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—
Chair

Mr. Art Hanger

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• (1530)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I call the meeting of the Standing Committee on Justice and Human Rights to order. On our agenda today is Bill C-10, an Act to amend the Criminal Code, that is minimum penalties for offences involving firearms.

Before us we have the minister, Honourable Vic Toews, and two Department of Justice personnel.

Minister Toews, I'll give the floor to you to introduce your departmental officials, and then we'll hear your presentation.

Hon. Vic Toews (Minister of Justice): Thank you, Mr. Chair.

I'm pleased to be back here again. I promised Mr. Ménard yesterday that I would be back again, and I am.

I have the pleasure to introduce two of my officials, Julie Besner and Mr. Donald Piragoff. They will be assisting me on some of the technical issues.

Mr. Chair, members of the committee, I'm pleased that the committee is beginning its review of Bill C-10, which seeks to protect public safety by tackling the problem of guns and gangs. This bill is part of our government's commitment to take steps to protect Canadians and make our streets safer.

As I've travelled across Canada and discussed these and other criminal justice measures, I've been struck by the call for measures to address gun crime. Mayors, chiefs of police, and attorneys general have been clear that we must take steps to target the gun crime on our streets. Bill C-10 will provide significantly tougher mandatory minimum penalties for serious or repeat firearms offences in a manner that is both measured and specifically tailored to the problem it seeks to address. It will also create two new offences targeting specifically the theft of firearms for robberies and breaking and entering dwellings and other places.

Bill C-10 seeks to build upon the existing minimum penalty scheme for certain firearms offences. Currently, four-year minimum mandatory penalties apply for ten specific offences involving the use of firearms. For other indictable offences in which a firearm is used, a one-year consecutive minimum penalty applies on a first offence; three years apply on a second offence. A handful of other offences involving firearms, but not their actual use, such as firearms targeting and smuggling, currently attract minimum penalties of only one year.

Bill C-10 is a targeted measure that focuses on gang members who use firearms to commit their crimes and on individuals who would use restricted weapons to threaten Canadians. It is a direct response to the scourge of handgun crime that plagues our country, especially in our cities. It focuses on the limited number of individuals who commit these crimes and will make sure that they face significant penalties for their actions.

Bill C-10 seeks to expand the existing law by providing an escalating mandatory minimum penalty scheme. The applicable penalty will increase based on repeat offences, similar to the increased minimum penalty scheme for impaired driving offences. However, because the range of firearms offences is significantly broader than impaired driving offences, different escalating schemes are needed.

Bill C-10 proposes three different escalating schemes, which I will describe to you in detail in a moment. But first I'd like to elaborate more on the nature of the problem the government is tackling with this bill.

Over the last thirty years, the types of firearms used in crimes or uncovered in criminal investigations have shifted dramatically. Police, and specifically those involved in weapons enforcement, have told me that they are coming across more illegal handguns, especially in the context of gang violence and the drug trade. This is a dramatic change from the 1970s and 1980s during which the firearms involved in crimes, particularly in homicides, were mostly long guns.

What we are hearing from the police is supported by the available statistics from Statistics Canada, which have been forwarded to the clerk of the committee. The statistics show that in recent years handguns have become the weapon of choice in gun crimes and are used in approximately three-quarters of violent firearms offences.

Bill C-10 targets serious and repeat firearms offences. When you look at the offences that are targeted by these mandatory minimum penalty schemes, you will see that they are all serious firearms offences. Firearms offences that typically engage more serious criminal conduct are captured by these proposals. One could say that what we're doing in Bill C-10 is codifying specific aggravating factors that the courts must take into account in sentencing persons convicted of these serious firearms offences. We have proposed higher minimum penalties of five years on a first offence, seven years on a second offence, and ten years on a third offence.

• (1535)

There are eight serious offences involving the use of firearms. These offences are attempted murder, discharging a firearm with intent to injure a person or prevent arrest, sexual assault with a weapon, aggravated sexual assault, kidnapping, hostage taking, robbery, and extortion. The enhanced penalty scheme for these offences will only apply if one of the two possible aggravating factors is present.

The first aggravating factor is whether the offence is committed in connection with a criminal organization. This would include street gangs if they are composed of three or more persons intent on committing serious offences for material benefit and any class of firearm is used. So it's important to remember that any class of firearm used in the context of a gang activity and the criminal activity involved in that applies.

The second factor is whether a restricted or prohibited firearm is used. As you all know, these weapons are hand guns, automatic weapons, or long guns that have been in some way modified.

I would like to take a moment to clarify a few things about this last point, because I note that it seemed to generate a fair bit of confusion during second reading debate. Bill C-10 does not propose to provide higher mandatory minimum penalties only when restricted or prohibited firearms are involved. It is true that this is a specific aggravating factor that will trigger the higher mandatory minimum penalties for the eight serious use crimes targeted by this bill.

However, the other aggravating factor that's applicable to these offences, whether the offence was committed in connection with a criminal organization or gang, does not require that the firearm used in the offence be a restricted or prohibited firearm. It could be any firearm, including a non-restricted long gun where that long gun is used in furtherance of a criminal gang activity. A gang member who uses a firearm of any sort to accomplish their criminal ends will be subject to the mandatory minimum penalties contained in this bill.

I also want to make it clear that the serious so-called non-use offences, which I will describe in a moment, do not make a distinction based on the type of firearm, except in one case where it already exists as an essential element of the offence. We have included the specific aggravating factor of using a restricted or prohibited firearm in serious use offences because it is directly linked to the nature of the crimes we are targeting.

As I have previously explained, this bill is the result of the increasing popularity of hand guns with street gangs and drug traffickers. Bill C-10 defines a prior conviction as a conviction that

has occurred in the last ten years, excluding time in custody. In other words, if an individual has been convicted of using a firearm in the commission of an offence within ten years of the conviction before the court, it will count as a prior offence. In calculating the ten years, the court will exclude any time spent in custody. If the offender has a prior conviction within the ten-year period, it will trigger the enhanced mandatory minimum penalty.

Therefore, for example, someone who is convicted of a robbery using a hand gun with two prior convictions for robberies with a firearm in the last ten years will face a mandatory ten-year minimum penalty. The prior conviction or convictions could involve another firearms use offence as well, such as attempted murder using a firearm.

Enhanced mandatory minimum penalties are also proposed in Bill C-10 for other serious offences involving firearms but in which the firearms are not actually used. The escalating minimum penalties in the case of serious non-use offences are based only on repeat firearms offences. The escalating scheme will be three years for a first offence and five years for a second or subsequent offence for the following serious non-use offences.

