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Chair

Mr. Ed Fast

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Standing Committee on Justice and Human Rights

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• (1530)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order. This is meeting number 29 of the Standing Committee on Justice and Human Rights. Today is Monday, June 8, 2009.

You have before you the agenda for today. In the first hour we'll be completing our work on Bill C-268, An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years). We'll hear one more witness and then move to clause-by-clause thereafter.

During the second hour we'll hear further witnesses on Bill C-26, An Act to amend the Criminal Code (auto theft and trafficking in property obtained by crime).

As a reminder to everyone in this room, as I mentioned last time, we'd appreciate it if you would turn off your cellphones or set them to vibrate so that we don't disturb the witnesses or the proceedings that are taking place in this room.

We'll begin with our witness on Bill C-268. Superintendent Michel Aubin, welcome back. I understand you have a short opening statement, and then we'll open the floor to questions. The floor is yours.

Superintendent Michel Aubin (Director, Federal and International Operations, Royal Canadian Mounted Police): Thank you, Mr. Chairman. Thanks for the invitation for us to come here and speak today. If it's okay, I will do my opening remarks both in English and French.

As mentioned, I'm the director of the RCMP's immigration and passport branch at the national headquarters in Ottawa, responsible for the programs of human trafficking and human smuggling. I'm joined today by my colleague, Sergeant Marie-Claude Arseneault of the RCMP Human Trafficking National Coordination Centre.

[Translation]

We are pleased to have the opportunity to speak to you today about human trafficking in Canada and to share with you the considerable efforts of law enforcement in combating this criminal activity.

[English]

I would first like to clarify the difference between human smuggling and human trafficking. Human smuggling involves the illegal movement of persons across international borders in exchange for a sum of money. Although the journey may involve dangerous conditions, smuggled persons are usually free to go upon arrival at

their destination. When the final destination is reached, the business relationship ends.

[Translation]

Human trafficking involves the transport, recruitment, or harbouring of persons for the purpose of exploitation, generally for the sex industry or forced labour.

Traffickers use various methods to maintain control over their victims, including force, sexual assault, intimidation, threats of violence, physical and/or emotional abuse. As the committee heard from previous witnesses, human trafficking is defined in both the Criminal Code (section 279) and the Immigration and Refugee Protection Act (section 118).

It is clandestine in nature, often with fear being inflicted on victims which, in turn, can make their identification difficult.

[English]

Human trafficking occurs both across international borders, known as international human trafficking, and within national boundaries, which is referred to as domestic human trafficking.

Human trafficking is all about making money by selling human beings into the sex trade or forced labour. It can involve organized crime, but it may also be conducted by individuals alone. Recent intelligence reports suggest that street gangs are getting more involved in human trafficking for the purposes of recruiting into prostitution-related activities.

Mr. Chairman, the RCMP is committed to combatting human trafficking, both at home and abroad. In 2005 the RCMP established a Human Trafficking National Coordination Centre, referred to as the HTNCC, which operates on behalf of not only the RCMP but all of law enforcement in Canada. The centre develops tools, coordinates national awareness training and anti-trafficking initiatives, develops partnerships, and coordinates intelligence for dissemination amongst law enforcement in Canada.

• (1535)

[Translation]

The RCMP works with municipal, provincial, federal and international partners, government agencies and NGOs to uncover and target human trafficking activities.

Law enforcement strives to identify and rescue victims while investigating suspected traffickers and the criminal organizations that lie behind these activities.

[English]

In order to raise awareness of this issue among law enforcement in Canada, NGOs, and the public, in collaboration with its partners, the RCMP has developed a human trafficking awareness video and information package to help identify potential victims as well as their trafficker. The video was included in a human trafficking awareness toolkit that has been distributed nationally to all law enforcement and all RCMP detachments across Canada, as well as to various NGOs, in the fight against human trafficking. The toolkit also contains victim assistance guidelines, posters, a police officer's handbook, pamphlet, and contact card.

A recent human trafficking awareness initiative was the development of a partnership between the RCMP, Crime Stoppers, and Public Safety to provide a platform to encourage the unanimous reporting of suspicious activities that could be linked to human trafficking. The RCMP has provided awareness sessions to Crime Stoppers personnel and is assisting with the development of a protocol for call-takers. Our hope is that the widely recognized Crime Stoppers tip line and the ability to anonymously report suspected cases of human trafficking will encourage the public to call if they have information regarding this activity.

As well, the RCMP has regional human trafficking awareness coordinators in each of its regional investigative teams. The key responsibilities of these coordinators include raising awareness among and developing strong relationships with law enforcement agencies, government agencies, NGOs, and the public, in all provinces and territories. These established networks are critical for police and NGOs to identify and rescue victims of human trafficking.

[Translation]

Members of the Human Trafficking National Coordination Center and these coordinators have traveled extensively across Canada and internationally to raise awareness on human trafficking issues.

[English]

Human trafficking can pose many challenges for investigators. Victims of human trafficking generally do not self-identify to law enforcement for various reasons, including fear of repercussions, intimidation, mistrust of authority figures, shame, or they simply may not see themselves as victims. In international cases, these challenges are amplified by cultural and language barriers.

[Translation]

There remains a need to provide more clarity to law enforcement and prosecutors about this topic so that they can recognize both international and domestic human trafficking and when prostitution may, in fact, be human trafficking.

[English]

Mr. Chairman, I would like to take this opportunity to set the record straight regarding some RCMP statistics that have been possibly misinterpreted repeatedly. A strategic intelligence assessment was done by the RCMP in 2004, entitled Project Surrender. This report did not result in any substantive Canadian human trafficking statistics. Instead, it provided potential estimates of international human trafficking victims in Canada based on a review

of investigations involving other sections of the Criminal Code—for example, kidnapping, prostitution, extortion, human smuggling, and/or the Immigration and Refugee Protection Act. These estimates, therefore, simply confirm that there were investigations in Canada that may or may not have had a human trafficking connection.

Since 2007, and reported to the Human Trafficking National Coordination Centre, there have been five cases involving five accused where human trafficking convictions have been secured. In these cases, four victims were under the age of 18 at the time of the offence. The accused were charged with human trafficking and prostitution-related offences, and they received sentences for human trafficking varying between two and seven years. All of the under-age victims were involved in domestic human trafficking for the purpose of sexual exploitation.

It is significant to note that there are 17 more human trafficking cases already before the courts here in Canada that we have been made aware of. In keeping with the cycle of events when new legislation is adopted, it would appear that momentum is building around awareness, resulting in more charges being laid.

Even with the new legislation, it remains very difficult for us to determine the number of human trafficking victims due to the surreptitious nature of this crime. The RCMP is currently conducting a threat assessment to determine the degree of international human trafficking in Canada. The goal of this threat assessment is to identify criminal organizations involved in human trafficking through intelligence-gathering as opposed to quantifying the number of victims. This will provide law enforcement with a guide to further direct its resources on this issue.

Law enforcement strives to ensure the safety of all Canadians, working within the boundaries of the Canadian legal system. Human traffickers clearly violate the most basic human rights of their victims, and this is an offence that is not tolerated.

Looking forward, the RCMP will focus its activities on the following: continued awareness for all law enforcement, NGOs, and the public; the development of intelligence, at both the domestic and international levels, to better understand the breadth of the problem; the development of investigative tools to support law enforcement engaged in these investigations; and encouragement of partnerships between agencies to promote the most strategic and effective approach to address these issues.

Those, Mr. Chairman, are our opening lines. We welcome the opportunity to answer your questions.

• (1540)

The Chair: Thank you, Superintendent.

Given the fact that we have only about 20 minutes to go, we'll do a round of five minutes each. We'll begin with Mr. Murphy.

