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Chair

Mr. Ed Fast

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• (1530)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order. This is meeting 20 of the Standing Committee on Justice and Human Rights. Today is Wednesday, May 6, 2009, and this meeting is called to address the main estimates.

You have before you the agenda for today. Pursuant to Standing Order 81(4), we are reviewing the main estimates for the fiscal year ending March 31, 2010. They've been referred to this committee.

Appearing before us is our Minister of Justice and Attorney General for Canada, the Honourable Rob Nicholson. As well, we have John Sims, the Deputy Minister of Justice, and Brian J. Saunders, our Director of Public Prosecutions.

I have just one additional note, members. During the second half of this meeting we're going to hear witnesses on Bill C-25, which is an act to amend the Criminal Code limiting credit for time spent in pre-sentencing custody. The bill has been referred to us, and appearing before us again will be the minister, together with Department of Justice officials Catherine Kane and Matthias Villetorte.

So to begin with, we'll review the main estimates. Welcome, Minister, Mr. Sims, and Mr. Saunders.

Minister, you know the process. You have ten minutes to present, and then we'll open the floor to questions.

Hon. Rob Nicholson (Minister of Justice): Thank you very much, Mr. Chairman, and thank you to all the members of the committee for all that you're doing in the justice committee. I know you've been busy and I know you'll continue to be busy. We have a very full agenda, as you know, and I—and I think all Canadians—appreciate all the work you're doing in this area.

I'm pleased to have the opportunity to answer any questions you may have with respect to the main estimates.

Mr. Chairman, as you know, we are fortunate to have in this country a remarkable legal heritage that is the basis of one of the finest justice systems in the world. The Department of Justice has the responsibility of supporting that system and working to make it as fair, accessible, and efficient as possible. This is a considerable task at any time, but even more so today, when we are faced with insecurity on a number of fronts.

You, of course, are aware of the global financial crisis that we are in. More recently we have seen the rise of fear over the possibility of another international threat, a pandemic in the form of the H1N1 flu

virus. While neither of these is a justice issue as such, they both inevitably touch on a wide range of legal issues. More importantly, they can seriously undermine confidence in our institutions and our sense of order and security in general, which has implications for the government's priority of a safe, secure society for all Canadians.

These events serve as a reminder of a larger context of the world in which we live. I believe that with calm and consistent leadership, Canada will weather these and other storms to come with our values and our legal institutions intact, but it will require a realistic and serious commitment on our part.

[Translation]

The government is committed to acting responsibly.

[English]

The government has repeatedly emphasized its commitment to protecting Canadian families and communities across this country. The Department of Justice supports that commitment through its unique role as the government's legal adviser, which also includes its work in developing policy and, of course, drafting and reforming laws.

Mr. Chairman, over the last year, our government has continued to make progress toward the goal of promoting safer communities by tackling crime with all the resources at its command. In the year ahead, the Department of Justice will support these efforts as efficiently and effectively as possible, both on its own and in collaboration with other federal departments and agencies, but also with partners from the provinces and territories as well as non-governmental organizations. These are very important as well.

One recent example of these efforts took place just last week. The fourth annual National Victims of Crime Awareness Week brought together a wide range of people and organizations jointly working to ensure that victims of crime have a voice that is heard in this country and have greater access to services.

It's been two years now since our government appointed the first federal ombudsman for victims of crime. This ombudsman will continue to ensure that the needs and concerns of victims are met.

Victims of crime will continue to be a priority for this government and the Department of Justice throughout this year and beyond. The estimates include our commitment of \$52 million over four years—starting April 1, 2007—for programs, services, and funding to help the federal government and provinces and territories respond to a variety of needs of victims of crime.

The progress we have seen in this area over the last few years is encouraging. I am proud of the role my department has played. The perspectives and stories of victims of crime provide invaluable insight and inspiration in our common effort to ensure that Canadian society remains safe and secure.

Another area in which the department is increasingly involved is the struggle against organized crime. This is a growing problem in Canada, one with wide-ranging effects on crime in general. It also has the potential to not only undermine public security and the rule of law but also to consume a vast amount of resources in the process, as is the case through prolonged investigations and mega-trials.

Although the burden of prosecution has largely passed from Justice to the Public Prosecution Service of Canada, as reflected in the estimates, my department still plays a major role—of course, notably on the legislative front.

In February we introduced new legislation to provide the justice system with the tools we need to fight street gangs and other forms of organized crime. The bill includes provisions to address such serious crimes as gang murders, drive-by shootings, and peace officer assault, as well as gang peace bonds. That bill, Bill C-14, passed third reading on April 24. It was introduced into the Senate on April 28. I understand that yesterday a Liberal senator spoke on this issue, and it has already been introduced by my colleague Senator Wallace.

I want to use this opportunity to thank you, Mr. Chair, and all the members of this committee for your diligent and expeditious examination of this piece of legislation. It's definitely a step in the right direction.

Around the same time, we also reintroduced a bill targeting serious drug crime in support of the national anti-drug strategy. The illegal drug trade is well known as a major source of income and influence for organized crime.

As I explained at the time, this bill was intended as a proportionate and measured response aimed at disrupting criminal enterprise by providing mandatory minimum prison terms for drug producers and dealers who threaten the safety of our communities and indeed threaten our way of life.

In particular, it provided for mandatory jail times for the importing and exporting of illegal drugs, and special penalties for offences carried out for organized crime or involving young people. The people who bring in illegal drugs to this country are a part of organized crime. I've heard that over and over again.

One cannot dispute that putting in prison a member of an organized crime group, particularly someone who is in a leadership role in the organization, disrupts or weakens the enterprise. I don't see how anybody can dispute that. A weakened organization cannot

as effectively conduct their illegal business. I hope there will be agreement from everyone on that point.

●(1535)

More recently, just over two weeks ago, we introduced legislation to crack down on tackling property crime in general, particularly on the serious crime of auto theft. This has been identified as a primary activity for organized crime. I'm very pleased that Bill C-26 is expected to pass second reading today, and that too, of course, will be referred to this committee. I hope that you will deal with that piece of legislation in an expeditious manner as well, Mr. Chairman.

The bill is well supported, I have to tell you, particularly by, among others, the Insurance Bureau of Canada, which estimates that auto theft costs more than \$1 billion a year, taking into account court costs and other legal expenses, as well as health care, policing, and so on. Once again, this legislation is built on the principle that the best way to fight gangs and organized crime is to disrupt the criminal enterprises they depend on.

I met recently with representatives of the Canadian Automobile Dealers Association. One dealer told me that one evening his padlocked fence was cut open, and a number of high-end vehicles, worth a total of more than \$300,000, were stolen. When he notified the police the next day, they gave him the case number and told him to call his insurance company, as there was no way they would be able to locate and recover these vehicles. The vehicles would have been either shipped out of the country by then or dismantled or chopped up to be sold as parts.

As well as creating the separate offence of auto theft, the bill would provide for the application of customs powers to allow the Canada Border Services Agency to identify and prevent stolen property from leaving the country. This is a huge change, one that has to be made to give our border guards the ability to intercept this kind of activity.

Organized crime represents a serious problem, and no part of our society is immune to its effects. It's not going to be disappearing any time soon, but this government remains committed to addressing the impact of gangs and organized crime on families and communities.

We remain, of course, committed to a balanced approach to justice. Through legislative means, we are amending and updating the Criminal Code to ensure that this country has effective and proportionate sentences while also investing a significant amount in prevention strategies and programs.

Under the national anti-drug strategy, we have provided funds to the St. Mary's Counselling Service's High on Life Challenge program in Kitchener, Ontario. That's an example. We've given \$400,000 to the Lethbridge, Alberta, school district for their Teaming up for Addiction Free Youth—the Watson project. We have supported B.C.'s Oooknakane Friendship Centre's youth health and wellness project; in Brandon, Manitoba, the Community Alcohol and Drug Education Coalition drug prevention mobilization plan; the La Ronge, Saskatchewan, Pre-Cam Community School drug awareness and prevention project; and in Moose Jaw, Saskatchewan, the YMCA Building Assets in Youth program. We've added \$1 million to the support, treatment, education, and prevention program right here in Ottawa; and \$327,000 to the Vermillion River region. Mr. Chair, these are the kinds of things we have to be investing in. We are giving \$10 million for two new treatment initiatives in Vancouver.

I could go on with the list of prevention dollars spent by this government under the national anti-drug program prevention strategy, Mr. Chair. This is what we have to do to make sure there is a balanced approach—we recognize that—to assist individuals, particularly young people at risk.

In conclusion, I would like to mention that the Department of Justice as a central agency supports almost all the work of the government in some capacity, so the scope of its activities is considerable. The department is constantly interacting with the justice system and its many players, including the judiciary, other levels of government, professional associations, and a wide range of non-governmental organizations, from the community level to the national stage.

A good example of this work is the series of funding announcements under the justice partnership and innovation program announced April 7. The program, administered by the Department of Justice, supports activities that respond to the changing conditions affecting Canadian justice policy. These include the National Anti-Racism Council of Canada, the Law Courts Education Society of B.C., and the Canadian Criminal Justice Association's Canadian Congress on Criminal Justice.