First is possession of a loaded, restricted, or prohibited firearm. That's something the police have specifically brought to my attention—the prevalence, especially in big cities like Toronto, and the presence of these loaded firearms in motor vehicles especially.

Then we have firearms trafficking, possession for the purpose of trafficking, making an automatic firearm, firearm smuggling, and a new offence of robbery to steal a firearm. As an example, someone involved in the business of supplying illegal handguns to people and convicted of a firearms trafficking offence would face a mandatory penalty of three years' imprisonment. If the accused had a prior record for illegally possessing a restricted firearm with ammunition, the person would face a five-year mandatory minimum penalty.

•(1540)

A three-step escalating minimum penalty scheme of one year on a first offence, three years on a second offence, and five years on a third or subsequent offence will apply for the following offences: possession of a firearm obtained by a crime, possession of a firearm contrary to court order, a new offence of breaking and entering to steal a firearm, and the offence of using a firearm or imitation firearm in the commission of other indictable offences. As an example, someone who is convicted of breaking and entering into cottages to steal firearms that can subsequently be diverted onto the street would face at least one year in prison, and if that person has a criminal record for firearms trafficking, let's say two counts in the last ten years, then that person faces a five-year mandatory minimum penalty.

These penalties directly target the supply of handguns and restricted weapons to the criminals on our streets. They are a proportionate and necessary response to the handgun problem we face and they target the business of illegally supplying firearms. For the non-use offences, it is important to note that prior convictions in the last ten years, excluding time spent in custody for both use offences and non-use offences, will trigger the higher mandatory minimum penalties applicable in repeat offences.

There are a few reasons why two different penalty schemes are proposed for the non-use offences. First of all, several of these offences can cover quite a broad range of potential conduct with varying degrees of severity. Second, in the case of the offence of possessing a firearm contrary to court order, it does not currently attract a mandatory minimum penalty, but Bill C-10 will make an amendment to do so. On the other hand, clause 85, which is the additional charge of having a firearm or imitation firearm in the commission of an indictable offence like robbery, currently has a one-year mandatory minimum penalty on a first offence and three years on a second offence. These mandatory minimum penalties are being maintained in light of the fact that the courts are already required to impose those mandatory penalties consecutively to the penalties imposed for the underlying offence. However, a five-year minimum is being introduced for a third or subsequent offence.

Bill C-10 also proposes to create two new offences, one for breaking and entering to steal a firearm and another for robbery to steal a firearm. These amendments, which are firearm-specific, are intended to reflect the more serious nature of these offences where the accused are seeking to obtain illegal firearms, whether for their own use or to feed the illicit gun trade. These proposals also provide tough escalating minimum penalties consistent with the overall penalty scheme for serious firearm offences proposed in this bill.

Before closing, I'd like to speak about constitutional considerations. As Bill C-10 addresses the issue of penalties of imprisonment, it raises considerations under the Canadian Charter of Rights and Freedoms. Section 12 of the charter provides that people have the right not to be subjected to cruel or unusual punishment. The courts in Canada have frequently been called upon to assess the constitutional validity of the mandatory minimum penalties and imprisonment currently set out in the Criminal Code, and in particular many of those that apply to firearms offences. In examining these provisions, the courts have recognized that Parliament is entitled to take appropriate measures to address the

pressing problem of firearms-related crimes. In proposing the new range of penalties for certain firearms offences, we have taken under consideration the sentencing principles currently set out in the Criminal Code.

•(1545)

The code provides as a fundamental principle of the Canadian sentencing regime that a sentence should be proportionate to the gravity of the offence and the degree of responsibility of the offender. It also provides that the purpose of sentencing is to impose sanctions on offenders that are just and that contribute to respect for the law and the maintenance of a just, peaceful, and safe society.

Accordingly, the objectives in sentencing are to denounce unlawful conduct, deter the offender and others from committing offences, and separate offenders from society where necessary. Sentences must also assist in rehabilitating offenders, cause offenders to accept responsibility for their actions, and repair the harm they have caused to victims or the community.

The manner in which the highest mandatory minimum penalties will apply is intended to ensure they do not result in grossly disproportionate sentences. The highest level of ten years for using a firearm and five years for the non-use offences are reserved only for repeat firearm offenders. If an offender has a relevant and recent history of committing firearms offences, that is, within the past ten years, it's not unreasonable to ensure the specific sentencing goals of deterrence, denunciation, and separation of serious offenders from society are given priority by the sentencing court.

While the overall trend in firearms offences is generally downward, when it comes to guns and gangs, Canada has not yet made meaningful progress in tackling the challenge. With Bill C-10, we are aiming to make a positive dent in the recent trend of illegal firearms use and possession by street gangs. By specifically targeting serious firearms offences and repeat firearms offenders or organized criminals and recognizing the types of firearms they are using, Bill C-10 focuses on the problem it seeks to tackle.

This bill offers police and prosecutors the tools they have said they need to ensure that serious firearms offences are met with serious sanctions, especially when committed by street gangs.

Thank you very much.

•(1550)

The Chair: Thank you very much, Minister, for that presentation.

I will turn over the floor now to the opposition. Mr. Larry Bagnell, you have the floor.

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

Thank you for coming back again today, Minister. You're a bear for punishment.

My first question, so you can prepare while I'm doing my preamble, will be on aboriginal people, and I would like you to answer that particular question.

I'll start out by saying that although we're not against the principle of mandatory offences—we've put in a number related to gun crimes already—we're definitely against this bill for a number of reasons, some of which are from the esteemed previous Justice Minister Irwin Cotler. First of all, we would dramatically increase the incarceration of aboriginal people in this country. The wide evidence provided by experts in previous references already in the House show they don't work. Any media or anyone here who wants details of that should go to the debate of June 12, page 2225 of 2006. I'll make just one quote from there: "The story of the failure of mandatory penalties is at least three centuries old, said Michael Tonry in 'Crime & Justice: A Review of Research', University of Chicago Press 1992."

My speech on that page goes on to explain that even the evidence brought forward by the minister proves exactly the opposite, that it just doesn't work. And the minister, fortunately—I'm very happy—said in the first ten words that he seeks to protect public safety. But if you look at my speech in the House, I have ten reasons why this would actually reduce public safety.

So my first question is related to aboriginal people. As I said, we all agree that aboriginal people are already disproportionately incarcerated in our system. This would increase it dramatically. It would aggravate the problem, and it may even be contrary to the principle of sentencing, paragraph 718.2(e) of the code, which sets aside special sentencing for aboriginal people now and to take a look at their situations and their conditions.