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

Thank you very much for your testimony. There's something in your submission that's written and not written. I just want to get to the bottom of it. On page 3 of 4, talking about the estimates, in the middle of the page, you say, "...simply confirmed there were investigations...that MAY or MAY NOT have had..." and then earlier you talk about misinterpretation. Are we concerned here that there has been an underreporting of human trafficking offences for two reasons: one, an offence describing or defining it was only made recently and these studies were done before that; and two, due to the surreptitious—to use your words—nature of the crime? And perhaps thirdly it's because there's such an international context to the crime that it's difficult to report. Are you writing like that mainly because you feel there's an underreporting and these are the reasons why?

Supt Michel Aubin: It's a two-part question, sir, and hopefully I'll get the right answer.

In terms of the numbers, the understanding is that a number of entities have used numbers that came out of Project Surrender, which was done in 2004 or thereabouts, and those numbers have been misinterpreted. They were misinterpreted in the sense that they were relied upon to define the number of victims, and those numbers should not be used for that purpose.

In terms of the RCMP or Human Trafficking National Coordination Centre, to understand the number of potential victims out there in Canada, at this point in time, I can't say there's a number we rely on and feel strongly about. The current threat assessment is going to give us a better idea of where these activities are actually taking place. We have a good idea and we're working on it right now. But the purpose of the threat assessment is really to help us home in on where those problems can be, to better direct our resources.

Mr. Brian Murphy: But are we leaning towards not reporting the number of victims because it's not about the number of victims, it's about the places they occur? I'm a little confused by what you're saying. You can't get an accurate number of victims of sexual abuse, of domestic violence, for similar reasons. Is that why you're talking that way, or is it because we don't need to have numbers to enact law?

In some parts we're doing a due diligence here, so we have to be sure from law enforcement that this is a problem. I mean, I think we all know it's a problem and think it's a problem, but I'm not sure your words help us with that. Are you saying it's a problem, human trafficking in Canada is a problem that you just can't quantify, in terms of the number of victims? Is that what you're sort of saying?

● (1545)

Supt Michel Aubin: I have to agree with you on that one, sir. It is a problem, I have no doubt. In my personal police experience, the areas that I've been involved in, is there human trafficking, as defined? Yes, there is. What is the breadth of it, in terms of quantifying the numbers? From a law enforcement perspective, for the police, the number of victims itself is not an important number to us. It's who is committing it, which organization, so that we can direct our resources to be the most strategic.

Now, there may be other agencies, NGOs and whatnot, who deal with victims who may have an interest in those numbers. But unfortunately, we don't have anything that I could rely on solidly for you.

Mr. Brian Murphy: And the reason we don't have the numbers is for the three reasons I answered myself in my own question. Is that why?

Supt Michel Aubin: I would say so.

Mr. Brian Murphy: Okay, good. Thank you. Superintendent.

Thank you.

The Chair: Monsieur Ménard, five minutes.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Chair, thank you for inviting the representatives from the RCMP.

You confirm a sense I have had since the last meeting. Without wishing to downplay the impact of human trafficking, it is important for parliamentarians to have an idea of the scale of the activity that they want to prohibit before they take a position on a bill.

Could you explain something to me? Ms. Smith circulated documents in which two figures were mentioned. I read that 15,000 people in Canada may be trafficking victims, at a rate of about 2,000 per year. I am trying to understand where those figures come from.

You are responsible for law enforcement and yet you are not able to get numbers like that. It does not matter that the bill sets mandatory minimum sentences, it does matter to me that charges are laid. If 2,000 people in Canada are victims of trafficking, I hope that the traffickers are going to be hauled into court and sentenced to anything up to life imprisonment. It is not a question of a minimum sentence.

Why do we not have details? Does it seem plausible to you that 2,000 people are victims of trafficking in Canada each year? Why are there no charges? Are we unable to identify these people? What tools do you need to bring these people to court? That is what matters to me.

Supt Michel Aubin: I will do my best to answer your question, Mr. Ménard.

It is very difficult to establish the exact number of victims. Are there 2,000? Are there more? Are there fewer? It is hard for us to know with any certainty because this is a hidden crime. It is a crime whose victims do not talk. There are several reasons, including fear.

In a number of cases, people do not necessarily recognize that they are victims. Investigators have difficulty getting people to cooperate with authorities. In some cases, especially those involving people from other countries, cultural questions come into play. For various reasons, victims mistrust the police. They do not have as much trust in Canadian police as we would like. It is very difficult for us, and I cannot tell you why that is.

As for the number of charges, in my opinion, we need awareness campaigns for the police. We have been doing that: more than 16,000 police officers and government officials have gone through awareness training in recent years. Of course, the people providing the training tell us that the police are not very familiar with the offence. They have to be educated so that, when they are conducting investigations, they know how to look below the surface. The surface is prostitution; we have look at what is going on behind that.

Are they human trafficking victims or not? Is an organization behind the trafficking? We have work to do on this. But there has been some movement in recent years. At present, 17 cases are before the courts, which is an increase from the five cases before the courts in the first years.

• (1550)

Mr. Réal Ménard: In the cases that have been dealt with or are pending, how many involve minors?

Supt Michel Aubin: Are you talking about the cases that still have to be dealt with?

Mr. Réal Ménard: I think that there were three minors involved in cases with a guilty verdict.

Supt Michel Aubin: In the cases where a conviction was obtained, there were 4 people under the age of 18, and, in the 17 cases that are presently before the courts, there are seven victims under 18.

Mr. Réal Ménard: Thank you.

Supt Michel Aubin: There are other cases of—

[*English*]

human trafficking-related cases.

[*Translation*]

These are human trafficking charges that are not laid as such; they are related charges. In 2008-2009, there were seven victims under the age of 18.

Mr. Réal Ménard: Okay. Thank you.

[*English*]

The Chair: Thank you.

Mr. Comartin, for five minutes.

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

Thank you, Superintendent, for being here.

We received a letter from the My Canada Association—Motivated Young People for a Strong Canada—who say in their fax to us that “Non-government organizations that work with victims of trafficking estimate that 15,000 people have been trafficked in Canada, the majority of them young First Nation girls...”. They go on to say that “The RCMP estimate that 2200 people are trafficked to the United States from Canada every year.”

Do you have any idea where that came from, given what you've told us today?

Supt Michel Aubin: The only thing, Mr. Comartin, we can think of is that it may have been taken from Project Surrender. Again, it's our opinion that it's a project whose results have been misinterpreted.

Mr. Joe Comartin: So we have no way of knowing. That could be an accurate figure, but we just have no way of knowing?

Supt Michel Aubin: All I can tell you, sir, in all honesty, is that we have no hard figures we can rely upon to provide you.

Mr. Joe Comartin: Thank you.

Those are all my questions, Mr. Chair. Thank you.

The Chair: Thank you.

We'll move on to Monsieur Petit for five minutes.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

Good afternoon, Mr. Aubin and Ms. Arsenault.

My comments are mainly for you, Mr. Aubin. Thank you for agreeing to testify. This is a problem that affects Quebec, Canada and the rest of the world equally.

In Quebec and in Canada, what we call human trafficking can involve young children. It is a growing phenomenon and I am moved by it. It has become a very lucrative crime for street gangs and even for organized crime. The more they spread, the more hidden the crime gets and the more children under 18 years of age are used. Underage boys and girls are used exclusively for sexual purposes. This is the clearest and most frightening aspect of the problem these days.

I do not know if you are familiar with the Nakpangi case, the first child trafficker convicted in Canada. There was at least one case in Quebec; it involved Michael Lennox Mark. In all these cases, the lives of young boys and girls have been destroyed.