• (1540)

[Translation]

In closing, Mr. Chairman, I would like to express to you and all the members of this Committee, my deep appreciation for the important work you are doing.

[English]

The Department of Justice is instrumental in the government's work of responding to the needs of Canadians. As you know, we will continue to bring forward that balanced approach that's necessary on all these issues, because this is what this country deserves.

Thank you.

The Chair: Thank you, Minister.

It has been suggested that we go to five-minute rounds, given the fact that we have two one-hour sessions within this meeting. Do we have any consensus here to do that?

[Translation]

Mr. Réal Ménard (Hochelaga, BQ): Since we are talking about budget accountability, I think that for questions on the budget, we should stay with a seven-minute round. However, we can go to five-minute turns for the second round, when we are discussing Bill C-25.

• (1545)

[English]

The Chair: All right, we do have an agreement as a committee. I believe we had a resolution when we started work that we would go with seven minutes for the first round, so we will follow that procedure.

Mr. Murphy, you have seven minutes.

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

Mr. Minister, I want to follow up with a few...I suppose they're budget items. They're financial resource items dealing with legislation both pending and past. In particular, they're the drug treatment courts. Bill C-15, as you know, is a bill presented by you and your government that, although having within it the imposition of mandatory minimum sentences, also allows for a convicted person to be given the choice to enter a drug treatment court in certain circumstances. The purpose, at least the way we're looking at it—and so far we're in support of that bill—is that it's a unique situation whereby a person is given a chance to avoid an imminent mandatory minimum sentence by selecting a facility they hope will rehabilitate the addiction aspect of the offender. I think we all think this is a prevalent part of what makes many of our offenders commit crimes. Addiction is a big piece of the puzzle.

When we see the drug treatment courts, the DTCs, as a white knight or palatable aspect of trying to avoid mandatory minimums, which in general may not always be effective, the issue comes up, how well resourced are they? How well placed are they? Is there going to be an expansion of DTCs so people who might be committing crimes under the purview of Bill C-15 might have access to these courts? Currently they're in the larger centres. That's the general question on funding for DTCs. What level is there? What resources have been asked for or applied for? Do you see an expansion?

With respect to drug recognition experts, DREs, in the past we talked about impaired driving. One of the wrinkles in that regime is to make sure that a person stopped at the roadside can be adequately determined to be impaired and the tool used for the recognition of drug recognition experts.... Has there been sufficient funding in place for some time? Is there sufficient funding projected to have adequate experts to apply the law we passed with respect to impaired driving?

Hon. Rob Nicholson: Thank you for that question.

With respect to the drug treatment court funding program, the estimates before you indicate that \$3.63 million has been directed toward that particular program. That being said, an evaluation of the program and its funding is under way. We'll have a look at what other funding requirements may or may not be necessary, based on that evaluation.

You've touched on an excellent point that I hope is kept in mind, that through drug treatment court there are options for either prior- or post-convictions for individuals to try to get their lives straightened around, and we hope they avail themselves of that. This is why we advocate a comprehensive approach to these. We'll certainly look at that and make sure the resources are in place.

With respect to the impaired driving reforms, and you touched on drug recognition experts and the changes we made, I should point out that the RCMP has been spending \$2 million per year for several years to deliver drug recognition expert training to all police forces at no charge to them. Of course, much of the administration of justice, according to our Constitution, is done at the provincial level. While some new equipment will be necessary or equipment will be updated, I think most people will recognize that this is a small price to pay to make improvements and changes to our impaired driving laws.

I'm very pleased to be part of a government that brought forward those changes. These are all steps in the right direction, and I believe they have the support of almost all Canadians.

● (1550)

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

The Chair: You still have two minutes.

Mr. Brian Murphy: We can launch into another topic, then.

We just returned from out west, Mr. Minister, and certainly gang-related violence and the policing thereof was, I think, a top-of-mind issue out there. I do realize you must coordinate with another department, Public Safety. I think the take-away I got was that there's an awful lot of need for coordinating efforts at the policing level out there. The laws have to be clear, and they have to be acted upon pretty quickly.

In particular—you would have heard this from Attorney General Wally Oppal—they're looking for better tools. They're looking for resources, number one, so that's the first part of the question.

The second part of the question is that I think they're looking for fairly speedy reforms to, for instance, disclosure under Stinchcombe. This can be codified, this can be simplified, defined as to what "relevant" is. That was a big factor: how many days and hours they have to spend complying with Stinchcombe. Secondly, warrants and information gathering is top-of-mind for them.

I only have two minutes, so I'll leave you with a minute to give us some response on those two items that were very top-of-mind out west.

Hon. Rob Nicholson: I've been out several times to British Columbia. It's very clear there's a serious problem with respect to gangs and drugs. Again, it's not isolated in British Columbia. We have some of these challenges right across the country.

I can tell you that Wally Oppal, the Attorney General, whom you mentioned specifically, was very, very pleased with our announcement on getting rid of double credit for time served. As a matter of fact, he joined with me at the press conference, as did a number of attorneys general across Canada, with a number of my colleagues, because they identified this as something that was a priority for them. I can tell you as well that I'm very, very pleased with how supportive they have been on our bills on drugs and gangs. This has been very well received by my provincial counterparts across the country.

With respect to RCMP funding and RCMP cooperation, of course I don't have direct responsibility or even indirect responsibility, for that matter, for the RCMP, but the government has committed funds. And I know the RCMP is working very carefully with all its counterparts across this country for effective law enforcement across Canada. But again, I've been very appreciative and listened very carefully.

With respect to your other part about lawful access, we explore all these issues. I never announce what we are doing until the announcement. You have a very full agenda before you right now, and certainly one of those things they've been looking for is that credit for time served. I hope that will move expeditiously through this committee, as will the other bills.

The Chair: Thank you.

We'll move on to Monsieur Ménard. You have seven minutes.

[*Translation*]

Mr. Réal Ménard: Thank you, Mr. Chairman.

I would like to welcome the Minister and the members of his team to the Committee.

Since I have a number of questions, I will try to be brief, and I know you will do the same.

As you probably know, Quebec scored a major victory a few weeks ago, with the arrest of 156 individuals, 111 of whom belong to the Hells Angels. Five bunkers were seized. Since 2001, Quebec has made tremendous progress in combating organized crime. Considerable action has been taken to that end.

However, I have been made aware of concerns expressed by certain provinces. This is a matter that was discussed at the Federal-Provincial-Territorial Meeting of Ministers of Justice—megatrials and the resources they require on the part of the provinces. I would like you to provide us with some information on this. Could the Committee be given a copy of the studies that were tabled at the Federal-Provincial-Territorial Meeting of Ministers of Justice? And, how do you see the future, in terms of megatrials?

I am going to move directly to my second question and give you a chance to answer after that. I will have other comments to make later on.

I think the next challenge will, to a great extent, be the interface between the legal economy and organized crime. Some sectors are more vulnerable than others. There have been several reports on this. I don't know what the situation is in English Canada, but in Quebec, this is an issue that has caused a lot of ink to flow. The construction, automobile and landscaping industries, in particular, have been mentioned in this context.

Do you have any study that would enable us to better inform ourselves as to the threat of organized crime infiltrating the legal economy?

• (1555)

[English]

Hon. Rob Nicholson: Thank you very much.

With respect to mega-trials, one of the concerns they raise with me is not just the question of the cost of a mega-trial, it's getting through them and having them move through the system. The federal and provincial deputy ministers and departments are working on what we generally call criminal law efficiencies. We had the one Bill C-13. As you know, Mr. Ménard, it's very difficult to get one of these bills through, because what happens is you put these reforms together and you'll have one organization somewhere—they sort of cherry-pick these things—say they're not quite sure about one issue.

But I'm very committed to that. We had Bill C-13 passed. That was the fourth attempt in ten years to get that through. I'm committed to moving forward with efficiencies, and of course I'm always looking at ways to do that. But there's a lot of good work being done right now at the federal-provincial level, and I'm pleased to do that.

With respect to the interface between organized crime and legal businesses, I think we're moving forward. In terms of dealing with organized crime, one of the reasons we're moving on identity theft is just for that reason—and I heard this very loud and clear some time ago when I was in Montreal—people collecting and moving information, using computers, sometimes moving it offshore, out of the country, and then using it for ultimately an illegal purpose. Regardless of how it was put together, the gaps in the present criminal law were very clearly identified to me, and I think when you have a look at that bill, when you get that from the Senate, you'll see that it's addressed.

Changes right now that you can see: with respect to giving power to Canada Border Services Agency guards, to make sure they're able to intercept property moving in and out of this country that may start for illegal purposes or end up for illegal purposes. I think all those steps are in the right direction, but I'm always looking at ways to improve the laws.

[Translation]

Mr. Réal Ménard: Are there any studies on megatrials? What challenges do they pose? I have been told about the Caron report, and I would like to read it. I would appreciate receiving an answer in the second round. I will ask my three other questions right now.

