Because they control a number of businesses that are very different, with all due respect to my learned colleague Mr. Petit. It is not only construction. It is like an octopus, it has tentacles everywhere.

Mr. Jocelyn Latulippe: The information and intelligence that we have at the moment show that they get involved anywhere there is easy money to be made, anywhere they can get a monopoly, anywhere there are opportunities.

Investments from overseas have become more difficult, perhaps; they are less flexible and they do not let members of organized crime get white-collar status, whereas domestic investments give them the status of investors and businessmen.

[English]

The Chair: Thank you.

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

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

I thank all the witnesses.

I have a couple of technical questions regarding the establishment of gang activity and organized crime. I'm going to direct them to Mr. Richmond. I have three questions.

Very quickly, could you walk me through what you have to establish for a court to be convinced that it is organized crime or gang activity? Two, is the test a balance of probability, or is it beyond a reasonable doubt? Third, why do you have to do it every time? Will the courts not take judicial notice of the existence of the particular criminal organization such as the Bandidos or Hells Angels?

Mr. Randall Richmond: The first part of your question is, why do we make the effort to prove that it's a criminal organization?

Mr. Brent Rathgeber: No. Could you walk me very briefly through the process of what you have to establish. What is the court looking for?

Mr. Randall Richmond: A criminal organization is defined in the Criminal Code. Basically, it's an organization of three or more people that has as one of its main functions, purposes, or activities the commission of crimes for the purpose of enrichment. In other words, money-making crimes as opposed to terrorist crimes that are for religious or political purposes. On proving the existence of the organization, the easiest way to do it is by having someone from within the organization testify. If you can get that type of witness, an insider, to testify to say this is what the organization is called, and these are the members and the activities, then it's a lot easier. But in many cases we don't have a witness like that as they're difficult to get, and so we have to use circumstantial evidence such as wiretapping, physical surveillance, and transactions with police posing as agents making transactions. It can be very long and difficult. But those are the ways we prove that.

What was the second question?

Mr. Brent Rathgeber: On the test, is it a preponderance of evidence or beyond a reasonable doubt?

Mr. Randall Richmond: It's beyond a reasonable doubt.

Also, you asked why we have to prove it every time.

Mr. Brent Rathgeber: Will the courts not take judicial notice of the existence of an organized crime group?

Mr. Randall Richmond: At one time there was some hope, particularly in Ontario. A few years back, I think in 2004 or 2005, Ontario got the first provincial conviction for gangsterism in the Lindsay-Bonner case in Barrie through Justice Michelle Fuerst of the Superior Court. After that major conviction established that the Hells

Angels were a criminal organization across Canada, Ontario prosecutors hoped they could take advantage of the decision and ask courts to take judicial note of that fact in future cases. However, they were not successful, except perhaps at bail hearings, where hearsay evidence is allowed. At the trial level, courts across Canada are requiring us to make the evidence anew.

It was stated initially by Justice Fuerst in the Ontario Superior Court that her decision applied only to this particular case, Lindsay and Bonner. She said it in her decision. Later on, that was taken up by a judge in Vancouver in the case of Ricky Ciarniello, another Hells Angels member. More recently, the Manitoba Court of Appeal stated that these precedents cannot be the subject of judicial note and that we'll have to make that evidence anew in each case. That's why I state that we have to make this evidence again every time.

● (1655)

Mr. Brent Rathgeber: Is Manitoba the only appellate court to have made such a finding?

Mr. Randall Richmond: To my knowledge, yes, it is.

Mr. Brent Rathgeber: Do you know the name of that case?

Mr. Randall Richmond: Yes. It was Kirton.

Mr. Brent Rathgeber: Thank you very much.

The Chair: Thank you.

We're at the end of our time. I want to thank all our witnesses for appearing here. Your testimony has been helpful.

We're now going to ask everybody to clear the room, except for those who are entitled to stay in camera. We'll be moving in camera in the next five minutes.

[Proceedings continue in camera]

[Public proceedings resume]

(On clause 1)

● (1800)

The Chair: Monsieur Ménard.

[Translation]

Mr. Réal Ménard: Is it possible for the officials to explain to us quickly what each clause means? Then, if there is no problem, we can pass them one after another. Could they just quickly remind us of the intent of each clause? After that, if there are no amendments, you could ask for a vote, but I would just like to be quickly reminded of the intent of each of the 25 clauses.

● (1805)

[English]

The Chair: Mr. Moore.

Mr. Rob Moore: Why would we go over each clause if there's agreement on some of them? We don't need an explanation of each clause. I've never heard of that being done. I would rather group the ones we agree on, instead of sitting here as each clause is explained. You've already read the bill.

You've never read the bill?

[Translation]

Mr. Réal Ménard: It can be done quickly, but I want to make sure that we understand what we are voting on.

[English]

The Chair: The normal procedure, and certainly my experience at other committees, is that if there is a question on a particular clause, a member can ask Justice staff. Other than that, I don't think we go through an explanation of each clause when we go through a bill.

[Translation]

Mr. Réal Ménard: I can ask for each clause, if you like.