Naturally, concerns have been expressed. People in my constituency have told me that they support Bill C-268. We went to British Columbia to see how things were being handled. That is when they told us about organized crime and human trafficking. A number of people have written to me to say that there can be no question of opening brothels during the Olympic Games. They want to know what we are going to do. This is a serious problem at the moment.

I am going to quote a part of a letter from Professor Benjamin Perron from British Columbia:

...it is my considered opinion as a criminal law professor that Bill C-268 is fully compliant with relevant constitutional standards.

Your decision to support Bill C-268 will be a tremendous demonstration of commitment to hold perpetrators of child trafficking accountable for their horrific crimes.

I have seen your films and I have attended your lectures. I know you and I know a little about the world you work in. As a representative of the RCMP, what are the issues in human trafficking in Canada and elsewhere? Have you anything to say about Bill C-268? In a few words, how can we fight this crime?

• (1555)

Supt Michel Aubin: I will do my best, Mr. Petit.

In my experience with organized crime and in my recent experience, I can say that it is not an insignificant problem. The problem does not just exist in Canada; it is widespread in Europe, where police and governments are putting a lot of time into it.

Many people from southeast Europe are trafficked for sexual exploitation in Europe. The cases before the courts in Canada show the extent of the problem.

After having led undercover operations inside criminal organizations for six years, I can tell you for sure that a number of women are involved in prostitution or exotic dancing clubs. They are not there of their own free will, they are there because they are being controlled. This is a fact. But I would find it difficult to tell you how many.

As for street gangs, police forces in Toronto, Vancouver and especially Montreal are aware that a number of individuals are involved in controlling girls who are held so that they can be put into prostitution. If they are not actual street gang members, they are directly linked.

This is a crime that is controlled to a greater and greater extent by street gangs. We need more research. We are also seeing what we call a shifting of responsibilities between criminal organizations. There is a kind of stratification going on between organizations, but street gangs are more and more involved. They are recruiting for this activity and running it.

I cannot tell you if the activity is growing fast in Canada, but I know that it is a problem all over the world, and one that we are seriously coming to grips with.

[English]

The Chair: Thank you very much, sir.

Thank you, Superintendent, and also Ms. Arseneault, for attending. We're now going to move to clause-by-clause, so you can leave whenever you wish.

For our clause-by-clause consideration of Bill C-268, you should have received three amendments, numbered pages 1, 2, and 3. The first is government amendment 1. Then there are two NDP amendments.

We don't have an amendment for clause 1.

Shall clause 1 carry? On division?

[Translation]

Mr. Daniel Petit: Mr. Chair, I ask for a recorded vote on each of the clauses.

[English]

The Chair: All right. We have a request for a recorded vote on each clause, Madam Clerk.

•(1600)

Mr. Brian Storseth (Westlock—St. Paul, CPC): On a point of order, Mr. Chair, can you tell us who is signed in from our side, because members should only be at the table and voting if signed in?

The Chair: I just inquired of the clerk, and you're still signed in for the purposes of this vote.

(Clause 1 agreed to [See *Minutes of Proceedings*])

(On clause 2)

The Chair: We have three amendments. First of all, we have the government amendment.

Mr. Moore, are you moving that amendment, and do you wish to speak to it?

Mr. Rob Moore (Fundy Royal, CPC): I so move.

What this amendment does is address the issue that was pointed out over the course of our committee study, that for the more serious offence involving kidnapping and a maximum punishment of imprisonment for life, there was no minimum included. For the lesser offences, if you will, there was a maximum punishment of 14 years and also a minimum of five years. So what this amendment does is provide for a minimum penalty of six years for the most serious cases involving kidnapping and where the maximum penalty is life.

The Chair: Just for members' information, there is a line conflict with NDP-1 and NDP-2. So if G-1 is adopted, then NDP-1 and NDP-2 cannot be proceeded with. I wanted you to know that up front.

Is there any further discussion on the government amendment?

Mr. Comartin.

Mr. Joe Comartin: I moved the lesser periods of time even though if you look at the connected sections that are in section 212 of the code, it's a mixed bag there as to whether it's three years or five as mandatory minimums. The reason I moved for the lower numbers, Mr. Chair, was that this is a new section; we're creating a new offence here. I think in those circumstances we should err on the side of caution as to how our courts are going to interpret this section and then apply what level of severe penalties.... As you know, I'm generally opposed to mandatory minimums in any event, being quite willing to rely on our courts to impose the proper sentencing in response to the severity of the crime and facts that are before them.

So I think in a situation like this, where clearly we have in both paragraphs (a) and (b) what I would recognize as fairly severe crimes.... I don't want to downplay that at all, and I want my amendments to reflect that. What I want them to reflect is that we are dealing with a new section. We're providing the courts with a new tool to go after people who perpetuate these types of crimes. So in those circumstances I think we should err on the side of caution.

In keeping with that, Mr. Chair, I think the appropriate thing is for me to move an amendment to the government amendment to make it coincide with the two sections I have, so that we vote on those first rather than on the amendment from the government.

The Chair: I've anticipated, Mr. Comartin, that you would come up with a subamendment to the amendment. I have a ruling that Bill C-268 amends the Criminal Code by creating a new section to provide for a minimum sentence of five years for the offence of trafficking of persons under the age of 18 years. This amendment proposes a minimum sentence of two years for the most serious offences committed under this newly created section. As *House of Commons Procedure and Practice* states on page 654, "An amendment to a bill that was referred to a committee *after* second reading is out of order if it is beyond the scope and principle of the bill."

It's the opinion of the chair that the introduction of a two-year minimum is contrary to the principle of Bill C-268 and is therefore inadmissible.

Mr. Murphy.

• (1605)

Mr. Brian Murphy: Does this mean that in clause 2, proposed paragraph 279.011(1)(b), the part about a fourteen-year sentence and a five-year minimum...any amendment down would be out of order?

The Chair: It's my understanding that any amendment that would reduce the mandatory minimum sentence below five years would be out of order. Any increase, of course, would be totally in order.

Mr. Brian Murphy: I guess you can't debate your ruling. I'm not saying I'm against it, but just as a matter of information then, can I ask a question of someone who might know?

Do we have six-year mandatory minimums in the code anywhere? I remember a debate about seven years. I think you guys tried ten years—crazy numbers. We've settled on five and three for many offences, five, three, two, one, and six months, and all that sort of thing. But is there one in the code that's six years? And if so, what is it?

The Chair: We do have a resource here in this room that we could call forward. You may recall we had Ms. Levman before us at our last meeting. She was a fount of information. She is here.

Is it the will of this committee to call her to answer that question?

Mr. Brian Storseth: On a point of order, Mr. Chair, I have no problem with that, but I think the ruling is on the intent and spirit of the legislation and has nothing to do with what's currently in the code.

The Chair: I think it's legitimate to ask whether there are any mandatory minimums of six years.

Ms. Levman, would you be prepared to come forward and do that?

Ms. Nathalie Levman (Counsel, Criminal Law Policy Section, Department of Justice): To my knowledge, six years is unprecedented, i.e., there isn't a precedent for having a six-year mandatory minimum penalty in the code currently. There are other numbers, but not six.

The Chair: All right.

I'm also advised that the ruling of the chair can't be debated. I'm going to exercise a little bit of discretion here to allow....

Mr. Murphy.

Mr. Brian Murphy: On a point of order, Mr. Chair, I didn't mean to ask that question in furtherance of or in consternation about your ruling. The ruling is past; it's gone. But that would mean, then, that if Mr. Comartin's motion is out of order, we are back to Mr. Moore's motion, which is, under G-1, should we have a six-year mandatory minimum? This is what we're talking about now, as I understood it.