Could you tell us about any available material that could constitute conclusive evidence of the effectiveness of mandatory minimum sentences? Personally, I have seen a study by Mr. Roberts, the criminologist, who will actually be appearing before the Committee next week. However, that study dates back to 2005-06.

You are a great fan of mandatory minimum sentences, but I believe it is for ideological reasons, which have no scientific basis. I ask that you set aside your political views when answering my question.

First of all, can you or can you not provide studies to this Committee? I am not asking you to read me the Conservative Party platform in its entirety. I can go and read it myself on the Internet.

Next, in terms of cost-sharing for legal aid programs, I would like you to provide us with a table showing how much each province will be receiving and what Quebec's share will be.

In closing, I would like to talk about the Coffin affair. Thank you for your letter. I want to point out, however, that my colleague, Raynald Blais, who is supporting the Coffin family, told me that your department refused to make public certain documents that would enable him to make full answer and defence. In that regard, there has been a lack of cooperation for more than a year. Unfortunately, given that lack of cooperation, the debate will have to be taken up here, in committee. In any case, I would like you to give us instructions as to how to correct this situation.

[English]

Hon. Rob Nicholson: Mr. Ménard, if you're asking for reports, the Lesage-Code report is an excellent report. It deals with a number of these challenges respecting the Air India report, so later on this year that's going to touch on a number of issues that I think you'll find very interesting and will be of some help to you.

You're saying you want a definitive study that will prove human behaviour on the basis of fact. Let's be honest, I don't think there's any study that would satisfy you if you disagree with mandatory prison terms. If you want evidence—

•(1600)

Mr. Réal Ménard: Do you have a study?

Hon. Rob Nicholson: —that these things will work, speak with law enforcement agencies and you'll find out the effect that it has in breaking up criminal activity.

[Translation]

Mr. Réal Ménard: Minister...

[English]

Hon. Rob Nicholson: That's what we're trying to do.

[Translation]

Mr. Réal Ménard: I will rephrase my question. Does your department have any up-to-date studies dealing with mandatory minimum sentences? You have every right to defend them, just as I have every right not to believe in them. However, as Minister, you are required to base your decisions on scientific facts.

When Libby Davies was here, you were asked about Bill C-15. I respect your position as Minister, but I would like to know whether, other than the one by Mr. Roberts, the criminologist, the department has done any studies relating to the effectiveness of mandatory minimum sentences, in terms of recidivism and crime rates. I do not believe you have. You have every right to take an ideological position. Canadians will judge for themselves.

[English]

The Chair: Time's up. You may give a 15-second response.

Hon. Rob Nicholson: I will certainly look into that, Monsieur Ménard. We are proceeding on the basis on which we promised Canadians we would act.

I didn't want to leave because you wouldn't get the chance to ask me your question. First of all, departmental officials have met with the Coffin family, just so you know. It was quite some time ago. My understanding is that it's currently on hold pending the receipt of submissions from the Association in Defence of the Wrongfully Convicted, the group representing the Coffin family. I'm advised that the department has been waiting for these submissions for more than a year. They're waiting to hear that. I wanted to bring you up to date on that one as well, and I believe you would have received a letter fairly recently from me on that.

The Chair: Thank you.

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

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

Thank you, Mr. Minister and officials, for being here.

Mr. Minister, when we were in B.C., one of the things we heard from one of the federal prosecutors was that there is a problem retaining federal prosecutors because the provincial governments are paying their prosecutors at a substantially higher level. Is there any reflection of additional dollars in these estimates?

I don't want to negotiate with you on behalf of the prosecutors. I don't want to do that. I just want to know if that's being looked at and if there is some attempt in this budget to address that problem.

Hon. Rob Nicholson: I think I'll get the Director of Public Prosecutions, who has direct responsibility for those prosecutors, to answer that.

Mr. Brian J. Saunders (Director of Public Prosecutions, Office of the Director of Public Prosecutions, Public Prosecution Service of Canada): You are right that several provinces are now ahead of the federal government in paying prosecutors and lawyers from the justice department. The budget bill that was introduced limited the salary increases until 2011. The decision has been taken as to what the salary will be in the future. In a sense, we're locked into a salary range that's going to be lower than the ranges in British Columbia, Alberta, and Ontario.

Mr. Joe Comartin: I have a similar question along the lines of additional assistance to the legal aid plans across the country. There may be two parts to this, Mr. Minister. If additional funds are going to be flowing for that, is this part of the backlogs that are developing? Also, is your department doing anything to establish a more cohesive, comprehensive legal aid plan?

I realize it's a provincial responsibility, but in terms of standards that would be comparable across the country, is any assistance being provided or research being done to try make the plans more comprehensive and more equitable across the country?

Hon. Rob Nicholson: Over the past number of months we have worked on a collaborative basis with our provincial and territorial colleagues on this. Of course, we're always looking at the whole question of legal aid. I am pleased that in the main estimates before you, there's a guaranteed \$119.8 million in contributions to assist the provinces in the operation of legal aid on their part. I think this is money well spent for the provincial governments.

With respect to refugee claimants, we're continuing to work with our provincial colleagues on a mutually acceptable solution. We have ongoing discussions, and we try to be as helpful as we can.

I'm not quite sure what you mean by having exact standards across the country. They're administered by the provinces, and they set their own terms. Whenever you get involved with areas of provincial jurisdiction, you have challenges, but we have to be very supportive.

I don't think I got to Monsieur Ménard's question. Yes, we can provide a breakdown as to how much money is spent in each province and territory across the country.

•(1605)

Mr. Joe Comartin: Those last 15 seconds don't come out of my time.

Hon. Rob Nicholson: It reminded me, and I slipped that in there.

Mr. Joe Comartin: Mr. Minister, if I'm reading the estimates correctly, there's a substantial reduction in the grants in support of the Youth Justice Fund from last year to this year. Am I reading those correctly? If so, why is that?

Hon. Rob Nicholson: Perhaps I'll get the deputy minister to respond.

That's not the case, though. It's interesting, Mr. Comartin, that you raised this question in terms of the timing of these things with me before, a couple of years ago. It's not a question of less money; there's more money overall going into these. It's a question of the timing and the timeframe that you're looking at. I think if you add up the different times I've been here.... But I'll ask the deputy to provide some details.

Mr. John Sims (Deputy Minister, Deputy Minister and Deputy Attorney General's Office, Department of Justice): On the Youth Justice Fund, Mr. Comartin, the total amount spent this year under that program remains the same, at \$5.005 million. However, some of the money was moved from a grant to a contribution. So the grant fund was decreased by \$350,000, but the contribution portion of that entire initiative was increased by the same amount of money. That was done simply because, as officials looked at the funding requests that were coming in, there were more requests coming in for large-scale multi-year projects, which are better dealt with through contribution funding, and the anticipated array of small projects had gone down in the guns, gangs, and drugs funding.

So the same amount of money is being spent; it's just being spent slightly differently.

Mr. Joe Comartin: There were a number of news stories four to six weeks ago—I'm not sure, Mr. Minister or Mr. Sims, whether it's in this fund or if it's in Public Safety—about funds allocated for youth crime prevention programs not being spent in full. It wasn't even close to spent. It was somewhere around 60% of the dollars.

Is this what happened in these, or is that in Public Safety?

Hon. Rob Nicholson: I believe what you're referring to is in Public Safety.

We do undertake extensive consultations and work to take up access to these, but not all the money is taken up all the time. Nonetheless, I think it's important that it's there, and that we continue to work with groups in and outside of governments across this country to make use of the money that's available.

Mr. Joe Comartin: Can you tell me, Mr. Minister, in terms of the 2008-09 budget and those two funds, both contributions and grants, if all of the funds were in fact spent on the youth programs?

Hon. Rob Nicholson: Again, some of them wouldn't be within the Justice estimates. I believe they're in Public Safety. I will provide you with a breakdown of exactly where we're at on those.

Mr. Joe Comartin: But I'm asking for the numbers that are showing in the estimates for the previous budget year, and whether all of that has been spent.

Perhaps you could provide that to the committee.

Hon. Rob Nicholson: By all means.

Mr. Joe Comartin: Finally, Mr. Minister, have the funds for the youth prevention programs, both grants and contributions, already been allocated for this year? Or is that an ongoing process?

Hon. Rob Nicholson: Well, again, under the Youth Justice Fund, the deputy indicated to you that over \$5 million, as part of this budget, has been allocated for that.

Mr. Joe Comartin: I'm sorry; I'm still not clear on whether that was last year's or this year's.

Hon. Rob Nicholson: It is this year's. It's an ongoing process, with continuous funding, but that's part of the estimates for 2009-10.

Mr. Joe Comartin: Is a list available of the specific programs that were allocated in the past year and the current ones so far this year? Is that available?

• (1610)

Hon. Rob Nicholson: I'm sure it is, Mr. Comartin—

Mr. Joe Comartin: Could you provide that to me, please?

Hon. Rob Nicholson: By all means.

Mr. Joe Comartin: Thank you.

Those are all my questions, Mr. Chair.

The Chair: Thank you.

Mr. Rathgeber, you have seven minutes.

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

Mr. Minister, I'd like to thank you and your officials for your attendance here this afternoon.