If you make these sentences mandatory, so that there's no option for the judge to look at those options, that's against the principles of the Criminal Code. I would like to ask the minister for his comments on this. We're removing the judge's ability to act on this principle in the Criminal Code.

What are he and his department doing to reduce this problem—I'm sure all parties agree—of the inordinate proportion of aboriginal people incarcerated in Canada?

Hon. Vic Toews: Let's deal very briefly with the issue with respect to aboriginal people, because there are some significant errors that the member has made in his statement, first, with respect to the aboriginal people. I'd like to emphasize that neither the research nor the problem analysis revealed that the nature of the current gun crime problem is in any way aboriginal-specific.

In the development of these proposals, significant consideration was given to the importance of ensuring specific types of mandatory minimum penalties for specific types of activities, and I've gone into that quite at length. This is not targeted indiscriminately and certainly would not target aboriginals in a disproportionate way.

My office, Mr. Chair, has provided the clerk with a number of copies of studies with respect to the issue of mandatory minimum prison sentences, and unfortunately, those cannot be translated because of copyright issues. However, they all draw a direct positive

relationship between the introduction of targeted mandatory minimum penalties and a reduction in crime rates.

Now, for example, in "Using Sentence Enhancements to Distinguish between Deterrence and Incapacitation", by Levitt and Kessler, in *The Journal of Law and Economics*, volume 62—I believe the Roman numeral is.... At page 343, when discussing the California three strikes law, they state:

Crimes that were affected by the sentence enhancements in Proposition 8 fall by 4 percent relative to crimes that were not covered in the first year after the law change. The impact of the change increases to a decline of over 20% in eligible crimes 7 years after it is passed.

In a further study of these matters, Professor Levitt and Thomas Miles —

• (1555)

Hon. Larry Bagnell: Sorry, Minister. I asked you to only comment on aboriginal people. That's not related to aboriginal people at all.

Hon. Vic Toews: I'm not going to continue answering a question where the very basic premise of your question is in error, so I'll just complete this. I will deal with the aboriginal issue.

In further studies of these matters, Professor Levitt and Thomas Miles concluded in "The Empirical Study of Criminal Punishment" that there is a direct correlation between sentence enhancements, like mandatory penalties or truth in sentencing guidelines, and a decline in the crime rate. They attribute these findings to both the effects of deterrence and incapacitation.

I should also mention that the authors also discussed the need for appropriate levels of resourcing for police and crime-fighting strategies, both items that our government has committed to pursue. And I commend this chapter as an excellent discussion of these matters.

Another example is borne out in the study conducted by McDowell, Loftin, and—

Hon. Larry Bagnell: Minister, I don't want you to comment on those studies. That isn't what I asked you for. You're not going to answer about aboriginal people—

Hon. Vic Toews: Well, Mr. Chair, if the individual is bringing false information to the committee, then I'm entitled to respond.

Hon. Larry Bagnell: I'll go on to my next question.

Minister, there's—

Hon. Vic Toews: The study was conducted by McDowell, Loftin, and Wiersema, and it evaluated the effects of changes in gun laws. It considered the imposition of mandatory minimum penalties for gun crimes. There was a direct correlation, from 1969 to 1979, with the decline in the homicide rate in Detroit by ten per month.

There are a number of other studies of these sorts that are available that go to establishing the proposition that targeted mandatory minimum penalties lead to a direct reduction in the crimes that are targeted.

In respect of the issue of aboriginals, in the development of these proposals, significant consideration was given to the importance of ensuring that the enhanced mandatory minimum penalties would not target or impact aboriginal or other Canadians who use firearms for legitimate purposes, such as hunting. For example, we took the long gun issue but restricted it to the furtherance of a gun crime related to gangs, not to an aboriginal out hunting who might have made a mistake, or even to an aboriginal using a long gun to commit a murder. We're talking specifically about gun crimes.

Much effort was devoted to ensuring that the tougher measures focus specifically on the current pressing nature of the gun crime problem of guns and violence.

I'd like to emphasize, again, that neither the research nor the problem analysis revealed that the nature of the current gun crime problem is in any way aboriginal-specific. The available court data does not provide information on offender demographics, such as ethnic origin. Some of the information received from provincial partners and law enforcement agencies revealed, rather, that the nature of the current gang and gun violence problem that this bill addresses varies considerably in each area where it is being manifested. The response proposed in this bill is therefore general in terms of its application, but it is very specific in terms of its scope and the offences targeted.

It would be important to note that Bill C-10 does not propose to amend the minimum penalty of four years that currently exists for cases in which an ordinary hunting rifle or shotgun is used in an offence, nor does the bill target the offence of simple illegal possession of a firearm, unless the offender is subject to a firearms prohibition order that's been imposed by the court.

So the examples, and the red herring that the member brings forward, simply aren't justified. He's building an entire argument on something that this bill does not address and is trying to use those examples to excuse continued gun violence, especially with handguns, by gangs on the streets of our major urban cities.

The Chair: Thank you, Mr. Minister,

Mr. Bagnell, go ahead, if you have a response.

Hon. Larry Bagnell: Thank you.

We'll wait for the evidence from the experts, because the research vastly shows that it doesn't work. You must have scraped to get those two results, none of which are Canadian, and you don't have any Canadian evidence.

Hon. Vic Toews: Do you want me to provide more evidence, Mr. Bagnell?

Hon. Larry Bagnell: You also didn't answer my question about doing anything about aboriginal people. So I'll ask my next question.

Hon. Vic Toews: No, hold on.

Hon. Larry Bagnell: This is my time.

The Chair: Mr. Bagnell, maybe you would like to respond to that comment of his.

Hon. Larry Bagnell: How would you reduce the incarceration of aboriginal people?

Hon. Vic Toews: I specifically addressed the issue, Mr. Chair, about the issue relating to aboriginal offenders and how this does not target the aboriginal offenders.

• (1600)

Hon. Larry Bagnell: You didn't say how you'd reduce their—

Hon. Vic Toews: Mr. Bagnell refers to some statistics related to the increase in aboriginal offenders in prison when his government was in office for over thirteen years, something, I might add, his government did nothing about, as those numbers of aboriginal offenders increased in the prisons.

So that is a separate issue that we can talk about, but it's a red herring, because this bill doesn't target aboriginals, nor will it target ordinary aboriginal hunters who may have used a firearm in an inappropriate way, even in the course of a very serious offence, if they're not involved in a gang activity.