May I ask another question just for a point of information?

The Chair: Go ahead, please.

Mr. Brian Murphy: It would be this. There are five-year mandatory minimums for things like aggravated assault. Isn't that where we settled?

Ms. Nathalie Levman: I would like to, if you don't mind, get my list of mandatory minimum penalties so I don't mislead the committee in any way.

Mr. Brian Murphy: Sure. We wouldn't want that.

• (1610)

Ms. Nathalie Levman: I did at one time have a list. I may well have left it in my office. I did refer to aggravated sexual assault in my opening remarks, and I think that is what you are thinking of.

In the aggravated sexual assault provision, section 273 of the code states that where "a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a criminal organization", the maximum is "imprisonment for life" and the minimum is "in the case of a first offence, five years, and...in the case of a second or subsequent offence, seven years". In all other cases where a firearm is used, the minimum punishment is four years and the maximum punishment is life. So you have a scenario of four years, then five, and then seven, depending on the nature of the case.

The Chair: Thank you.

We'll go back to Mr. Murphy and then Mr. Comartin. Again, we don't want to extend debate here. I've made the ruling on the amendment.

Mr. Comartin, I'm assuming you're not challenging the ruling of the chair.

Mr. Joe Comartin: I want to make a comment on its illogical consequences in the face of the bill we have in front of us.

The Chair: Unfortunately, it's not debatable, so you can challenge it or we move on to debating the amendment itself.

All right. I'll assume the ruling stands.

I'll go then to Mr. Murphy and Mr. Comartin to debate the amendment.

Mr. Brian Murphy: What we have here I think is a situation where there ought to have been a mandatory minimum for the life aspect. We're picking six—the government amendment picks six—to distinguish it from five years for the fourteen-year offence. What we've already done, if we look at aggravated sexual assault...in that family you have five years for an offence with a weapon, seven years for a second offence with a weapon, and four years for any other aggravated sexual assault mandatory minimum. So in the previous Parliament we already picked a range.

Maybe I'll ask Mr. Moore. The intention here is to distinguish the life maximum offence from the fourteen-year maximum, and make the minimum more severe, as we did with section 273. Is that right?

Mr. Rob Moore: Yes, Chair. Number one, there was the anomaly, where for the more serious offence there wasn't a minimum sentence. This is for people dealing in the trafficking of a person under the age of 18, and with the further factors, punishable by a maximum life imprisonment, of kidnapping, of aggravated assault or aggravated sexual assault, or of causing death to the victim during the commission of the offence. We're dealing with a very serious offence.

The spirit of the legislation is to provide a mandatory minimum penalty, and it does in fact do that for the less serious offence, which is punishable by a maximum of fourteen years, a minimum of five years. This mandatory minimum is six years.

We look at the other offences. We've had a five-year minimum for certain gun crimes, escalating to a seven-year minimum for a second offence. There's no escalation in this one; it's the six-year minimum. I think it's quite an appropriate number. It recognizes that there's a difference between the first and the second scenario. There is also no provision for second and third offences, which we had in our previous legislation dealing with gun crime, where it was five, seven, and ten, which was reduced to five, seven, and seven.

•(1615)

The Chair: Mr. Comartin.

Mr. Joe Comartin: I'm trying to decide whether I should challenge your ruling, Mr. Chair, just so we can—

The Chair: Mr. Comartin, it's too late to challenge the ruling.

Mr. Joe Comartin: Well, you never gave me time. You jumped ahead quite quickly while I was still—

The Chair: Actually, you didn't respond, so I assumed that you....

Mr. Joe Comartin: —pondering my position. I actually still had the floor, but you cut me off, Mr. Chair. Your decision doesn't make sense. If you look at the bill that's in front of us, in terms of paragraphs (a) and (b), it does not, so I think I'm going to challenge the chair.

The Chair: Mr. Comartin, we've already been debating the merits of the amendment itself, not the subamendment. You had your opportunity. I gave you time to challenge the chair and there was no response, so I moved on. I said that we were now going to debate the amendment, so the ruling stands and we're going to move on.

Is there any further debate on the amendment itself? Hearing none, I'm going to call the question on the government amendment, G-1. We should have a recorded vote on this.

(Amendment agreed to: yeas 6; nays 4)

The Chair: There's a request for a recorded vote on clause 2.

[*Translation*]

Mr. Daniel Petit: I am asking for a recorded vote on each of the clauses, please.

[*English*]

The Chair: Mr. Petit, you asked that earlier and I will be following that process.

(Clause 2 as amended agreed to: yeas 7; nays 3)

•(1620)

The Chair: Before we move on to clause 3, I'd like to comment on Mr. Comartin's complaint about not having been given an opportunity to challenge the chair. In the future, if I give you a five- or ten-second break to consider it and you need more time, please ask me and I will give you that opportunity. I certainly don't want to shut anyone down from challenging the chair; it's not my role to do that. But I do want these meetings to move along expeditiously. If you can let me know if you're considering whether or not to challenge the chair, I will give you time to do that.

(Clause 3 agreed to: yeas 7; nays 3)

(Clause 4 agreed to: yeas 8; nays 2)

The Chair: I would like to make a suggestion. There are still four more numbered clauses and then four summarizing clauses. We could do them in an omnibus motion if you wish.

It's been suggested that we do the four numbered clauses as a group. We'll be voting on clauses 5, 6, 7, and 8.

Mr. Joe Comartin: On a point of order.

The Chair: Yes, Mr. Comartin.

Mr. Joe Comartin: What happened to clause 4?

The Chair: Clause 4 has already been carried.

(Clauses 5 to 8 inclusive agreed to: yeas 8; nays 2)

(Title agreed to: yeas 7; nays 3)

(Bill as amended agreed to: yeas 7; nays 3)

•(1625)

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the committee order a reprint of the bill?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Thank you.

We'll suspend for a few minutes.

• _____ (Pause) _____

•

• (1630)

The Chair: We'll reconvene the committee meeting and continue our review of Bill C-26 on auto theft and trafficking in stolen property.

We have a number of witnesses to help us in our study. Representing the Insurance Bureau of Canada, we have Richard Dubin and Dennis Prouse. Representing the Ontario Sewer and Watermain Construction Association, we have Frank Zechner and George Kleinstieber. Representing Statistics Canada, we have Lynn Barr-Telford—welcome back—as well as Mia Dauvergne. Finally, representing the Winnipeg Police Association, we have Mike Sutherland, who is appearing by teleconference. Welcome here, Mr. Sutherland.

Mr. Mike Sutherland (President, Winnipeg Police Association): Thank you very much. It's a pleasure to be here.

The Chair: Each one of your organizations has five minutes to present. If you go a little over, it's all right, but we also want to leave some time for questions on this very important bill.

We'll begin with the Insurance Bureau of Canada and Mr. Dubin.

Mr. Richard Dubin (Vice-President, Investigations, Insurance Bureau of Canada): Thank you, Mr. Chairman, for the opportunity to address the committee.

The Insurance Bureau of Canada is the national trade association representing Canada's home, car, and business insurers.

My name is Rick Dubin, and as vice-president of investigations, I lead and coordinate our industry's fight against auto theft. With me today is Dennis Prouse, director of government relations.

For a number of years, our industry has seen the costs associated with auto theft rise. Our investigative team, in turn, has seen sharply increased implications of organized criminal activity in auto theft. Simply put, the days of the joyride have been replaced with sophisticated criminal rings bent on stealing automobiles, because the current penalties associated with this theft are so lenient and the profits are so attractive. These criminals steal vehicles and chop them up to sell parts. They switch the vehicle identification number to change the identity of the stolen vehicle, which is then sold to an unsuspecting consumer. And they export thousands of high-end vehicles through Canadian ports each year to overseas destinations where they can fetch a much higher price than here at home.