Once again, I'd like to congratulate you on all the proposed legislation before the House—Bill C-14, Bill C-15, Bill C-25, and Bill C-26, plus the identity theft bill, the number of which escapes me; I believe it's in the Senate.

Mr. Minister, as you are aware, this committee travelled to Vancouver last week. In Vancouver I had the opportunity, and again subsequently on Monday when we were examining Bill C-15, to ask questions of a Mr. Kirk Tousaw, who was speaking on behalf of the BC Civil Liberties Association and an anti-prohibition league, whose name escapes me. He's also a one-time New Democratic candidate in the electoral district of Vancouver—Quadra.

You might be interested to know...and perhaps you do know, because I know that you and your staff follow these proceedings quite closely. Mr. Tousaw indicated a couple of things that I found disconcerting, to say the least.

First of all, in his view, very hard drugs, very serious chemical substances such as methamphetamine and crack cocaine and even heroin, ought to be legalized. In fact, he indicated to me that, in his view, the entire Controlled Drugs and Substances Act ought to be repealed.

As you might know—if you heard my S.O. 31 in the House today, you will know—a young 14-year-old girl in Edmonton, the city that I represent, recently died, tragically, from an overdose of ecstasy, which she had purchased at West Edmonton Mall, a place that is frequented by children and other young persons. In light of these events, I just wondered if you had any comment on the suggestion that the Controlled Drugs and Substances Act ought to be repealed and that hard drugs ought to be no longer subject to prohibition.

Hon. Rob Nicholson: There's no chance of that, Mr. Rathgeber. We realize what a serious problem drugs are in this country. I've been to a number of international conferences and I've spoken with people around the world. They say the drug addiction and the whole illegal drug business can destroy a society. That's how serious it is; it can destroy everything around it. The idea that you just make this legal and thereby, in effect, encourage people to take drugs is a very bad idea. I think it's wrong to send out mixed messages to people that somehow it's okay, it's not okay, or we're going to legalize it. This is a bad idea. As you can tell from the legislation that we have introduced, we're taking a tough approach on this, and we're taking a tough approach on the people who are in the business of basically destroying other people's lives.

I mentioned to you that people were bringing drugs into this country. I've talked with drug enforcement agencies starting in British Columbia and right across this country. They tell me that these are the people who are involved with gangs and organized crime. The people who are causing trouble in British Columbia and elsewhere across this country, these are the people who are bringing drugs into this country. This isn't some happy-go-lucky guy who is experimenting on a Saturday night. This is not what we're talking about. We're talking about gangs and organized crime. I would very much reject that. I hope everybody would reject suggestions like that. This is not what this country needs and this is not what we should have.

Mr. Brent Rathgeber: As you know, sir, I do reject it similarly.

I want to pick up on a question from my friend Mr. Murphy with respect to the drug treatment courts. Most of the people we seek to go after are the kingpins, and the pushers, and the traffickers, but there are those who are unfortunately subject to addiction, and for those individuals we do have the drug treatment courts, or at least that is an option for them. I'm actually not that familiar with how that process works, and I was hoping you might be able to elucidate me on the process, and the support that your department gives to the drug treatment courts, and the collaboration with the Department of Health in the overall strategy against drugs.

Hon. Rob Nicholson: It's a program I'm very supportive of. When I was first named justice minister I had heard about drug treatment courts—of course, if you're in the legal profession, you do—but I got some of the details as to how they work and what we are doing, and these are great steps forward.

They began in the late 1980s in the United States. The idea is to give individuals who have unfortunately become addicted but are not in the business of organized crime or involved with violence, that sort of thing, an alternative to be able to avoid a criminal record, or avoid a conviction, and these are steps in the right direction. We have six of these across Canada. I indicated I believe that in the main estimates you have before you \$3.63 million has been allocated to that program. Again, I think it's money well spent. You want to be able to get people who, as you point out, have become addicted off that, get them living productive lives, and this gives them an alternative to getting involved, or continuing involvement, with the criminal justice system and the convictions that go with it.

These are steps in the right direction. They have my complete support, and it's exactly what we should be doing to help these individuals. This is something very different from the people who are using guns, and violence, and organized crime. These are the unfortunate individuals who become addicted, and we want to help them.

•(1615)

Mr. Brent Rathgeber: Am I out of time, sir?

The Chair: You have half a minute.

Mr. Brent Rathgeber: Again, congratulations with respect to victims' services. As you know, I made an announcement on your behalf last week during National Victims of Crime Awareness Week, and just so you know, that announcement was very much appreciated by the tribal councils, which are going to receive funding to support victims' programs. So thank you for that.

Hon. Rob Nicholson: Let me thank you. I appreciate your support and the message you're bringing to this Parliament, that drugs are a problem in this country and that we have to deal with this. So again, helping to make that announcement and your continuing support for our tough on crime agenda, believe me, is very much appreciated by me.

The Chair: We'll move on to Mr. LeBlanc. You have five minutes, sir.

Hon. Dominic LeBlanc (Beauséjour, Lib.): Thank you, Mr. Chair, and thank you, Minister, for joining us on estimates, and then joining us in the next meeting, also, to talk about Bill C-25.

Perhaps, Minister, I could follow up on my colleague Brian Murphy's questions around the drug treatment courts. I share your support of the initiative. I don't share the view that the experiment hasn't worked or that there's no merit in expanding and in ensuring that it remains an option.

I know that in New Brunswick no drug treatment courts are currently operating. I know the New Brunswick government has perhaps talked to you and some of your officials about the possibility of having one on a pilot project basis in Saint John, New Brunswick. In your view, if there are only five or six operating in the country, can some of the money you referred to for drug treatment courts be used to expand? For example, how do you think we could support a smaller province with limited resources, such as New Brunswick, if it wanted to try to set one up in a part of the province like Saint John?

Hon. Rob Nicholson: That's a very interesting suggestion, Monsieur LeBlanc. That \$3.63 million is broken down and allocated among the six courts across the country, but I'm always open to suggestions on how best to deal with the problem of drugs in this country. I think that if you speak with your provincial counterparts, they'll tell you that we're moving in the right direction with the bill on drugs that you have before you, and I'm always open to suggestions and innovative ways that we can do this.

You've pointed out that the drug treatment court is an innovative way to handle this, and I've been pleased with the results at this point.

Hon. Dominic LeBlanc: Minister, I'll follow along the same lines as my colleague Joe Comartin in talking about legal aid.

There's no doubt that there's a constant pressure. You referred to the hundred-and-some million dollars that you're currently allocating—it was \$120 million, I think—to help provinces with legal aid costs, and I think you'll agree with me that because of the increasing pressures in provincial systems around legal aid, there are never enough resources in this important envelope.

Our colleague Réal Ménard talked about a mega-trial. New Brunswick is a smaller jurisdiction, and in the large prosecution going on in the Moncton area—an organized crime prosecution, actually—the legal aid certificates that were requested would have totalled \$1.7 million out of the \$7 million legal aid budget in New Brunswick. One trial would have eaten up a large percentage of the provincial budget. In the end, of course, they had to apply to a judge for extra help.

That pressure is not unique to my province; it's across the country, and there are increasing demands or suggestions that we should look at increasing or improving legal aid with respect to family law matters. Different women's groups have spoken to a number of us about some of the economic inequities that can take place with respect to civil legal aid.

I'm not suggesting anything in the context of a whole bunch of civil proceedings. It would be for nothing other than family law matters. An example would be an allegation of abuse or—more importantly, perhaps—a question of child custody. I'm wondering whether you, with your provincial counterparts, have any view on the possibility of improving legal aid with respect to family law matters.

•(1620)

Hon. Rob Nicholson: That's interesting, Monsieur LeBlanc.

When I was here the first time as a member of Parliament, it was a line item on the transfers, and I liked the idea that there was a line

item for civil legal aid. A decision was made around 1995-96 that it would be rolled into the Canada social transfer.

I'm not the finance minister, but on each budget I watch very carefully. I've been very impressed by the increases every province has received under the Canada social transfer. A decision was made—it wasn't made by my government, as you know; it was made by another government with which you'll be familiar—that this should all be rolled into one. I haven't seen any push by the provinces to go back to having this as a separate line item. I've had people suggest this to me, but once the decision has been made....

I know you watch those budgets very carefully. Mr. Flaherty has had four of them. I watch very carefully to see what the allocation is for every province, and I have to tell you I've been very impressed by the increases that each province has received under those four budgets of Mr. Flaherty. So inasmuch as civil legal aid is now a part of that transfer, I think these are steps in the right direction.

You were talking a little about family and civil law, and mega-trials are an important aspect. We are looking at that. We are looking at the Code-LeSage report. Many of the recommendations there are at the provincial level. If I came forward with a bill on efficiencies and all that, I hope members would expedite it and move it through. As I indicated to you, it took 10 years to get the last bill we had before us through. When you bring forward a bill on efficiencies in the criminal justice system, it doesn't get a lot of publicity, but it's very important.

Thank you, Mr. Chair.

The Chair: Monsieur Lemay.