Hon. Larry Bagnell: Well the minister is wrong, because we did something. We actually brought in conditional sentences, which reduced that dramatically and improved the effectiveness of the system, fortunately, throughout his attempt in opposition to get rid of that success.

I'd like to ask the minister if he had any input.... Yesterday he made a cut, with no support from the department, no evidence from the department that the item, the Law Commission, should have been cut. Did he get any input from the department that he should impose these mandatory minimums and that they would actually be effective and would actually improve safety?

Hon. Vic Toews: I can read the copies of the studies that I've just brought to your attention again.

Hon. Larry Bagnell: No, I asked for recommendations from the department.

Hon. Vic Toews: Yes, the department has prepared this material for me, Mr. Bagnell. Secondly, I've consulted extensively with police.

One of the concerns that the police have had is the increasing number of restricted or prohibited firearms that they're finding in motor vehicles. It used to be that it was a rare event when a police officer found a restricted or prohibited firearm in a motor vehicle in the streets of Toronto, where I was speaking to the chief of police. Police officers from all over the city would come to look at the firearm. Now this happens on a regular, daily basis.

In the city of Montreal, for example, the chief there released a few months ago that in the last years there was a 25% increase in the use of handguns in crime. In my opinion, 25% is a significant increase.

The Chair: Thank you, Mr. Bagnell.

Mr. Ménard.

[Translation]

Mr. Réal Ménard (Hochelaga, BQ): First, Minister, I would appreciate brief answers. I do not want to know the story of your life or hear a long-winded sermon. I have six questions and I want brief answers. I will not hesitate to interrupt you. It is my time, not yours.

The logical point of departure is 1996 when legislation was passed that already provided four minimum penalties for four types of offence involving firearms. Going by your reasoning, you seem to be saying that the crime rate for offences involving firearms has increased.

I would like to know what that rate is. How is it that in 1995, minimum penalties did not work? Why would they work now?

I want a short answer because I have five other questions to put to you.

I am talking about the crime rate for offences involving firearms. What is it that was not working in 1995, when we already had minimum penalties? And why would they work now?

[English]

Hon. Vic Toews: While the trend of firearms crimes has been generally downward, there have been some changes in recent years. The proportion of violent crimes involving firearms decreased to a low point of 2.2% in 2002, but it has increased to 2.5% in 2004. In proportional terms, this represents about a 10% increase. Therefore, while the overall and longer-term national trends show a decrease in gun crimes over the last few decades, certain specific types of violent gun crimes are increasing in some areas of the country.

For example, firearms homicides have increased quite dramatically in Toronto. I noted some of the success that the police have been having in using very effective policing methods, but that's always one half of the equation. In Winnipeg and in Toronto, gang-related homicides and the proportion of handguns used in violent crimes are a major cause for concern. That is why the proposals in this bill focus quite specifically on that matter, because of that specific problem that the—

[Translation]

Mr. Réal Ménard: In 1995, there were minimum penalties for four offences. Were studies made? What is the evidence? Thank you for the statistics; we will look at them. We have different statistics, but in 1995, according to your reasoning, there were minimum penalties for four offences, robbery, manslaughter, etc. So if the minimum penalties did not work in 1995, why would they work now?

Do you have any Canadian studies on how the Department made this assessment? Aside from the Conservative Party platform, is there any evidence, things that could satisfy this committee scientifically concerning the legislation you are proposing to us?

•(1605)

[English]

Hon. Vic Toews: In fact, the 1995 laws did help. If the member is suggesting, Mr. Chair, that we just get rid of the 1995 laws, we would see quite a dramatic increase in the firearms offences. If the member is saying to get rid of those mandatory minimum sentences

that were there in 1995, there would be a huge difference that we would see.

The effect of the legislative measures in particular in mandatory minimum penalties is difficult to measure exactly because of numerous factors that could affect crime levels. A decrease in the proportion of violent crimes involving firearms began before the 1995 levels and continued to decline between 1995 and 2002. But there were, of course, other mandatory minimum penalties in effect already at that point.

In 1995, 5.4% of all violent crimes involved firearms. This proportion dropped to 2.2% in 2002, less than half of the percentage in 1995. Since 2002, however, the proportion of violent offences involving firearms has continued to increase.

[Translation]

Mr. Réal Ménard: Okay. I would like to know whether you think judges have done a bad job and have not handed out penalties that are severe enough or have failed to impose the compulsory minimum penalties. What is your reply to those who say, on a scientific basis, that people are deterred not by minimum penalties but by the possibility that they will be caught and tried?

What bothers me in your bill, with regard to the thoroughness which one can expect from a parliamentarian, is that I have the impression that you don't have any studies documenting the consequences of minimum penalties. I have the impression that this is purely ideological.

What is your criticism of judges? In what way are the existing penalties not suitable? Do you have any studies by your Department? Do not quote the Americans to us. Since 1995, have studies been done to support the bill that is now before us? If not, we will have to vote against it.

[English]

Hon. Vic Toews: If what you're saying is that it's ideological to want to separate dangerous offenders from society, then it's ideological, because those dangerous offenders, if allowed out on the street, continue to commit crimes.

One specific study indicated that for every serious offence committed by an individual who was actually incarcerated for a year, 12 other offences are not committed. That involves 12 other victims, at a minimum. So the issue is that we believe that not only does it assist in deterring that, but it specifically incapacitates that particular criminal who would choose to use a firearm.

[Translation]

Mr. Réal Ménard: My question is this: do you have any studies? Since 1995, has anyone at the Department of Justice done studies to support us in our conviction that minimum penalties are a deterrent? I know your point of view. It is known from coast to coast. But has someone at the Department done any studies since 1995, studies which you could put before us? Do not talk to me about Chicago, Michigan or New York, tell me about what is been done in Canada. Do you have studies, yes or no?

[English]

Hon. Vic Toews: I can do better than that. All the statistics that I have provided to you from Canada were from Statistics Canada.

[Translation]

Mr. Réal Ménard: Has your department done any studies since 1995? What you say is not logical. Since 1995, there have been minimum penalties for offences involving firearms. You say that despite these minimum penalties, these offences have continued to climb. We have figures to the contrary.

Has your department been tracking the situation so that it can really persuade us that Bill C-10 is worthwhile. Do not tell me about Chicago, Michigan, New Jersey or New York. I am talking about the Canadian situation. Yes or no, has your department done any studies? The only studies you have are those by Julian Roberts, which prove the opposite of Bill C-10.