In 2007, almost 150,000 vehicles were stolen in Canada—exactly 146,142, to be precise. That cost auto insurance policyholders approximately \$542 million. In that year, every policyholder in Canada paid an average of about \$35 of their auto insurance premiums to finance costs incurred by the acts of car thieves.

When we include police, the health care system, and court costs, the cost of auto theft climbs to well over \$1 billion each year. Many of these resources are spent precisely because car thieves repeatedly come in and out of the justice system. Under the current Criminal

Code provisions, jail time is rarely handed out, and auto theft is viewed as a largely victimless transgression.

Mr. Chairman, I want to tell you that auto theft is far from a victimless crime. A few years ago we witnessed the deaths of two teenagers in a taxi, struck by a stolen vehicle in Ontario. Detective Constable Plunkett, a York Regional Police officer, was killed trying to stop the theft of an airbag. And in 2004 in Nova Scotia, it was the death of Theresa McEvoy at the hands of a repeat auto theft offender that prompted citizen outrage and a call for action.

With the involvement of organized crime so pervasive in the business of auto theft, with profits so lucrative, you will perhaps not be surprised to hear that Canadian and American intelligence authorities suspect that auto theft is a possible means by which terrorist groups may be financing themselves. Canada is an attractive place in that regard.

Recovery rates of stolen vehicles continue to decline. A few short years ago the national recovery rate was 70%. In 2007 that rate dipped to 64%. Montreal has the highest volume of stolen vehicles in Canada, as well as the lowest recovery rate of 31%.

Just recently, in May 2009, two men were criminally charged as part of an alleged auto theft ring operating in Norfolk, Haldimand, and Brant counties in Ontario. According to the Ontario Provincial Police, the operation involved the altering of vehicle identification numbers and the exporting of stolen vehicles.

So you can understand why more and more citizens and governments in this country are asking for action to deal with auto theft. You can understand more fully why we are here.

Fortunately, Bill C-26 addresses the auto theft reoffender involved in organized crime who engages in this dangerous activity purely for profit. It recognizes auto theft as a separate and serious offence under the Criminal Code. And while it proposes mandatory minimum sentences, it only does so for the third and subsequent offences. This is a very reasonable step to deal with the reality of repeat offenders.

• (1635)

Mr. Chairman, Canadians have the right to feel safe in their own communities. The growth of auto theft, however, and its increasingly violent nature, is compromising our safety. The growing presence of organized crime in auto theft is an even more troubling development that further threatens the safety and security of Canadians. On behalf of the Insurance Bureau of Canada, our members' companies, and the policyholders they serve, I urge you to vote in favour of Bill C-26 in its current form.

Canadians count on their parliamentarians to stay on top of changes in our world that impact on our lives. When money laundering by organized crime became a problem, Parliament acted. When issues surrounding privacy and identity theft became a concern for Canadians, Parliament acted. Now that the nature of auto theft has changed with the increased involvement of organized crime, now that it is threatening the safety and security of Canadians, parliamentarians are again taking action in the form of Bill C-26.

Thank you for your time, and we look forward to answering your questions.

The Chair: Thank you, Mr. Dubin.

We'll move to either Mr. Zechner or Mr. Kleinsteiber.

Mr. Frank Zechner (Executive Director, Ontario Sewer and Watermain Construction Association): My name is Frank Zechner. I'm the executive director of the Ontario Sewer and Watermain Construction Association. With me is Mr. George Kleinsteiber, our anti-theft consultant for construction equipment.

I should note that Mr. Kleinsteiber is a former OPP officer, having 32 years on the force. Nineteen of those years were in the auto theft branch of the OPP as a detective constable. He had responsibility for investigation of all auto thefts, including heavy equipment, across Ontario.

The Ontario Sewer and Watermain Construction Association is also a member of the Canadian Construction Association, established in 1918, and it is a federal not-for-profit association representing Canadian construction contractors, suppliers, consultants, and other businesses.

A lot of the equipment of our members—both the Canadian and Ontario associations—is in public road allowances on a 24/7 basis. Consequently, it is a target for thieves. Both the Ontario Sewer and Watermain Construction Association and the Canadian Construction Association have had serious concerns about theft and vandalism of construction equipment, and both associations support the passage of Bill C-26, an act to amend the Criminal Code.

I'd like Mr. George Kleinsteiber now to give you some information on construction.

Mr. George Kleinsteiber (Equipment Theft Consultant, Ontario Sewer and Watermain Construction Association): I have some general statistics and trends. Construction equipment theft, although not as high as for automobiles or pickup trucks, is still a major concern across Canada. Last fall, as an example, four members of our association lost new-model Caterpillar motor graders. Each one of these was worth a quarter of a million dollars, and you can imagine the number of Honda Civics, in dollar value, you would need to add up to the value of these four stolen machines.

There are challenges associated with the lack of industry standards. VINs on heavy equipment can range from four digits through to 17 digits, whereas automobiles and other vehicles on the road are all regulated and built with a 17-digit mathematically generated VIN. This creates difficulty for law enforcement officers attempting to identify construction equipment.

There are challenges also associated with the lack of industry standards for specific location and methods of fixation for VINs.

Again, consumer vehicles such as automobiles all have their VIN attached in a uniform location. Construction equipment has no such guidelines, and this problem weighs heavily on both police officers and Canada customs agents trying to identify suspected stolen equipment. Because there is little or no training on where to find VINs, the recovery of this type of equipment continues to be low.

● (1640)

Mr. Frank Zechner: Both the Canadian Construction Association and the OSWCA believe that proposed subsections 353.1(1) and (2) provide law enforcement officials with needed assistance in combating auto and construction equipment theft by making it an offence to partially alter, remove, or obliterate a VIN on a motor vehicle. However, we are concerned about proposed subsection 353.1(3). Both the OSWCA and CCA are concerned that the exceptions are too broad. The specific phrase used for the exemption in subsection 353.1(3) is: "Despite subsection...it is not an offence to". That particular phrasing is not used in any other provision of the Criminal Code or in any other federal legislation. The novelty of that exemption phrase, as well as its very existence, raises concerns on our part that the courts may interpret the exemption too broadly.

Mr. George Kleinsteiber: The addition of proposed subsection 351.1(3) is, in our view, likely to provide an unwarranted defence to persons charged in relation to stolen vehicles or parts thereof. Proposed subsection 351.1(3) will give auto thieves a defence by merely giving the excuse that the VIN was removed or altered to repair the vehicle, or, in the case of thieves, to modify or to disassemble the vehicle.

In my 32 years of law enforcement I have never yet seen a reason why regular maintenance would force you to alter, remove, or obliterate a VIN. I've spoken to investigators with the Insurance Bureau of Canada, to the officer in charge of the provincial auto theft team in Ontario, and to auto theft investigators with the Peel Regional Police and York Regional Police, who all share my concerns about the new and unwarranted defences that criminals will have if proposed subsection 353.1(3) becomes law. There are already existing procedures in place through the motor vehicle safety regulations and the Insurance Bureau of Canada with regard to repairs to a vehicle where a VIN is removed, such as after a motor vehicle collision when damaged parts are replaced, at which point the VIN can be reapplied and the new VIN is clearly marked as a replacement VIN so as to combat the rebuilding of a wrecked vehicle with stolen parts.

In summary, the CCA and the OSWCA are very concerned that the addition of proposed subsection 351.1(3) will create a series of new defences for criminals engaged in automotive and construction equipment theft. We urge the committee to delete proposed subsection 351.1(3).