[*Translation*]

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

My apologies, Minister. I did not intend to show any disrespect by not being here at the beginning of the meeting. I was delayed in Parliament because of consideration of Bill C-26. Just to let you know, that bill will be referred to us, pursuant to a ruling by the House to that effect.

Hon. Rob Nicholson: Congratulations on your work.

Mr. Marc Lemay: You see, we can work together. All that is needed is a little understanding, except when it comes to mandatory minimum sentences.

Voices: Ah, ah!

Mr. Marc Lemay: In that respect, Minister, I have to admit we have a little difficulty. Having said that, I don't want to use up my speaking time.

Minister, we passed Bill C-21, which abolishes Section 67 of the Indian Act and states that the Canadian Human Rights Act will apply. Another consequence of that is that the Canadian Human Rights Commission has to start looking at this issue.

The problem, Minister, is that nowhere have I seen any increase in funding for the Canadian Human Rights Commission. I can assure you that, if there is no additional money, all of the government's great projects... You insisted on the need to pass it quickly, and I recall quite clearly that you even threw a fit in the House for that very reason.

So, I would like to know whether additional funding has been set aside to proceed with the repeal of Section 67 of the Indian Act.

• (1625)

[English]

Hon. Rob Nicholson: The Human Rights Commission's budget is not within the Department of Justice, for which I'm appearing today. But I agree that the repeal of that provision of the Canadian Human Rights Act should have been done a long time ago. The idea that human rights apply unequally across this country is very wrong. I was very clear that it should apply to all Canadians, and there should be no exceptions to that.

But again, I don't have the budget of the Human Rights Commission here before me. I'm here on the estimates for the Department of Justice.

[Translation]

Mr. Marc Lemay: Does the Canadian Human Rights Commission not fall within the purview of the Minister of Justice?

Mr. Réal Ménard: Yes, it does.

Mr. Marc Lemay: If it is within the purview of the Minister of Justice, I would very much like to know whether there is provision for additional funding. Minister, I am not trying to put you on the spot, but I need to have that information quickly, as do the First Nations, even if you only forward it to us subsequently.

[English]

Hon. Rob Nicholson: We deal on an arm's length basis with the Human Rights Commission. They come on their own with their own budget. I will make inquiries and make sure that you know exactly how much they are allocated.

[Translation]

Mr. Marc Lemay: I am a little undecided. I am going to add an additional request, because there is also the whole matter of regulating the Internet in order to get rid of hate propaganda. People with the Human Rights Commission met with me to discuss that, because we were talking about the Indian Act, but we also talked about hate propaganda.

So, how can we find out whether any money has been set aside in the budget for this? It is clear that the Commission, with a budget roughly equivalent to last year's, will not be able to act on the two bills that have passed and which affect it directly. I simply want to know. If you tell me that I cannot have the answer today, I will wait until next week, but I need to have that answer as soon as possible, particularly for the Standing Committee on Aboriginal Affairs and Northern Development.

[English]

Hon. Rob Nicholson: Mr. Lemay, can you tell me one more time the connection between Internet hate messages and the Indian Act?

[Translation]

Mr. Marc Lemay: No, no; they are two different things.

[English]

Hon. Rob Nicholson: The translators may be wrong, but they did say the Indian Act, and I just wondered if you could please...

[Translation]

Mr. Marc Lemay: Mr. Chairman, Bill C-21 deals with the repeal of Section 67 of the Indian Act, which is going to be administered by the Canadian Human Rights Commission. Also, again as part of the work it is doing, the Commission will be looking at what it can do to prevent hate propaganda from finding its way onto the Internet. Those are two completely separate issues, and in both cases, it needs...

[English]

Hon. Rob Nicholson: Fair enough. There were two things.

[Translation]

Mr. Marc Lemay: I need to know when the Commission will be receiving money. If money has been allocated in the budget, I did not see it. That is the reason for my question.

[English]

Hon. Rob Nicholson: We'll forward any information we can obtain on your behalf. It should be no problem.

The Chair: Thank you.

We are at the end of our time for this part of our meeting. As mentioned earlier, pursuant to Standing Order 81(4) and the order of reference of Thursday, February 26, 2009, our committee is considering votes 1, 5, 10, 15, 20, 25, 30, 35, and 50 under Justice in the main estimates of 2009-10.

Does the committee wish to deal with these all at once, or do you want to deal with them separately?

[Translation]

Mr. Réal Ménard: We can pass it on division. Can we pass it as a package?

[English]

The Chair: Shall votes 1, 5, 10, 15, 20, 25, 30, 35 and 50 under Justice, less the amount granted in interim supply, carry?

JUSTICE

Department

Vote 1—Operating expenditures.....\$257,388,000

Vote 5—Grants and contributions.....\$370,558,000

Canadian Human Rights Commission

Vote 10—Program expenditures.....\$18,478,000

Canadian Human Rights Tribunal

Vote 15—Program expenditures.....\$4,027,000

Commissioner for Federal Judicial Affairs

Vote 20—Operating expenditures.....\$7,504,000

Vote 25—Canadian Judicial Council—Operating expenditures.....\$1,594,000

Courts Administration Service

Vote 30—Program expenditures.....\$4,953,000

Office of the Director of Public Prosecutions

Vote 35—Office of the Director of Public Prosecutions—Program expenditures.....\$141,173,000

Supreme Court of Canada

Vote 50 — Program expenditures.....\$21,038,000

(Votes 1 to 35 inclusive agreed to on division)

(Vote 50 agreed to on division)

● (1630)

The Chair: Shall I report the estimates to the House?**Some hon. members:** Agreed.

The Chair: As our witnesses have arrived, I think we can move right into the second part of our meeting. We will now hear witnesses on Bill C-25, An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody).

Appearing before us again is the minister, of course, and we also have Department of Justice officials Catherine Kane and Matthias Villetorte.

Mr. Minister, you have 10 minutes to present, and then we'll open it up for questions.

Hon. Rob Nicholson: Thank you very much, Mr. Chairman.

I'm pleased to once again have the opportunity to address this committee, this time to discuss Bill C-25, An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody).

As you know, the government promised to restrict the credit awarded at sentencing for pretrial custody for persons who were denied bail because of their criminal record or who violated bail. Currently, subsection 719(3) of the Criminal Code permits a court to take into account the time an accused awaiting trial has spent in pre-sentence custody when determining the sentence to be imposed on that person upon conviction. However, the code does not prescribe a particular mathematical formula for taking into account such time. Sometimes the credit awarded has been as high as three days for one, but courts have traditionally started giving, over the last number of years, two-for-one credit for time served in pre-sentence custody.

The practice was acknowledged in the decision of *Regina v. Wust* in 2000, where the Supreme Court of Canada recognized that

although there is no mechanical formula for crediting pre-sentence custody, a two-for-one credit ratio in that case was appropriate to reflect the conditions of the individual. However, the Supreme Court stated that a different credit ratio could be applied, depending on the circumstances of the detention.

The current practice of awarding two-for-one credit for pre-sentence custody is problematic. For instance, in some cases it may encourage some accused to abuse the court process by deliberately choosing to stay in remand in the hope of getting a shorter term of imprisonment once they have been awarded credit for time served. Also, the population in remand centres now exceeds the population found in sentenced custody in Canada's provincial and territorial jails. This is why attorneys general and correctional ministers strongly support limiting credit for time served as a way to reduce, among other things, the growing size of their remand population.

The practice of awarding overly generous credit can put the administration of justice into disrepute because it creates the impression that offenders are getting more lenient sentences than they deserve. The public does not understand how the final sentence reflects the seriousness of the crime. For these reasons, the current practice of routinely awarding two-for-one credit must be curtailed.

There are cases where courts have awarded less than two-for-one, and the reasons they justified doing so support the proposal contained in Bill C-25. In those instances, the credit awarded was justified because the offenders were unlikely to obtain early parole because of their criminal record, or because the time spent in remand is a result of a breach of bail conditions. It is for all of these reasons that Bill C-25 proposes to provide, as a general rule, credit of one-to-one. However, where circumstances justify it, courts will be able to award up to one and a half days for every day spent in pre-sentence custody. In such cases the courts would be required to provide an explanation of those circumstances.

Now, those circumstances are not defined in the bill. This permits the court to have discretion to consider on a case-by-case basis where the credit to be awarded for time spent in pre-sentence custody should be more than the general rule of one-to-one. We would expect the application of a credit ratio of one and a half to one would be considered where, for whatever reason, the conditions of detention were extremely poor, or when the trial is unnecessarily delayed by factors not attributable to the accused.

Where accused, however, are remanded for having violated bail conditions or because of their criminal record, the credit will be limited to one day for every day spent in pre-sentence custody. As a result of this initiative, a greater number of offenders would now serve a federal sentence of two or more years, and there will be an increased number of federal offenders spending time in federal custody.

This time the federal system will present the opportunity for longer-term programming that may have a positive effect on the offender. We can't lose sight of that, getting that individual the kind of help they need. Explanations for the length of a sentence are usually provided in open court at the time of sentencing; however, judges are not specifically required to explain the basis for their decision to award pre-sentence credit. As a result, they don't always do so, and this deprives the public of information about the reasons credit is given for pre-sentence detention. It leaves them in the dark about why the pretrial detention should allow a convicted criminal to receive a discounted sentence.