[English]

Hon. Vic Toews: I understand that a number of studies were in fact on statistics provided to you, to the clerk.

• (1610)

[Translation]

Mr. Réal Ménard: From your Department? Aside from the one by Julian Roberts, I have not seen any. I am talking about studies by your Department, not U.S. studies.

Yes or no, Ms. Besner, have any studies been done by Justice Canada?

[English]

Hon. Vic Toews: No, this is from the Canadian Centre for Justice Statistics.

[Translation]

Mr. Réal Ménard: Are they statistics proving that increasing the penalties will have a deterrent effect? You can bring before this committee a study that says that increasing penalties will have a deterrent effect? You would be prepared to bet your place in paradise on it?

[English]

Hon. Vic Toews: I find this quite a curious discussion, about a member who supported a gun registry that was absolutely ineffective in reducing crime in any way, despite \$1 billion—

[Translation]

Mr. Réal Ménard: You are the one who does not support the Registry.

[English]

Hon. Vic Toews: Let me finish. I've been listening to you for quite a while now. Now let me answer.

The Chair: Monsieur Ménard—

[Translation]

Mr. Réal Ménard: The strange thing is that you are a Minister of Justice who does not believe in a firearm registry. That is strange for a Minister of Justice.

[English]

The Chair: Monsieur Ménard, your time is up.

Hon. Vic Toews: You obviously don't want an answer.

[Translation]

Mr. Réal Ménard: Do you have any Canadian studies, yes or no?

[English]

The Chair: Monsieur Ménard, your time is up. The minister can answer your question.

[Translation]

Mr. Réal Ménard: It is your election platform.

[English]

Hon. Vic Toews: What I can say is that I've provided all types of statistics to you, which you can draw to your own conclusions, but the point, Mr. Chair, is that this is a member who supports a gun registry, a long gun registry, that has completely failed—

[Translation]

Mr. Réal Ménard: Mr. Chairman, I want to remind you of the rules.

That is irrelevant. You should be ashamed to allow...

[English]

The Chair: Monsieur Ménard, do you have a point of order that you want to direct to the chair?

[Translation]

Mr. Réal Ménard: Mr. Chairman, I will not tolerate having motives imputed to me by a Minister of Justice who would like to see more firearms in circulation. It is shameful that this country has a justice minister who wants more firearms circulating.

Go to Dawson College. Would you be ready to come to the Dawson College with me?

[English]

Would you like to come to Dawson College with me? Whenever you want to come, I will be available.

[Translation]

But I will not tolerate having motives imputed to me by a Minister who is prepared to support...

[English]

The Chair: What is your point of order, Mr. Ménard?

[Translation]

Mr. Réal Ménard: Show us your studies. Come to Dawson College with me.

[English]

The Chair: That's no point of order. It's a point of debate.

We'll go to Mr. Comartin.

Mr. Comartin.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Chair, I have a point of order.

The Chair: Mr. Lee.

Mr. Derek Lee: I'm not quite used to this style of committee hearing. I want to point out that within the last minute or two, the minister has for his own reasons—we have free speech around here—resorted to ad hominem and personal references to the member, when around this table we're supposed to be discussing public policy with specific reference to this bill.

I think it would really help if we could keep the conversations focused. I'd ask the chair to help us do that, because we're not going to get too far if this kind of partisan back and forth stuff continues.

The Chair: Mr. Comartin.

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

Thank you, Mr. Minister, for being here, along with your officials.

Let me pursue this with a little less passion than Mr. Ménard and from a different angle.

In the latter part of the bill, in particular, from midway onward, you're dealing with specific crimes and how sentencing for those crimes will be done in a progressive way. Do you have any analysis?

As an example, I'm going to use the attempted murder section, where you again have progressive convictions and progressive sentences. I have to ask you this, and I ask this having had some experience. How many cases are there in Canada in any given year where a person will have committed or attempted to murder on the third occasion in a ten-year time span?

Hon. Vic Toews: I'm sorry, but you're missing the point. The prior conviction doesn't have to be for attempted murder. It could be a robbery, for example.

Mr. Joe Comartin: Even taking those, what about the number of offences that are—let me use the terminology because we seem to be using this a lot—of a serious violent nature?

• (1615)

Hon. Vic Toews: Serious use offence.

Mr. Joe Comartin: How many of those involve the use of a firearm? Do you know?

I have to say to you, Mr. Minister, that my own perception is that there are very few. I have to wonder about the amount of effort and the amount of fear we've created in this country over the numbers. My own assessment is that there are very few who are going to get caught by this legislation.

Do we have that, and if so, can you share it with the committee?

Hon. Vic Toews: The material was provided to you in annex two. It was provided to the clerk, so it's there.

But on the point you're making, if what you're saying is correct and this is only a rare kind of situation where it happens, then the response certainly isn't disproportionate. It is targeted at some very serious criminals who are using firearms on second and third occasions.

I can point you to annex two, the statistics on firearm-related Criminal Code sections, 1998 to 2004. It was a study prepared on May 23, 2006, by the research and statistics division of the Department of Justice Canada. The source is the adult criminal court survey conducted by the Canadian Centre for Justice Statistics.

Mr. Joe Comartin: Is there a corresponding analysis being done on how many people are going to be incarcerated, for how many additional years, and how much that is going to cost?

Hon. Vic Toews: Just one minute. I'll get that material here.

What we are doing is sending a serious message to those who would be inclined to get involved in serious gun crime. If they take the message to heart, there will be no need to significantly increase jail space; however, if more people need to be accommodated in federal penitentiaries as a result of tougher sentences being imposed for serious firearms offences, funds have been set aside in the budget to respond to that need.

It is estimated that the federal offender population may increase by approximately 270 offenders per year by the fifth year after implementation, at a cost of approximately \$246 million over five years—that's operational and capital—and \$40 million ongoing. These sums for Correctional Service Canada were included in the budget. While it's not expected that the provincial offender population will increase substantially as a result of the proposed penalties, given the length proposed it is expected that there will likely be some prosecutorial and administration of justice costs associated with these measures.

At the recent meeting of federal-provincial-territorial ministers responsible for justice, cumulative cost impacts of the new criminal justice system reforms were discussed, and officials will continue to look at ways of streamlining the criminal justice system. But I must say that, generally speaking, the proposals met with a great deal of support from provincial ministers.

Mr. Joe Comartin: The provincial ministers had prepared a report at that last meeting, which, up to this point, you've refused to release—or at least your department has. Did that report include an analysis of the extra costs the provinces were going to have to bear with regard to legal aid and additional prosecutors, additional judges, additional court time? Is there any analysis of that?