[English]

The Chair: Yes.

[Translation]

Mr. Réal Ménard: I will ask.

[English]

The Chair: You certainly can if you wish, but I was hoping we could collaborate a little here to get this through quickly.

Mr. Mike Wallace (Burlington, CPC): Why are you doing this?

[Translation]

Mr. Réal Ménard: If we are not able to quickly consult the officials, is it not possible that we might not understand what we are voting on? I might as well take your Conservative Party membership card.

[English]

The Chair: As I understand it, Monsieur Ménard, there was one clause you had an issue with that you've provided an amendment for. We're going to deal with that. There's no suggestion that you have amendments to any of the other clauses. I hope we will have some collaboration and cooperation.

[Translation]

Mr. Réal Ménard: This is not about cooperation. I just want to be quickly reminded...I have read it, I came in on Sunday to read it, but I just want to make sure that we understand what we are voting on. That is why we are here. Where does the idea come from that cooperation means not asking for an explanation of what we are voting on?

[English]

The Chair: If there are questions for any particular clause you can certainly ask them. I'm not going to shut you down. We'll just move through them one by one.

[Translation]

Mr. Réal Ménard: I am going to ask about the intent of each clause. I like thoroughness, Mr. Petit, but I know that you and thoroughness are always some distance apart.

[English]

The Chair: We'll move to clause-by-clause.

Monsieur Ménard.

[Translation]

Mr. Réal Ménard: What is the intent of clause 1?

[English]

Mr. Matthew Taylor (Counsel, Criminal Law Policy Section, Department of Justice): Clause 1 is really a drafting formality to bring consistency to the use of certain specified terms throughout the code and to ensure that there's no ambiguity in how these terms are interpreted in the code.

[Translation]

Mr. Réal Ménard: Fine. Thank you.

[English]

(Clause 1 agreed to)

(On clause 2)

The Chair: Next are clauses 2 and 3.

[Translation]

Mr. Réal Ménard: What is the intent of clause 2?

[English]

The Chair: Monsieur Ménard.

Mr. Réal Ménard: Monsieur Wallace, control yourself. You are so nervous.

The Chair: Please.

Mr. Matthew Taylor: Clause 2 is only a drafting formality to modernize language in the code.

The Chair: Thank you.

(Clauses 2 and 3 agreed to)

(On clause 4)

[Translation]

Mr. Réal Ménard: No. What is the intent of clause 4?

[English]

Mr. Matthew Taylor: Clause 4 adds one existing offence and a proposed new offence to section 183 to authorize wiretaps for the investigation of these offences. Section 244 on discharging a firearm with intent, which exists in the code currently, was not included in that list. So we're adding it to that list now, as well as the new proposed offence of discharging a firearm while being reckless.

(Clause 4 agreed to)

(On clause 5)

The Chair: Shall clause 5 carry?

[Translation]

Mr. Réal Ménard: No. What is the intent of clause 5?

[English]

The Chair: Can we get an explanation?

Mr. Matthew Taylor: Clause 5 is complicated. It contains a number of amendments to certain subsections. By and large, we're trying to specify that murder in specific instances will automatically be first degree. The two instances are where the murder is committed for the criminal organization, and where another indictable offence is committed for the criminal organization and a murder occurs.

(Clauses 5 to 7 inclusive agreed to)

(On clause 8)

The Chair: On clause 8, I understand the Bloc has an amendment.

You're making the amending motion. Is that correct?

•(1810)

[Translation]

Mr. Réal Ménard: The intent of my amendment is to reflect the position that the Bloc Québécois has held for several years. The Bloc is opposed to mandatory minimum sentences in bills dealing with criminal activity. The committee has heard witnesses on several occasions—there was even a study done by the departments of Justice and Public Safety—tell us that mandatory minimum sentences are not effective. Proper investigations and arrests are effective. I have good reason to hope that this amendment will be supported by all my colleagues from the Bloc Québécois.

[English]

The Chair: Then we'll have discussion on the amendment.

Mr. Rob Moore: Chair, I'll be opposing Mr. Ménard's motion. One of the very reasons this bill was brought forward was to disrupt the criminal organization. We've heard testimony today about criminal organizations. Every clause of this bill is designed to go after criminal organizations and as well disrupt them. That's what this clause does.

By adopting Mr. Ménard's motion we would be weakening the bill, and so the government will be opposing the motion.

The Chair: Is there any other discussion?

Monsieur Lemay.

[Translation]

Mr. Marc Lemay: I remind my colleagues that there are already minimum prison sentences when a firearm is used. It is already in the Criminal Code. Adding other penalties will change absolutely nothing. There are already minimum terms of imprisonment when a firearm is used in the commission of a crime. It is redundant and useless. I support the amendment. I hope that we are going to remove this passage.

[English]

The Chair: Mr. Bagnell.

Hon. Larry Bagnell: I would ask the department what the effect of this amendment would be.

Mr. Matthew Taylor: The amendment is relatively straightforward. It proposes to remove the mandatory minimum penalty scheme. How that would fit more broadly in the Criminal Code is that it would create somewhat of a disconnect with what currently exists.