Thank you. We await your questions.

The Chair: Thank you.

We're going to go to Mr. Sutherland right now. You have the floor.

Mr. Mike Sutherland: Thank you very much. I certainly appreciate the opportunity to meet with you today via teleconference. I have to admit that, unfortunately, my ability to prepare for today's session is a little limited, but I'd be more than happy to answer any questions or to correspond, not only today but at a future date.

In terms of the Winnipeg perspective, I think I want to highlight how the situation here is definitely not without significant impact in terms of victimization. By way of background, I can indicate to you that we've had in 2007 and 2008 an individual who was seriously injured as a result of a deliberate attempt by auto thieves to run down joggers in a well-known jogging location. As well, we've had three other traffic fatalities where auto thieves were deliberately operating large vehicles in a menacing manner. There was no police chase. It was simply a smash-up derby on our streets, and three people lost their lives as a result.

I can also indicate to you that in the past three years we've had numerous occasions where officers have been deliberately rammed or attempted to be struck while on foot. These officers were attempting to intervene in stolen vehicle events. In Winnipeg, this is a definitive safety issue, not only for our officers but for public safety overall.

In terms of what's happened as far as combatting auto theft in Winnipeg, there are some particular frustrations that I think this legislation may certainly address. Auto theft is looked at primarily as a property crime, as I'm sure you're aware, equivalent to stealing a similar value of other goods. The difficulty with that, of course, is that with the emphasis on discouraging violent crime, property crime has sort of taken a back seat in that area. In Winnipeg, we found a very egregious example. One particular offender, who, between stealing cars, was being released on bail and in breaching those bail conditions, was arrested no less than 40 times before being incarcerated for auto theft-related offences or offences related to release on bail.

A study was done by our auto theft unit. Fifty of the top auto thieves in Winnipeg were identified and then were tracked with respect to their release conditions or their release status and the number of auto thefts in Winnipeg. I can tell you that when more than 40% of those top 50 offenders were on the streets, auto thefts rose by at least 20% or more. In terms of costs alone, with respect to damage to those vehicles—this is not the cost of medical treatment for those who are injured or the cost of investigation, it is simply the cost of recovery for the damage of those automobiles—in one year it was somewhere in the neighbourhood of \$5.5 million.

The difficulty for us was, is, and still remains to this day, because of the consideration of auto theft as a property crime, keeping these top-level offenders incarcerated. As soon as they're out on the streets, that's when auto thefts again begin to rise.

An additional difficulty, of course, is that in many cases auto thieves are merely providing a vehicle for others to commit other crimes. Stolen autos are used in a variety of different offences, such as robberies and other gang retaliation types of occurrences here in Winnipeg. It's very dangerous not only for the public, but for our officers. Winnipeg, I believe, tends to be, perhaps, at the point of a

spear here. What we notice now is that our offenders are certainly not immune from providing others the instruction to carry out auto thefts in other jurisdictions.

We feel that given the fact that a very heavy vehicle can be operated at very high speeds, it's not unlike the potential danger of a firearm. What we are asking parliamentarians, and you specifically, to consider is providing significant deterrents so that we can essentially—once we have established individuals as chronic auto thieves—keep them in custody so we can keep these types of crimes and threats to our streets at a minimum.

• (1645)

The difficulty is that in the current atmosphere it becomes almost a revolving door type of scenario. It's frustrating to our officers. It's very intensive to monitor these thieves.

We are asking you to support the proposed legislation to ensure there is significant deterrence and significant custody attached to stealing what is tantamount to a weapon if operated in a menacing fashion.

Thank you very much. I am more than willing to entertain questions.

The Chair: Thank you.

For our final witnesses, we'll move to Ms. Barr-Telford and Ms. Mia Dauvergne. You have 10 minutes.

Mrs. Lynn Barr-Telford (Director, Canadian Centre for Justice Statistics, Statistics Canada): Thank you, Mr. Chairman, for the opportunity to present to the committee regarding Bill C-26.

Statistics Canada does not take a position on the proposed amendments. The presentation we have prepared today contains data on motor vehicle thefts that may inform your discussions of the bill. All data sources used are clearly indicated on the slides, as are any pertinent notes. You should have the presentation in front of you to follow. We've also included supplemental information at the end of the deck for the consideration of the committee, and we have distributed to you a copy of our recent *Juristat* article on motor vehicle theft.

My colleague, Ms. Mia Dauvergne, is here to help answer any questions.

The first several slides provide information on the incidence of police-reported motor vehicle thefts in Canada over time, by province and territory, and by census metropolitan area.

Police-reported motor vehicle thefts are incidents in which a land-based motorized vehicle is taken or attempted to be taken without the owner's authorization. Included are completed thefts and incidents where there was an unsuccessful intent to steal a vehicle, what we call "attempted" thefts.

The graph in this slide shows that Canada's rate of motor vehicle theft peaked in 1996 and has generally been declining since. However, the rate of motor vehicle theft in 2007 was well above the level seen decades earlier. Motor vehicle theft is the fifth most common type of police-reported crime in Canada. In 2007 motor vehicle thefts accounted for 6% of all Criminal Code offences and 13% of all property crimes. In 2007 police reported about 146,000 motor vehicle thefts, averaging about 400 stolen vehicles per day, including both completed and attempted incidents. In addition, there were about 2,500 motor vehicles stolen during the commission of another, more serious offence.

The proportion of incidents classified as "attempted" is higher for motor vehicle thefts than for other Criminal Code offences. In 2007 14% of all motor vehicle thefts were classified by police as attempted, versus 2% for other Criminal Code offences. A little over half of all motor vehicle thefts in 2007 involved cars. Another one-third were trucks, vans, or SUVs. About 4% were motorcycles, and 8% were other types of vehicles.

The next slide shows that the highest rates of motor vehicle theft tend to be in the western provinces and northern Canada. In 2007 Quebec was the only eastern or central province above the national average, and although its rate has declined recently, in 2007 Manitoba had the highest reported motor vehicle theft rate in the country for the eleventh straight year. Its rate was 24% higher than a decade ago.

The next slide shows that in 2007 the highest rates of motor vehicle theft were in western census metropolitan areas: Winnipeg, Abbotsford, Edmonton, and Regina. Winnipeg's rate has been among the highest in Canada for the past 15 years, and it accounts for about 86% of Manitoba's motor vehicle thefts. Montreal reported the highest rate of motor vehicle theft in eastern and central Canada.

Motor vehicle theft is one of the least likely crimes to be solved by police. Of all vehicle thefts in 2007, 11% resulted in an accused person being identified, compared to 22% of all other property-related offences. In 2007 about 16,000 people were accused of motor vehicle theft in Canada.

The next slide shows that, like other property-related offences, motor vehicle theft is a crime often associated with youth. In 2007 police reported motor vehicle theft rates were highest among 15- to 18-year-olds, and youth aged 12 to 17 accounted for three in 10 persons accused of motor vehicle theft in 2007. This is similar to the proportion of youth accused of other property-related offences. In 2007 charges were laid or recommended by police against 59% of youth and 55% of adults accused of motor vehicle theft. This compares to charge rates of 37% for youth and 59% for adults for other property-related offences. Also, about 84% of persons accused of motor vehicle theft in 2007 were male. This compared to 74% of males accused of other property-related offences.

● (1650)

The next slide looks at police-reported motor vehicle theft and organized crime. We do not yet have a reliable, direct way of measuring organized crime involvement, but vehicle recovery status has been used as a proxy measure. In 2007 about four in ten stolen vehicles were not recovered by police, suggesting that these may have been related to organized crime. Vehicle recovery rates were

lowest in the province of Quebec and among the highest in Winnipeg.