Hon. Vic Toews: Well, I would suggest there would be no increase in that respect, because if somebody is going to be going to a mandatory minimum prison sentence of four years, in any event, let's say as a result of the old law, that wouldn't change if the mandatory minimum is now five years. So I don't see the proposition of four-year mandatory minimum prison sentences for gun crimes—which your party supported during the election—increasing the legal aid budget in any way. In those kinds of offences, whether it was a mandatory four years, five years, seven years, or ten years, all of those individuals would be eligible for legal aid. And I'd point out that the former Minister of Justice, Irwin Cotler, was supportive of mandatory minimum prison sentences during the election as well.

• (1620)

Mr. Joe Comartin: You don't see that the progressive charges on the second and third offence are going to produce additional trial time?

Hon. Vic Toews: No, I wouldn't think so.

Mr. Joe Comartin: Do you think people are going to be more prepared to plead guilty, or at least as willing as they are now?

Hon. Vic Toews: As willing as before. I don't think we will see any significant difference in that respect.

Mr. Joe Comartin: You have a different perspective of how the courts work than I do, Mr. Minister.

You won't agree with this assumption, but I'm going to make it. My assumption is that there in fact will be a greater number of trials on this for the second and third offence because the penalties are substantially more severe, potentially, than they would be under the present—

Hon. Vic Toews: If I can just interrupt for a second, given your own point that these would be so rare, they would hardly ever occur....

Mr. Joe Comartin: Well, you've also created a number of new offences.

Hon. Vic Toews: So they aren't as rare as you said they were.

Mr. Joe Comartin: No. My question didn't deal with the new offences—

Hon. Vic Toews: Oh, okay.

Mr. Joe Comartin: —it dealt with the existing offences, Mr. Minister. Perhaps you should be—

Hon. Vic Toews: A little more attentive.

Mr. Joe Comartin: I was trying not to heat up the room again, Mr. Minister, so I wasn't going to say that.

But with the new offences and the number of additional years, potentially, that they're looking at, I'm making the assumption that the pretrial incarceration rate—while people are waiting for their trials—will go up, and in my home province of Ontario, at least, it's quite severe right now.

Hon. Vic Toews: Yes, it is.

Mr. Joe Comartin: Corresponding with that, I'm also concerned about the backlog of cases and the potential for this to increase as a result of this particular bill. Even if you don't assume my assumptions are right, has there in fact been an analysis of the impact on pretrial incarceration—the numbers—and the potential for

a further backlog and the risk of being faced with another Askov situation?

Hon. Vic Toews: What's driving the pretrial detention numbers is not mandatory minimum prison sentences but practices that lawyers have adopted and the practice of the courts granting double-time or triple-time credit for pretrial custody. That is a significant issue that needs to be addressed. In my opinion, this will not drive that any higher.

As you indicate, a person being up for a second and third time within ten years is a pretty rare kind of situation. The impact will not be as significant as you suggest, but what it will do is keep those very dangerous individuals in prison for a longer period of time.

The Chair: Mr. Comartin, your time is up.

Mr. Moore.

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

Thank you, Minister, for being here. I'm surprised it wasn't mentioned by any of my colleagues, but this is at least the fifth time you've been to this committee, and I want to commend you for that. You were here yesterday, and we appreciate your making time available to the committee.

I'd like your comments on a couple of things. One is from the Liberal platform, and I want to read it to you, if you don't mind:

A Liberal government will re-introduce legislation to crack down on violent crimes and gang violence,

—which is exactly what you're proposing here—

and to double the mandatory minimum sentences for serious gun-related crimes.

My read on doubling the sentence for a serious crime would be from a four-year minimum to an eight-year minimum on the first offence.

Hon. Vic Toews: That's correct.

Mr. Rob Moore: I'm going to read from the NDP platform:

Increase the mandatory minimum penalty for possession, sale and importation of illegal arms such as hand guns, assault rifles and automatic weapons. Place each of these minimum penalties at four years, up from current one-year penalty. Add mandatory minimum sentences to other weapons offences. Place a four-year minimum sentence on all weapon offences, such as "possession of a concealed weapon".

My read is that this goes even further in some cases than the government bill.

I appreciate that you and your department have tabled evidence to support Bill C-10. I think it's a well thought out bill. I commend you on the efforts made to make it proportional to the offence and the recidivist nature of some of the crimes.

I also want to give the opportunity to the Liberals and the NDP on this committee to table the evidence they studied to bring this forward in their platform. I'd like to give them the same opportunity you have taken to table the studies they must have undertaken to come up with their proposals and platforms that go beyond what our government bill does. I look forward to your tabling that evidence.

Mr. Bagnell quoted former Justice Minister Cotler who said, "Minimum sentences are sometimes required to send a message of 'denunciation' to potential offenders." I would agree with him on that.

Could you comment on the proportionality and incremental nature of this bill and how it's not as strict as the Liberals' platform, which proposed an eight-year first-time mandatory minimum?

• (1625)

Hon. Vic Toews: Exactly.

I examined the Liberal proposal of imposing a mandatory eight-year prison sentence for a first offence. In my opinion, that was disproportionate. We tried to take the suggestion the NDP made during their election platform, where they said that every firearms offence would be at least a four-year mandatory minimum sentence. We tried to sort out the non-use and use and then do it proportionately.

Instead of the mandatory eight years that the Liberals wanted, we said, all right, raise it on the first offence to five years, on the second offence it will be seven years—again a full year lower than the Liberals—and then only on the third offence will it be a mandatory minimum sentence of ten years. Rather than use this bull in the china shop approach that the Liberals used—which, in my opinion, ignores some constitutional issues—we wanted to do it on a proportionate basis that would denounce and deter the conduct but not jeopardize the legislation in the manner the Liberals wanted to.

Similarly, with the NDP, I looked at their four-year mandatory minimum for first offences. Again, they didn't discriminate between non-youth and youth. We said, well, on some of these offences that would be too harsh. So we looked at three years on the smuggling and trafficking, as opposed to the four years the NDP wanted. Again, it was a one-year, a three-year, and a five-year sentence, as opposed to this flat four years the NDP wanted to propose.

If you actually look at the proposed legislation we brought here today, not only isn't it indiscriminate in terms of its application, it's very specific to the problem that was identified, which is gangs using firearms in the context of drug-related and other situations.