• (1635)

This is why Bill C-25 proposes to require courts to note the sentence that it would have imposed without the credit, the amount of credit awarded, as well as the actual sentence imposed. This requirement will result in greater certainty and consistency and should improve public confidence in the administration of justice. These are important public policy objectives.

[Translation]

It is difficult for Canadians to understand how these short sentences, which are the result of giving a two-for-one credit for any time spent in pre-trial detention, can act as a condemnation of illegal behaviour, dissuade offenders from committing offences or protect society.

[English]

Canadians have told us loud and clear that they would like to see more truth in sentencing by ending the practice of giving double-time credit for pretrial custody.

Mr. Speaker, we are listening to their concerns. I appreciate the support of our provincial and territorial partners for this proposed legislative amendment to provide greater truth in sentencing. This is among the reasons why I call on all members of this committee to support this bill.

Thank you, Mr. Chair.

The Chair: Thank you, Minister.

We'll continue with questions. I'll begin with Mr. Norlock. You have five minutes.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you very much, Minister and officials, for coming here today, and specifically on this bill, which I can tell you is very important to my constituents.

It is so much so that on a recent call-in show on one of the radio stations, they had a gentleman there...I must admit I can't remember his name, but he does have some great knowledge in this area. I believe he was a lawyer, specifically a lawyer for victims and victims of crime. He related, of course, to the audience that not only is it in some cases two for one, but there are some cases where it was actually three for one, which is quite disturbing to most people.

Then of course we did some research, and we looked into Bill C-25 and what the opinion is of many of your counterparts and our counterparts provincially and people who were interested. I'm just

going to read you a couple of quotes and then a couple of other items and then ask for your comment.

The first one is from Dr. Matt Logan, who is an RCMP expert on sex offences. He told this committee on April 30:

I took two years out of my career and went to jail as a psychologist for CSC, and I'll tell you that the two-for-one is a scam. The people who are pulling the two-for-ones are clogging the court system and just backing it up even further. So I was extremely gratified to see the two-for-one disappear.

The next is from the Honourable Cecil Clarke, the Minister of Justice for Nova Scotia:

This change would stop criminals attempting to manipulate the justice system by extending their time in pre-trial custody. Ultimately, this change will ensure that an individual serves the amount of time in a correctional institution appropriate to the crime that has been committed.

So, Minister, I know you know that the majority of Canadians are 100% behind this piece of legislation. I wonder if you might comment on some of your conversations with other justice ministers across this country and specifically with the people who really count: the people who brought us here, who elected us to come here, and specifically the victims of crime.

• (1640)

Hon. Rob Nicholson: I don't think there's any question about it, Mr. Norlock. I've heard it on a regular basis from victims' groups, victims, and individuals. I've seen it in editorials and I've heard it at round tables on crime. The people have great problems with this particular policy and they want it changed.

You mentioned a number of our provincial counterparts. I'm saying that there's as close to unanimity as you can get when you're dealing with that many people. This is a problem for them and they have urged us to come forward and make changes. We were pleased to do that.

It's interesting that on the day we announced this, we had four or five attorneys general across Canada, I think, who wanted to be there with us when we made that announcement. That is how supportive they are. I mentioned in the earlier debate that Attorney General Wally Oppal of British Columbia was very pleased to stand with me when we made this announcement, because it is important. It is important to the attorneys general in their efforts to try to unclog the court system.

We talked about access to justice. If you're clogging up the courts with people who are continuously getting remands because, among other things, they are getting a bonus in their time served, we have to do something about it. As I indicated to you, if they are convicted and get into an institution, then you have the opportunity to provide them with programs to help them become rehabilitated so that they're not spending their time doing dead time and not getting the help they need.

Yes, I received quite a bit of favourable feedback on this. Again, I'm hoping that this is another one of these measures in our tough-on-crime agenda that your committee will move forward on. I encourage you and indeed all members to do that.

The Chair: Thank you.

Before we continue, I want to assure everybody that each party will receive an opportunity to speak and ask a question. I'm proposing to go to the Liberals now and back to the Conservatives for two. Then we'll move on to the Bloc for one and then to Mr. Comartin. Then we'll go back to the Liberals.

Out of fairness, is that all right?

Mr. Réal Ménard: We'll have our time too?

The Chair: Yes, but for Monsieur Lemay, I'm not sure.

Mr. Réal Ménard: He's a nice person.

Voices: Oh, oh!

The Chair: I don't know. I can't guarantee that he'll get a chance.

We're going to go to Mr. Dosanjh. You have five minutes.

Hon. Ujjal Dosanjh (Vancouver South, Lib.): Mr. Minister, you indicated that as a result of this particular step or amendment, inmates would be able to get some treatment in the facilities. Have you or your department done an assessment of what provincial treatment facilities exist in provincial corrections, how much more money they are going to require to provide that treatment, and what it should be?

Have you done a similar assessment on federal corrections? What impact would this have in terms of more inmates coming into federal corrections? What programs and additional dollars are you proposing or have been set aside to deal with that impact?

Hon. Rob Nicholson: Again, I don't have the budgets of the public safety minister before me.

What provincial attorneys general are telling me is that most of the people now held in provincial facilities are awaiting trial. They're not even convicted. I've even indicated to you that, yes, there will be more people in the federal facilities, but I've been assured by my colleague the Minister of Public Safety that the capacity is there, and again, the treatment programs that have been part of our correctional system for many years will continue, and we will work on those.

I don't have the budgets of the Correctional Service of Canada, as that's not my responsibility, except to say that I have assurances from the Minister of Public Safety that this will work very well. Again, I have complete support right across the country from the provincial attorneys general.

Hon. Ujjal Dosanjh: I appreciate that. My sense is that when you have legislation like this, the government as a whole makes the assessment. If one department is going to incur expenditures for another department, the whole of government takes into account all of that, and I just wanted to make sure that has been done, and I'd like at some point to see whether or not that has been done, if you could produce some evidence showing that this kind of assessment was done.

The next question I have is with respect to provincial corrections. In terms of the additional inmates the provincial corrections are going to be housing, from remand facilities into actual corrections, I'd like to know whether or not that assessment has been done and what impact fiscally that is going to have. I know, and you remember perhaps, that about a year ago there was a report done on corrections that said our federal corrections are overcrowded, under-resourced, underprogrammed, and that there are very few skills and training programs for the inmates in the corrections facilities. That's a matter of public record.

In view of that, I'm wondering whether a whole-of-government assessment has been done for the impact this legislation may have.

● (1645)

Hon. Rob Nicholson: I can tell you that provincial attorneys general tell me this is going to unclog provincial detention centres because most of the people there are on remand, waiting. They said they will have fewer people in provincial correctional institutes. They will be better able to deal with them. With respect to federal correctional institutions, I've been assured by my colleague the Minister of Public Safety that the capacity is there.

Hon. Ujjal Dosanjh: It's the federal corrections I was actually more referring to, in terms of the report.

Hon. Rob Nicholson: Okay. Fair enough.

Hon. Ujjal Dosanjh: There is a report—and I forget the name of the corrections person, the head of corrections for this kind of investigation, who did the report. It was done, I believe, in the context or around the time of the death of Ashley Smith. I remember that vividly. I just forget the name of the individual. He was very clear that the federal corrections are underprogrammed and under-resourced. They have very few skills training programs, and the corrections facilities are in a dilapidated condition. They're overcrowded.

In view of that, I believe this legislation is going to mean we're going to send perhaps more people into federal corrections than before, and I want to know whether the federal system is prepared.

The name of the individual was Howard Sapers, and it was the Sapers report.

The Chair: You have fifteen seconds to respond.

Hon. Rob Nicholson: Again, Mr. Dosanjh, you might address that question to the Minister of Public Safety. He has assured me we are prepared and the capacity is there to deal with this. There are programs in place at federal correctional institutions. I'm not here as the Minister of Public Safety.

You know, many of them started under your present party's administration in this country. The programs didn't just start when the Conservatives took power in 2006; they have been ongoing. So again, we will continue to build on those, and I know I'm speaking on behalf of the Minister of Public Safety when I say we will continue to do that.

But the capacity is there. We've got to move on this. This is just what this country now needs, and this should have everyone's support.

The Chair: Mr. Moore, you have five minutes.

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

Thank you, Minister, for being here and for your testimony today on this bill.

I've got to tell you that this is really welcome, certainly in my province, in my constituency. I think you had mentioned bringing administration of justice into disrepute in your opening remarks. That is exactly how it is seen by, certainly, my constituents and indeed some of the people this committee has heard from—that this is a major impediment to the public's seeing that justice is being served.

I want to quote a couple of provincial attorneys general, just to get your comments.

Alison Redford in Alberta says Bill C-25 will allow them to “correctly move these cases more effectively through the courts”.

Then Cecil Clarke in Nova Scotia says Bill C-25 “will ensure that an individual serves the amount of time in a correctional institution appropriate to the crime that has been committed”.