As Monsieur Lemay already pointed out, there are a number of offences involving the use of firearms where mandatory minimums apply; for example, attempted murder, sexual assault with a weapon, etc. By removing the mandatory minimum, as the amendment proposes, you would have a serious offence involving a firearm that doesn't have a mandatory minimum. If you juxtapose that with the existing Criminal Code offences that do have mandatory minimums, there is somewhat of an inconsistency in its application and perhaps

most clearly when one compares it to section 244, the existing offence, which this offence is modelled on.

Section 244, as I've already said, requires proof that a person intentionally discharged their firearm with the specific intent to cause bodily harm. That's the highest level of proof that's required, evidence that's required, of an investigator. This offence is somewhat slightly below that, where you can't prove that specific intent where the person consciously appreciates the fact that what they're about to do is going to put somebody's life at risk and they go ahead and do it anyway. It's slightly less onerous, or perhaps not onerous but slightly less standard from a *mens rea* requirement, and so you'd have on the one hand an offence with a mandatory minimum and on the other hand an offence without one.

The Chair: Is there any discussion?

[Translation]

Mr. Réal Ménard: I ask for a recorded vote.

[English]

The Chair: Shall the amendment carry?

Mr. Comartin.

Mr. Joe Comartin: I'm not sure, but the amendment says up to line 6 on page 5. If I'm reading this correctly, that would eliminate clause 9, which is there in bold print. I don't think Mr. Ménard intends that. I think he wants to stop at line 4 on page 5.

•(1815)

[Translation]

Mr. Réal Ménard: I do not have the bill, but we wanted to remove any mention of mandatory minimum sentences. We do not have the same version of the bill. I have the latest printed version.

[English]

Mr. Joe Comartin: I withdraw it, Mr. Chair.

The Chair: We will come back to the question.

Shall the amendment carry?

[Translation]

Mr. Réal Ménard: Let us have a recorded vote.

[English]

The Chair: Would you like a recorded vote?

[Translation]

Mr. Réal Ménard: Yes.

[English]

(Amendment negated: nays, 8; yeas, 3)

(Clause 8 agreed to on division)

(Clauses 9 to 13 inclusive agreed to)

The Chair: Mr. Comartin, I'm not hearing much from you, so when I say it is carried, I assume that's carried unanimously.

Mr. Joe Comartin: Yes. If I'm opposed, Mr. Chair, I'm sure you will know from me. I can assure you of that.

(Clauses 14 to 16 inclusive agreed to)

(On clause 17)

[Translation]

Mr. Réal Ménard: I would like to ask a question.

On several occasions, the bill refers to section 727 and the notification that must be given. I would like to have more information about that. Does it mean anything to you?

[English]

Mr. Matthew Taylor: I have to admit I'm a bit lost. Perhaps you could just point to....

[Translation]

Mr. Réal Ménard: I understand that you are, because the chair is moving much too fast.

In clauses 10, 11, 12, 13, 14 and 15 of the bill, it mentions notification from the prosecutor with reference to section 727 of the Criminal Code.

If you do not know, it does not matter, but I was under the impression that you were at the top of the class.

[English]

The Chair: We're on clause 17.

[Translation]

Mr. Réal Ménard: It goes back to clauses 11, 12, 13, 14 and 15. It says that, in order to impose a harsher mandatory minimum sentence, the notification provided for in section 727 of the Criminal Code must be given.

Mr. Daniel Petit: It is the notification that the Crown has to give before...

Mr. Réal Ménard: That is what I am asking.

Mr. Daniel Petit: Fine, let me explain it to you.

Mr. Réal Ménard: I would be very surprised if you have an answer, Mr. Petit.

[English]

The Chair: Order, please. Let us have one person at a time.

Were you able to answer the question?

Mr. Matthew Taylor: I understood the question as relating to a reference to section 727 of the Criminal Code.

You are referring to previous convictions. Section 727 of the Criminal Code requires a prosecutor to give notice if they intend to seek a higher mandatory minimum penalty by virtue of a previous conviction. That section still applies to the new offence. What we're doing here is amending existing offences to include this new idea of discharging a firearm while being reckless to the list of serious offences with firearms. These amendments don't alter section 727 and don't impact the requirements of the prosecutor to give notice if the prosecutor intends to seek a higher penalty by reason of a previous conviction.

Is that what you're getting at?

● (1820)

[Translation]

Mr. Réal Ménard: Thank you for that information.

[English]

(Clauses 17 to 20 inclusive agreed to)

The Chair: Shall the title carry?

[Translation]

Mr. Réal Ménard: Agreed. This section provides for a mandatory minimum sentence. You can understand that we are not really in favour, but we will not oppose it.

[English]

Mr. Mike Wallace: On division.

[Translation]

Mr. Réal Ménard: On division.

[English]

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill to the House?

Some hon. members: Agreed.

The Chair: It is carried.

We are finished. That was my first run-through. Thank you for your cooperation.

This meeting is adjourned.

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