We've heard about many serious situations. There was a situation where an officer was shot recently, in very unfortunate circumstances, in Windsor. If you look at the facts that were reported in the newspaper, you'll see that our bill targets exactly that kind of activity—that is if those facts that were provided are true.

Mr. Rob Moore: Thank you, Minister.

I think some people would find this confusing. If you had asked a couple of months ago, the Liberals and the NDP would have said this bill doesn't go far enough. From what I'm hearing now, they're all saying it goes too far, which is a little surprising. It is just the right balance. It's proportional, and it's targeting a very specific type of offence.

I live in a rural riding, in some parts. Can you comment a bit on a concern in my riding about the two new offences this bill brings in: robbery where a firearm is stolen, and breaking and entering and stealing, or intending to steal, a firearm? We consider these to be very serious. Why are those specific offences targeted by this bill?

Hon. Vic Toews: That's a very good question.

Obviously, firearms come from somewhere. Most of the firearms—95% of the handguns used in these homicides and drug-related crimes—are stolen or otherwise illegally obtained. We don't want to make it easier on the individual who is actually stealing the firearms by breaking into homes. I know that in Bill C-9, the NDP, the Liberals, and the Bloc said that breaking and entering is not that serious an offence because it's a property offence. The point is that many of these handguns and firearms are stolen from people's houses. We want to specifically deter that kind of conduct by increasing the mandatory minimum penalty to three years for a first offence...as well as the trafficking.

We want to dry up the supply of guns. It's not enough that we are strengthening our border patrols, as our government has done, to prevent the flow of guns into Canada. That's very important. We know that many of these guns are coming from the United States. These guns are illegal, and it's important to stop that trafficking.

But we also want to take care of our own house. I don't want to simply blame Americans for our problems if we're not making the effort to stop the breaking and entering into homes where these guns are being stolen. Again, a very key element to drying up the supply of guns is actually taking steps inside of Canada to do that.

To clarify, for break and enter—I might be mistaken—on the first offence, it is a year for firearms, and with a robbery it's three years.

• (1630)

The Chair: Thank you, Mr. Moore.

Mr. Lee.

Mr. Derek Lee: Thank you.

I'll start by asking the minister if he has any data for the 2006 year from Toronto in terms of firearms incidents or firearms homicides. I take it that he doesn't, but—

Hon. Vic Toews: Oh yes, I do.

Mr. Derek Lee: You do have them for this year?

Hon. Vic Toews: I think it was widely reported recently in the newspaper that through very aggressive policing actions we have seen a decrease in gun crime. The point that is made—

Mr. Derek Lee: That was my point, so thank you for making it.

Hon. Vic Toews: But hold it, the second point—

Mr. Derek Lee: No, I'm not going to hold it. It's my time, Mr. Minister. You've answered my question. If you have the data, you can give it to us. If you don't have the data, you don't have to give it to us. You appear—

Hon. Vic Toews: I haven't finished.

Mr. Derek Lee: Well, I'm finished, because I'm going to move on to my question. You've answered mine. Thank you very much.

Hon. Vic Toews: That's fine. I'll answer it later.

Mr. Derek Lee: I appreciate the manner in which the minister patronizes his parliamentary secretary, patting him on the head, saying, "Good question, excellent question".

Hon. Vic Toews: This is unbelievable, unbelievable.

Mr. Derek Lee: This is not the way I'm used to doing business around a committee, and a legislative committee.

The Chair: Order. I agree with the minister. That's the way it goes.

Mr. Derek Lee: I took note of the minister's question and wonderful response to the parliamentary secretary.

The Chair: Order. Direct your question, Mr. Lee. Direct your question to the minister.

Mr. Derek Lee: I have my time, Mr. Chairman.

So the Toronto firearm incidents have dropped significantly. The point I would make, since we all seem to be making points around the table here, is that last year was a very negative spike in the number of firearm incidents.

Earlier in your remarks, Minister, you mentioned that you had some research data. You cited the authors and you made reference to the fact that you might not be able to provide the whole study or—

Hon. Vic Toews: No, because we weren't allowed to translate it for copyright reasons, and that's why I gave the information here.

Mr. Derek Lee: Our researchers can access that easily, and I assume they have or they will, because that data is useful and obviously relevant.

This is one bill, we numbered it Bill C-10, but there are two other bills, Bill C-9 and Bill C-27. Each of these bills, Minister, deals with the Criminal Code, deals with sentencing. I'm wondering why we have three bills. Why didn't the government simply introduce one bill dealing with Criminal Code sentencing, dealing with conditional sentencing, in this bill mandatory minimums and the other involving long-term offenders? Wouldn't that have been the simple and prudent thing to do? Why did you choose three bills instead of one?

Hon. Vic Toews: Because each one tackles a different issue, a different aspect of sentencing.

We have seen, for example—getting back to the earlier question, Mr. Chair—in other jurisdictions, when you simply arrest but don't put people in prison for long periods of time, the crime rate jumps back up again. So as I was saying in answer to the earlier question, in which I was interrupted, policing is an important aspect of it, but if there are no meaningful consequences, if the people aren't actually kept off the street, you'll see the crime rates spike right back again.

The police in Toronto have done an excellent job in terms of arresting and putting those individuals back in prison and in remand. But if you actually look at the statistics of the individuals who committed firearms offences and are out on bail, you can see that once these individuals are back out on the street they're committing the firearms offences. So if there aren't meaningful sentences...and I'm assuming that's why Mr. Lee, during the election, supported mandatory eight-year sentences for these gun crimes. He took exactly the same position.

• (1635)

Mr. Derek Lee: It's probably worth pointing out, Minister, that the success of the Toronto police force and other police forces in response to the violence of the last year or two...that progress was made with the existing laws, not the new laws. The police are actually doing very well working with the laws that exist.

That's not to say we can't make changes in these laws, and I can't imagine there would be many Canadians who wouldn't want to have public safety improvements by amendments to the Criminal Code and changes in sentencing. So this committee and the House will look at this bill fairly.

I know my party included an increase in the number of mandatory minimums in the Criminal Code in the last election campaign. I guess the point is that now the Conservatives are in government and they're the ones who have introduced the bill, it is the bill that will have to be tested here.

Hon. Vic Toews: Yes, as opposed to your election promises, which will be tested in another election.

An hon. member: When's that going to be? Can you tell us when that's going to be?

Hon. Vic Toews: No, I'm sorry, I don't know.

An hon. member: You're in the driver's seat.

The Chair: Thank you, Mr. Lee.

Mr. Lemay.

[*Translation*]

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

Let us not talk about elections, let us talk about the law.