We've heard some evidence on this at this committee, but could you comment on the disincentive for legal counsel or for an accused to move their case through our provincial court systems in as speedy a way as possible with the current system?

●(1650)

Hon. Rob Nicholson: Thank you very much, Mr. Moore, and thank you for all you do as one of my two parliamentary secretaries. You and Monsieur Petit have been very helpful with our justice agenda.

I'm pleased, as well, that you have quoted Cecil Clarke, the Attorney General of Nova Scotia. He has been very helpful and very supportive of our crime agenda. Allison Redford from Alberta, as well, has been very supportive. They're doing it for the right reasons. They want the system to work.

People want to have confidence in the criminal justice system. If you analyze and dissect the elements of a successful society, a successful country, people look to see if there are parliamentary institutions that work. Our parliamentary institutions work in this country. But they also want to make sure there is a justice system that works as well. There is no finer justice system than the one we have in Canada, but we must be vigilant all the time to maintain public confidence in that system. And certainly this is a component of that.

I was out in British Columbia about a month ago, and the attorney general was pointing out a case of a guy who didn't want to have a

bail hearing because he wanted to be racking up two-for-one credit. I practised some criminal law in the early eighties, and I had never heard of such a thing. You went and saw your client, and the first thing they wanted to do was get back out onto the street after a bail hearing. But the attorney general was telling me that this individual said, “Skip that. I don't want any bail hearing. Just let me sit here.” So presumably, if and when he's sentenced, he gets this credit of at least two for one.

This is not what we need in this country. This doesn't make sense. We want people to get justice in a timely manner. We want this to be done in a fair way, and we don't want to have any incentive for anybody to have delays in the system.

On the main estimates, we talked about some of the challenges in having access to justice and in making sure the court system works. Well, this is an important step in the right direction for making sure there is no incentive for slowing down the criminal justice system. And it gets slowed down under this particular system, so we have to move forward.

Again, I thank you, and I appreciate your support and comments on this.

Mr. Rob Moore: Thank you, Mr. Minister.

That's one of the things. There's the truth in sentencing aspect, but I know from what I hear from constituents and from Canadians that they are frustrated about the two for one and the three for one. But there is also the frustration about the length of time it takes for a successful resolution. So I'm glad to see that at least provincial attorneys general seem to think this will, in a way, kill two birds with one stone.

Hon. Rob Nicholson: Yes.

Mr. Rob Moore: It will get the system moving faster, but also there will be more favourable outcomes.

I thank you for your work on this. You've certainly been keeping our committee busy with these bills. But they're needed, and we appreciate it.

Hon. Rob Nicholson: Thank you for your comments.

Everybody wants to have a resolution of these matters. They want to expedite approaches. They want to move forward. It shouldn't be in anybody's interest to have a delay or a slowdown. We want people to get justice. We want their cases to be heard. The people who apply for bail should want to apply for bail, because that's appropriate. And where it's appropriate not to give them bail, we want to have that very clear.

People want to have their trials. They want to have their matters heard, and we have to do what we can to make sure that they obtain that justice that all individuals deserve.

The Chair: Thank you.

We'll have Monsieur Petit, and then we're going to go to Mr. Ménard and then Mr. Comartin.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): How much time do I have?

The Chair: You have five minutes.

Mr. Daniel Petit: Thank you very much.

Minister, I want to begin by thanking you and the officials who are with you today for coming to discuss Bill C-25 with the Committee.

I will make a couple of preliminary comments, just to be certain that I am understood. I also have a specific question for you.

Imagine an individual is kept in preventive detention prior to his trial. Two types of individuals are subject to remand in custody. There are those who are being charged for the first time, and those who already have a criminal record, but committed another criminal offence while not in custody. Many people, when a trial is mentioned in the newspapers, see an individual coming to court for the first time. Under the old system, the time spent in preventive detention counted double, as they say. Also, people see a criminal they heard about in the newspapers and then, when he is arrested and remanded in custody, he is given the same thing—a credit of two-for-one. Naturally, the penalty is different when the sentence is handed down, but the period in preventive custody counts double.

When you introduced this bill on behalf of the department, did you consider the question of equality? Everyone has to be equal before the law. Is that one of your goals? I read the bill and it is excellent, but were you seeking equality? It is important to consider the fact that one individual has never been convicted, but the other one has. In this case, everyone ends up on an equal footing.

• (1655)

[*English*]

Hon. Rob Nicholson: I'm not so sure it's so much an equality issue, Monsieur Petit, as it is a fairness issue. You're quite correct that for people who have a record of violating bail, or who, because of their criminal record, are not achieving bail, we are treating them slightly differently. We're saying that the discretion that is allowed and provided for in this bill is not open to them. I think most people can understand that. You shouldn't get any benefit for being detained if there are legitimate reasons for you not to make bail.

That being said, we give guidelines. We still provide some discretion, as you can see. In my deliberations with provincial attorneys general and in hearing from Canadians, there were some who asked why we didn't just make the rules standard one and a half to one. There were some who said to just make it one to one. You have a bit of a combination of both. The general rule is one to one, but where a judge wants to make a finding and wants to give reasons, that discretion is open to them. That too, I think, is appropriate.

There's a number of things that could happen to an individual. You could have somebody, for instance, who has language problems, who doesn't speak either of the two official languages, so that is a reason for a delay in getting them before the court. You could see in

a case like that where an individual may ask to avail themselves of the discretion the judge has in terms of a one and a half credit, because it's through no fault of their own that the matter has been delayed or that it's been problematic to bring it before the courts. We do give that discretion. I think that's appropriate and I think that's been well received as well.

[*Translation*]

Mr. Daniel Petit: How much time do I have left?

The Chair: One minute.

Mr. Daniel Petit: That will complete my questions, Minister.

Also, I want to thank you for introducing Bill C-23 in the last session of the 39th Parliament; that bill dealt with the language of the accused and was passed. I have spoken to prosecutors in the Quebec City region, where I am from, and I can tell you that this legislation has made it possible to introduce new procedures which are having a very positive effect in terms of official languages, as well as for individuals who speak a language other than the language of the judge. I am Francophone and I know that there can be cases...

On behalf of my constituents, I want to express my sincere thanks.

[*English*]

The Chair: Thank you, Monsieur Petit.

Hon. Rob Nicholson: That's a very good point, Monsieur Petit. I'll just take one second to answer. That was very difficult. That was the bill I referred to. It took a decade to get it through.

I'm very pleased that you would say that and point out that it is really a step in the right direction. I hope that any other bills that address efficiencies, that help expedite the process, and that make the system fairer can get that kind of attention so that they won't take 10 years to get through the system.

Thank you.

The Chair: Thank you.

Monsieur Ménard, five minutes.

[*Translation*]

Mr. Réal Ménard: Minister, since everyone is being congratulated, I imagine that you will not hesitate to congratulate me as well, because this particular measure has been in the Bloc Québécois' platform since 2007. So, I expect you to congratulate me and pay tribute to me for having suggested to my party that it endorse such a measure, even before you gave instructions to your own officials who, by the way, are quite brilliant, since I happen to have studied with your neighbour to the left at the University of Ottawa.

Having said that, I would like to come back to two issues. You partly answered the question about the definition of the expression “where circumstances warrant” with respect to the 1.5 credit for time served, but we did have some concerns, because there is not much information about what is referred to. In your opening statement, you mentioned the possibility that a trial could be unduly delayed and that the conditions of detention could be poor. You also referred, in answer to Mr. Petit's question, to the difficulty of being heard in one's mother tongue. That gives us some parameters with respect to what that expression means, but if you are able to add anything further, we would be very pleased to receive some additional clarification.

The same ambiguity exists with respect to previous conviction. For example, it says that the 1.5 rule will not apply to someone who has had a previous conviction. Are we talking about a conviction only under a federal statute, or does that also apply to a provincial conviction? Why not define the term “previous conviction”?

• (1700)

[English]

Hon. Rob Nicholson: I think it's appropriate to give discretion to the courts. We provide guidelines at the federal level. Again, this is a provision that allows the courts to determine on a case-by-case basis whether it would be appropriate. That being said, with respect to why the bail was denied in the first place, this places an onus on justices of the peace and those who deal with bail hearings to indicate on what basis they are not allowing the bail. That would be taken into consideration.

If and when the individual becomes convicted, they would have to look at on what basis the individual was not denied bail. We set out in the bill the circumstances under which the discretion wouldn't be taken into consideration. You said I've identified a circumstance where it was beyond the individual's control. Again, we set the parameters for the courts, and the courts will decide on a case-by-case basis, indicating why and how they came to that conclusion, but ultimately we leave it to the judges. I think that should satisfy you, Monsieur Ménard, since you indicated you've been a supporter of this. I want you and indeed all those who support this.... We'll move forward and we'll all have a celebration right across this country when this gets royal assent.

[Translation]

Mr. Réal Ménard: I was expecting to be congratulated.

Is there a little time left for Mr. Lemay? I could share my time with Mr. Lemay.

[English]

The Chair: A minute and a half.