In the next slide, we turn to the question of court outcomes for charges of motor vehicle theft. It's not possible to identify motor vehicle theft using court administrative records alone. Motor vehicle thefts are currently recorded together with other thefts under section 334 of the Criminal Code. Court records with criminal court outcomes must be linked to police records with offence characteristics in order for us to identify this subset of theft in Canada.

The question of whether or not motor vehicle theft is treated differently from thefts in general by the courts is often asked. We recently linked these administrative files to answer this question for another project.

An unrepresentative sample of court records did show differences in the way in which theft in general and motor vehicle theft were treated by the courts. For example, incarceration was used more frequently for guilty charges of motor vehicle theft, and there were significant differences in the length of custody imposed by the courts for motor vehicle theft compared to other theft. Average sentences were longer for guilty charges of motor vehicle theft for \$5,000 or under than for other theft \$5,000 or under, and shorter for guilty charges of motor vehicle theft over \$5,000 than for all other theft over \$5,000.

There are more details on this issue in the supplementary slide at the end of your deck.

The Criminal Code under section 335 describes taking a motor vehicle without consent as an offence "resembling theft". As seen in the next slide, several thousand of these theft-like charges are heard in Canadian criminal courts each year. The number of these charges heard against youth has been declining since the period introducing the Youth Criminal Justice Act, while the number of these charges heard against adults has been generally increasing over the last decade.

The proportion of charges found guilty for adults and youth tends to be higher for this charge than for charges generally, but is almost identical to the proportion found guilty for theft in general.

In summary, Mr. Chairman, motor vehicle theft continues to be a high-volume offence in Canada, but Canada's police-reported motor vehicle theft rate has been declining since 1996. Motor vehicle theft rates are particularly high in the west, and vehicle recovery rates can serve as a proxy for organized crime involvement. We've seen that recovery rates vary across the country. Stolen vehicles are less often recovered in Quebec than elsewhere in Canada, while in Winnipeg the recovery rate was among the highest.

Thank you, Mr. Chairman. That ends my presentation. There is supplemental information for the committee at the end of the deck.

●(1655)

The Chair: Thank you very much.

Thank you to all of our witnesses for that very helpful information.

We'll open the floor to questions.

Mr. Murphy, five minutes, please.

Mr. Brian Murphy: Thank you.

I know the solution to auto theft: have a car like Parliamentary Secretary Rob Moore's second family vehicle. No one would dare steal that car.

Voices: Oh, oh!

Mr. Brian Murphy: I have just very short questions—and, to be considerate of everybody, we could have some short answers—for the IBC.

I'm wondering why there wasn't a little more mention of immobilizers and that program, certainly in the west of Canada. Is it something that you think is cost-effective?

Mr. Richard Dubin: We've always supported immobilizers. As many know, we were involved in supporting immobilizers, at least in all new cars coming off the assembly line OEM. That has made a difference in helping to reduce the rate of auto theft by 9% between 2006 and 2007. Unfortunately, as I mentioned, the recovery rates across Canada have declined from approximately just over 70% recovery down to 64%. If we go out west, for example, Manitoba has utilized immobilizers. We do support the use of immobilizers on a voluntary basis, at least, at the option of the public for after market.

There is no question that they do have an impact, but when it comes to organized crime, how they get the vehicles is actually quite different. What we're seeing is, sure, they'll get the keys, they'll break in, they'll get a vehicle running. But we're also seeing that they're towing the vehicle; they don't need the key. We're also seeing a definite pattern right now where they're creating fraudulent documents to go to a dealership and obtain a new vehicle. They're also doing it on rental vehicles. With these fraudulent documents, they're obtaining possession of these vehicles and then putting them in containers and exporting them.

So immobilizers have played a role in making it harder to steal. Out west, what we're seeing, because the recovery rates are in the mid-eighties—that's a lot of transportation theft, using the vehicles for commission of other crimes. As you move east, we feel you have the greater involvement of organized crime because of the significant reduction in the recovery of stolen vehicles.

●(1700)

Mr. Brian Murphy: It's a perfect segue to go out west to Officer Sutherland.

You have the dubious distinction in Winnipeg of having a few car thefts—I won't give you the title because the mayor might be tuning in or something. You have also had some success I think with the combined use of immobilizers and other programs that are outlined in *Juristat*. You've had a 33% decrease in auto theft; however, there's been a 32% increase in attempted auto theft. Does it have something to do with immobilizers?

You've heard what the IBC has said generally, which would indicate that there may be more involvement, percentage-wise, of organized crime in the east, particularly in Montreal—I might as well say it—than out west. How concerned are you that organized crime is going to find the intelligent ways that the IBC officials have just talked about, or are they already?

Mr. Mike Sutherland: I think they are already. There have been examples here where chop shops, essentially, have been set up and the thefts have been much more organized. It's not just your commonplace “break the ignition column”; they're much more intelligently planned.

We're very vulnerable to that here in Winnipeg, as in any scenario where there's organized crime and crime for profit. As well, we have a fairly significant base of offenders who are very willing to steal vehicles and would certainly be a tool to be utilized by organized crime.

Our experience thus far with respect to immobilizers has been that they have made a difference, but I would say to the committee that the investigators in our auto theft strategy unit have found that it's the old adage: 5% of the people are doing 95% of the crime. We did track that, and what we found is that when a great number of our top auto thieves were on the street, auto theft skyrocketed, despite the presence of immobilizers; they just found other targets to go to. When more of them were incarcerated, the rates came back down.

If you talk to any auto theft investigator, they would attribute it to the very, very intense monitoring of those offenders. The difficulty, of course, is that right now they may be doing it for their own purposes, but certainly they would be a willing tool in the hands of, say, more sophisticated types of criminals, who would certainly be engaged in the crime-for-profit aspect. We would be particularly vulnerable here.

We have that dubious distinction. We've also had the dubious distinction of being the murder capital of Canada as well. We are definitely in the trenches and at the point of the spear. We have some very unique insight in that way. I wish we didn't, but we do. I would say, certainly from our perspective, there has to come a point where we need to make sure there's a significant deterrent, or if not a deterrent, then at least incarcerate those offenders so that we do have a chance to catch our breath.

Thank you.

The Chair: Thank you, Mr. Sutherland.

I think we share a dubious distinction. I represent Abbotsford, and Abbotsford has been known as the auto theft capital of British Columbia for a number of years. It was also the murder capital one year. So both of us have the same challenges, and hopefully we can make some headway right here at the committee.

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

[Translation]

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

My question goes to the Insurance Bureau of Canada representatives. I would like to understand what your concern is. I have paragraph 353.1(3) in front of me. What type of amendment are you looking for? What kind of customers do you have in mind? We understand that this could involve people in garages or mechanics who do regular maintenance and who can alter or obliterate vehicle identification numbers. What other kinds of situations were you thinking of? Specifically, what kind of amendment do you want?

• (1705)

Mr. Dennis Prouse (Director, Federal Government Relations, Insurance Bureau of Canada): That is not a question for us.

Mr. Réal Ménard: My question is for you, sir.

[English]

Mr. Richard Dubin: Yes, section 353—

[Translation]

Mr. Réal Ménard: Unfortunately, because of my advanced years, I cannot see your name. Mr. Zechner, you were concerned about the scope of paragraph 353.1(3). I would like to know specifically what kind of amendment you want.

[English]

Mr. Frank Zechner: *Oui.* Our preferred amendment would be to just delete the exception and leave proposed subsections 353.1(1) and 353.1(2) in place, as well as the rest of Bill C-26.