[Translation]

Mr. Marc Lemay: Minister, I hope you will congratulate my colleague to the right of me, because I did not agree initially, as a criminal lawyer, but he succeeded in convincing me.

Hon. Rob Nicholson: That's very interesting.

Mr. Marc Lemay: This is how it works. The problem at the present time is that we used to tell our clients that they should remain in preventive detention as long as possible in order to avoid ending up in a penitentiary. That way, when the judge handed them a

sentence of two years less a day, or 20 to 22 months, they would not be sent to a penitentiary.

I agree with the idea of withdrawing this, but on one condition. You will have to prove to me that there are programs available in preventive detention facilities. If a chronic alcoholic waits 12 or 18 months in preventive detention, we are not solving the problem. If an individual has killed someone while behind the wheel of his car, for example, and is waiting to be tried, there is a serious problem.

What guarantee do we have that programs will be implemented for people who are in preventive detention, particularly at the provincial level?

[English]

Hon. Rob Nicholson: You know that we have to be very careful. We have to be very respectful of provincial jurisdiction, Monsieur Lemay. It's precisely because the provinces have indicated to me that they don't have the kinds of programs they would like to have for a person who is being detained, who has been arrested and is detained in a provincial correctional institute. It's precisely for that reason they believe they would be better off if they'd get to a federal facility, if that's the sentence they're going to receive, because then they will get the kind of help they need.

What we want to do—and they tell me that this will help accomplish it—is expedite this process so they don't spend a lot of time. It's called dead time *en anglais*; I'm not sure what they call it *en français*. It's dead time. You want to make sure this person gets the kind of help they need.

We have to respect the provinces' detention of these individuals and what they do with those individuals, as long as they do it in a fair manner. They're saying this will be a very big help to them because it unclogs the provincial system, gets the matter decided. If they get to a federal institution, as I say, if my colleague the Minister of Public Safety were here, he would tell them they can get that kind of help, whether it be addiction education, or that sort of thing.

• (1705)

The Chair: Thank you.

We'll move to Mr. Comartin for five minutes.

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

Mr. Minister, although we've signalled our support for this legislation, Mr. Lemay's is with some reservation. I heard you give us assurances from the Minister of Public Safety, but have you actually seen any analysis or studies of how many more people are going to be in our provincial jails, not our holding pens but our provincial jails and our federal prisons, if the one to one is applied or if the one and a half to one is applied? Has there been any analysis so we know absolute numbers?

I want to say to you as a comment that I have serious doubts. When I was sitting on public safety, all the evidence I heard from Corrections was that all of our prisons, with one or two exceptions, were already full. If we're talking, as I think we are here, of several hundred and probably closer to 2,000 a year more people being in our provincial and federal prisons, we do not have the capacity to take them.

Hon. Rob Nicholson: You started off by asking how many more people will be in our provincial institutions. I've had attorneys general right across the country tell me there will be fewer people in provincial detention because most of the people being held at provincial institutions haven't had their case decided, and this is a change from over the years. That's precisely the problem. The provincial correctional institutes are clogged by holding people who are awaiting trial, awaiting a disposition. All of them tell me it will get better.

Mr. Joe Comartin: Mr. Minister, I don't know if you know, but those are two different facilities.

Hon. Rob Nicholson: The wait times are the same.

Mr. Joe Comartin: The holding cells are different from the provincial—

Hon. Rob Nicholson: No, they're not necessarily at all.

Mr. Joe Comartin: They certainly are in our community and in most of the communities in Ontario.

Hon. Rob Nicholson: I'm not professing to speak for the provincial attorneys general, but again, all of them tell me this will free up provincial resources to be able to deal with these individuals. Again, with respect to what Correctional Service Canada said, I don't have the analysis here because I'm here speaking on behalf of my department, the Department of Justice. But again, I have the assurances of my colleagues that the capacity is there and will be there.

Mr. Joe Comartin: You don't know, though, if they've done an absolute analysis.

Hon. Rob Nicholson: I can't speak for the Correctional Service, and I don't think I should.

Mr. Joe Comartin: In the analysis—and this is more from your department, certainly, than Corrections or Public Safety—

The Chair: Just one moment, please. We have three different conversations going on here.

Mr. Joe Comartin: Mine's the more intelligent one, Mr. Chair, by far.

The Chair: Mr. Comartin, please go on.

Mr. Joe Comartin: Mine and the minister's is much more intelligent.

Mr. Minister, one of the concerns I do have—and I think Mr. Lemay shares this with me—is that as a result of this, if our judges are seeing that in fact more people are in pretrial custody, in situations that are less than humane, they will begin to grant bail when they might not have otherwise. Has any analysis been done of that risk?

Hon. Rob Nicholson: I don't have any analysis of that.

Mr. Joe Comartin: Do you have opinions from your department as to, given the same fact situation, same scenario, people in pretrial custody for extended periods of time because of backlogs in the courts? I want to say to you that in Ontario the backlog in the courts is getting close to what it was when Askov came down in the early 1990s, and all those 40,000 or 50,000 cases were dismissed in Ontario as a result of that decision. We're getting pretty close to that again. I'm just wondering if any analysis has been done. I'll ask specifically for Ontario, because I think our backlog's the worst in the country right now. Are we at a risk of a charter challenge on that, because it has been that backlogged, they've been in custody that long, that limiting the one to one or the one and a half to one will offend section 12 of the charter in particular?

● (1710)

Hon. Rob Nicholson: We're satisfied that the legislation is compliant with both the charter and the Canadian Bill of Rights. And then, that being said, I rely on our discussions with the provincial attorneys general and specifically the Province of Ontario. It has been indicated to us that this will have the exact opposite effect—there will be more correctional space, the courts will be less clogged, and this will have an overall positive effect on what's happening in our criminal justice system in the province of Ontario as well as other provinces.

The Chair: Thank you so much.

We'll have one more question, and we'll go over to the Liberal side.

Mr. Murphy.

Mr. Brian Murphy: Thank you.

Again, it sort of meshes what we're talking about with what we heard out west, and it's the general concept of judicial independence and accountability. Those are the two horns of the dilemma, in that I think everybody would agree it's important to have an independent judiciary. There's no question. But we certainly heard from some witnesses out west, and occasionally here, that there is a lack of judicial accountability. How is this relevant, you're probably wondering by looking at the ceiling. What I mean, Mr. Minister, is that this bill itself is dealing in part with...I wouldn't say curbing, but at least better defining to what extent judges will have discretion in awarding time credit for dead time served.

On the other hand, I thought your comments were very proper, encouraging, and just what you'd expect a Minister of Justice to say about our judges determining the law as it's written by Parliament, which is what I said out west. Frankly, the House of Commons is responsible for writing the laws, and if there's a problem with it, it may lie with us as parliamentarians, as lawmakers, and more so, even as the Minister of Justice, who proposes the laws to the lawmakers.

We heard a number of people say that the problem lay with judges. Particularly, I think the comment was in British Columbia, where there were studies talking about leniency and all that sort of thing.

My general question is this. You converse with attorneys general. I know my own attorney general, T.J. Burke, the first aboriginal attorney general in Canada, talks to chief justices at provincial and federal levels and talks about managing court time and all that sort of thing. I know there is a Canadian Judicial Council, which sort of oversees the issue of inappropriate behaviour. Are you confident, Mr. Minister, first of all, that our judiciary is acting independently—I think that's a given—but also that there is accountability? Do you foresee any changes necessary other than from time to time tweaking the law with respect to discretion? If one were to believe everything one heard from some of these people, like Darryl Plecas—I'll put it on the table—a lot of this is a judge-made problem.

Hon. Rob Nicholson: I don't think there's a problem with our judiciary, and I actually think it works very well in this country. Judges have to deal with the laws that are before them, they have to deal with the decisions that are made by appeal courts, and they look for the guidance that is the proper role of the legislative branch. That is what we do. I guess in every piece of legislation we have maximum penalties. In a number of cases we have minimum

penalties. We give specific judicial discretion, as we do here in this particular legislation. I think it works. I've had people ask me why we are putting minimum sentences here and why we are pointing out to the judges, and I've said we do it for maximum sentences, and we've always done that.

I was recently looking at a chart that showed I was a part of 35 legislative committees on pieces of legislation. I remember one of my colleagues coming to me and asking, "Why are you only putting a five-year maximum sentence on this? Let the judge decide. Why don't you just have a ten-year sentence?" "Just a second," I said, "We're putting a five-year maximum because we think it fits in with other like-minded sections." That's our role, to put the five years in. Somebody may argue, as I've had colleagues say, that maybe it should be ten years or it should be greater than that. But again, we make that call. That's what we do as legislators. Just as we make a call at the maximum end, it's within our rights and our responsibilities to call at the minimum end, if that's what we deem appropriate. Then the judiciary takes that and they deal with it, with the guidelines that have been given to them by Parliament.

It's a system that has worked well, and again, I believe it's one of the hallmarks of a successful society, and ours is certainly a successful society.

• (1715)

The Chair: I thank all three of you for appearing before us. We're at the end of our time and we'll let you go.

Members of committee, we're going in camera to discuss some committee business and the work plan.

[Proceedings continue in camera]

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