[Translation]

Mr. Réal Ménard: You seem to feel that it is unlikely that a mechanic, or someone working in a garage, would do that during regular maintenance. We did not think to ask why the minister included this provision. Does the idea of someone removing a vehicle identification number lawfully seem unlikely and far-fetched to you?

[English]

Mr. George Kleinsteiber: Sir, I can tell you that in 32 years in policing, I have never yet seen anyone who has a lawful reason or a legitimate reason for removing it while doing an oil change or repair work. Subsection 354(2) is what we have always referred to as the presumption section. And it does refer in proposed subsection 353.1(1) to a “lawful excuse”.

What you're now doing, by putting in proposed subsection 353.1(3), is giving the criminal element a new reason for or a new way of giving excuses for obliterating numbers.

[Translation]

Mr. Réal Ménard: I do not think so, because here is the wording: “[...] during regular maintenance or any repair or other work done on the vehicle for a legitimate purpose [...]”. No judge could consider

organized crime a legitimate purpose. No court of law would consider the wording ambiguous. Perhaps it is not relevant. I did not think to ask the minister when he came before the committee. When we do the clause-by-clause study on Wednesday, we can ask the question, but, as far as I am concerned, the term “legitimate purpose” protects us against the scenario you are foreseeing.

[English]

Mr. Frank Zechner: The legitimate purpose is a valid point, but we are also concerned about the onus. Certainly the obligation on the part of the crown in criminal offences is to prove each and every element beyond a reasonable doubt. If there is a doubt as to whether there is a functional or alteration purpose, we are concerned that this might be widened. As soon as they cast any doubt as to whether it's legitimate, our reading is that it is a possible defence and is liable to get them off.

[Translation]

Mr. Réal Ménard: Quickly, Mr. Chair, if the parliamentary secretary has an idea of the answer, and is able to tell us why paragraph 353.1(3) was written, I have no objection to his using a part of my time to give us the answer.

[English]

The Chair: I'm sure he has taken note of your request.

Mr. Comartin, you have five minutes.

Mr. Joe Comartin: Ms. Barr-Telford, and perhaps Mr. Sutherland, do we have any indication that the rate of auto theft in Manitoba continues to decline at the same rate it did in 2007, after they introduced the compulsory implementation of immobilizers for insurance purposes and registration purposes?

Mrs. Lynn Barr-Telford: What I can tell you is that the rate in Manitoba gradually climbed until about 2004, and then declined in two of the past three years, including that 10% drop in 2007. We have not yet released more recent data that speaks to 2008. That will be coming out in July.

Mr. Joe Comartin: Could I ask, Mr. Chair, when that comes out in July, if you could forward it to the committee and if the clerk could circulate it?

Those are the only questions I have. Thank you.

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

• (1710)

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

Thank you very much to all the witnesses for your excellent presentations.

To the Insurance Bureau, I have a couple of questions. You've estimated the cost to auto insurance at \$542 million. We've often heard the number of \$1 billion batted about. In the next paragraph of your presentation, you indicate that when we include police, health care, and courts, "the cost of auto theft climbs to well over \$1 billion". I'm having trouble understanding what the health care costs of auto theft are. I was wondering if you might be able to help me out on that.

Mr. Richard Dubin: Yes. A lot of the health care costs that we're talking about there are emergency response units, ambulances going to the scene, and medical treatment at the hospital for immediate emergency treatment. That's part of what we're looking at for the significant costs that build into it.

Mr. Dennis Prouse: If I may, I'll give one example, a real-life example that happened last week in Toronto. There was a stolen SUV. I believe Mr. Norlock referred to it last week. It crashed through a light standard, knocked out a power supply, and then crashed into a TTC bus shelter. Four people were injured, two of them very seriously. So not only did you see tremendous expenses in the health care system in dealing with these poor injured people, but, to put aside the human cost, now you have the TTC paying for a new transit shelter and you have the power authority paying for a new light standard. The costs go on and on.

These are the kinds of ancillary costs that are dealt with on an auto theft and that need to be taken into account. Those costs are, again, the same as the costs borne by insurers. So whether you're paying for it through your insurance policy or whether you're paying for it through your tax dollars, we all pay for auto theft. That's the message we're trying to get across.

Mr. Brent Rathgeber: I've heard Mr. Murphy ask the question about immobilizers. I want to include alarms in that question. Do policyholders get some sort of discount or premium reduction if they either employ immobilizers or have alarms?

Mr. Richard Dubin: It's a decision that's made by each independent insurer, but generally speaking, most insurers do provide a discount when they know that an approved electronic immobilizer is installed. As you know from Transport Canada, there are two types. There's the national standard of Canada, and then there is the European standard.

If they have either one of those, they are able to go to the insurer and ask for a discount. It is most often, I would say, that the insurers see the national standard of Canada so far, because it falls within what we call CLEAR, the Canadian loss experience automobile rating system, and that will give them, in most cases, a discount.

Mr. Brent Rathgeber: We've heard a lot of statistics today, both from the bureau and from Statistics Canada. Do we have any statistics on, or is there an appreciable difference in, the incidence of stolen vehicles when the owner has either an immobilizer or some sort of alarm system? Does anybody measure that? Do we know?

Mr. Richard Dubin: We don't have anything specific measuring that, but we do feel it has played in a significant reduction between 2006 and 2007, that 9% reduction. Sure, there are some other things, such as police units concentrating on those who are repeat offenders and putting pressure on them, checking whether they're following their curfews, conditional sentences, house arrest, and things like

that, but we do feel—and the police in Toronto, as well as other police forces, have mentioned it to us—that the immobilizers do make it more difficult.

For those who are using the vehicles for transportation theft—I don't like to use the term joy riding because there is no joy in it when people get killed and injured—who are using it for that purpose, those are the ones that it's really deterring. It isn't deterring the organized professional car thief.

The Chair: If I could follow up on that particular question, in British Columbia some of the jurisdictions are using the bait car program, including Abbotsford and Surrey, and they've had some success in reducing auto theft. But I'm assuming that even the bait car program doesn't address the issue of organized crime. It's focused more on the recreational car thief. Is that correct?

Mr. Richard Dubin: I would say that the bait car program is one of many steps taken to try to make it more difficult to steal cars and, obviously, to catch those involved. But as you know, in B.C., the car thieves are very clever, and as they see a certain area with bait cars, they do have a tendency to move around.

I would say the bottom line is that organized crime in Canada, when it comes to auto theft, has increased. We do base it on the continued decline of those vehicles.

So they are very aware of the movement of the bait cars, but again, it has had an effect. You've had to spread bait cars at a great expense in several areas throughout B.C. in order to make the program effective, and it has had some very positive effects in the province.

• (1715)

Mr. Dennis Prouse: I should add, Mr. Chairman, that when we've spoken to legislators, we haven't spoken about immobilizers that much, the reason being that sometimes people have the impression there's a technical solution to this, that if we applied technology or immobilizers, somehow they would solve the whole problem. We support immobilizers when we speak on our website and give brochures to consumers; in our communications with consumers, we are very, very enthusiastic about immobilizers.

It is just that immobilizers are only one part of the solution, and there needs to be a legislative solution. So in speaking to parliamentarians, we've been a little heavy on the legislative side and little lighter on the technology side, because there needed to be that emphasis. We didn't want to leave people with the impression that there was a technological solution to auto theft purely, because there isn't. There needs to be legislative action.

The Chair: I want to thank all of our witnesses, including the one in Winnipeg, for coming before us today.

We will take note of the concerns regarding proposed subsection 353.1(3).

At the same time, as we still have an in camera meeting after this, could you leave the room as quickly as possible? Thank you to all of you.

We'll suspend for a couple of moments.

[*Proceedings continue in camera*]

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