I have a very specific question, Minister. You will see that I have done my homework. If your bill is passed, will young offenders' criminal record be taken into consideration in sentencing?

[*Editor's note: Technical difficulty*]

My time is being reduced. That time doesn't count, isn't that right, Mr. Chairman? It is very important that we know the answer to this question.

[*English*]

The Chair: I'm generally pretty generous.

Mr. Marc Lemay: Thanks a lot, Mr. Chair.

Hon. Vic Toews: I'll let an official answer that.

[Translation]

Mr. Marc Lemay: Well, wait. Excuse me, Ms. Besner, but I want to put my question very precisely; it will be even easier.

Take the case of a 17-year-old.

[English]

Hon. Vic Toews: But she did give a good explanation to me, and I'm sure you'd like to hear it.

You wouldn't? Okay.

[Translation]

Mr. Marc Lemay: No, Minister. What I mean is that I will ask my question in full and that will allow Ms. Besner to...

Take the example of someone who has just turned 18, and who at the age of 16 was sentenced for two break and enters. Suppose that during those break and enters in people's homes, he stole handguns, revolvers. He comes before the judge when he has just turned 19. As I see it, his criminal record as a young offender would apply.

What will be the minimum compulsory sentence the court will have to impose on him if Bill C-10 is passed? Have I understood correctly that it would be at least five years?

Ms. Julie Besner (Counsel, Criminal Policy Section, Department of Justice): There is no change in policy regarding the penalty which applies under the law to young teenagers. For those cases where the Crown may ask for an adult penalty, the same policy would apply. In this respect, the Bill does not change anything.

If the individual has a criminal record as a result of offences or convictions mentioned in the Bill, the Crown will look at that criminal record and make a decision as to whether to seek a harsher penalty because the person is re-offending, and if the Crown does decide that this is appropriate under the circumstances, then he or she will give notice accordingly.

•(1640)

Mr. Marc Lemay: So it is possible that a 19-year-old being sentenced for the first time as an adult could get five years in penitentiary?

[English]

Hon. Vic Toews: I'm getting some mixed advice here. That's why I was....

My own view is that you're not convicted of an offence for those purposes as a juvenile. It's only as an adult. But as an adult, if he committed one of the serious use offences—attempted murder, let's say—there would be a mandatory five-year minimum.

[Translation]

Mr. Marc Lemay: No, wait. My question is on a more subtle point, Minister. I have read the proposed section 98. As I told you, I have done my homework.

Under the new section 98 which you want Parliament to pass, a 9-year-old—and this is known, because in small communities, the criminal records of those familiar to the police are known; I know, I have met some—could be sentenced to penitentiary for a minimum

of five years for break and enters during which he stole some firearms. That is what the new section 98 provides.

[English]

Hon. Vic Toews: I'd have to check that because I'm not sure.

[Translation]

Mr. Marc Lemay: Alright. That leads me to my next question.

Minister, the Supreme Court has made two important decisions. There is the Smith decision of 1987, which everyone here is familiar with, I am sure. In that decision, the Court stated that minimum prison sentences of seven years for importing or exporting narcotics were cruel and unusual. That is a Supreme Court decision from 1987; I do not think there is any question about that.

In 2000, there was the Morissey decision, also from the Supreme Court...

[English]

Hon. Vic Toews: I'm sorry, I'm just trying to follow, because on the importation, the mandatory minimum that was struck down occurred much earlier than 1997, where the—

[Translation]

Mr. Marc Lemay: No, 1987.

[English]

Hon. Vic Toews: I'm sorry, 1987. Pardon me.

[Translation]

Mr. Marc Lemay: The Smith decision was in 1987. I cannot be mistaken; that is not possible.

[English]

Hon. Vic Toews: I thought you were talking about another—

The Chair: Mr. Lemay, put your question quickly. Your time is up.

[Translation]

Mr. Marc Lemay: Here is what I want to know. Have you made any analyses, any studies to determine whether your Bill C-10 could pass the Supreme Court's test, in light of the Smith decision of 1987? Do you think it could?

[English]

Hon. Vic Toews: Exactly. And I think this was the concern I had with the NDP proposal for the mandatory minimum of four years, without concern about what type of firearm offence it was, and the Liberal mandatory minimum of eight years. In my opinion, that ran into some serious proportionality problems. So what we have done is targeted very specifically eight serious use offences.

As you will recall in the Smith case, the potential was that a person could bring one joint of marijuana across the border and therefore be subjected to seven years. It wasn't that importing a pound of marijuana wouldn't attract seven years in an appropriate fashion. It was the potential for the one joint to give seven years, and there was no proportionality in that, much like the Liberal approach of just saying eight years. So what we've done is to say on a first offence, five years, because that is consistent with I think the Supreme Court of Canada decisions regarding mandatory minimum prison sentences for serious use offences—again, very specific crimes—and some of the other mandatory minimums, a one-year mandatory minimum for the break and enter and the stealing of the firearm. With respect to the non-use in trafficking or smuggling, it would be three years. Again, it's proportionate to the type of crime we're dealing with.

So the legal analysis in this case I think is quite solid, whereas the Liberal approach of simply saying whoever you are, you're getting eight years for a firearms offence, would have been struck down quite quickly on the basis of the Smith case. But in this kind of situation, the department has done the analysis of the existing case law to ensure that the response is proportionate to the initial crime and then built on that.

• (1645)

The Chair: Thank you, Mr. Lemay.

Mr. Brown.

Mr. Patrick Brown (Barrie, CPC): Thank you, Mr. Hanger.

Thank you, Mr. Minister, for another appearance before our committee. I applauded you on Monday for your numerous appearances here, and you've shown again today that you have truly taken the time to hear the concerns of the justice committee.

I share your concern, Mr. Minister, that the status quo is inadequate, and that's certainly what I've heard in my riding; that's certainly what I've heard in central Ontario. I would suggest there is a thirst for more deterrence, and I enthusiastically support this legislation because I think that's precisely what it does.

I've heard some rationalization of the status quo. I think if you talk to the average Canadian, that's not what you're going to hear. I know that typically we view gun crime to be the domain of large cities, and that's not the case. I come from a municipality of 130,000, and in Letitia Heights, a quiet neighbourhood, recently we had a shooting. Canadians deserve to feel safe within the confines of their neighbourhoods, and this legislation I think heads in that direction.

So my question, Minister, would be twofold. One, does your research suggest that we're going to see a sense of deterrence created with this legislation, and what are the positive effects we're going to see for Canadian public safety with this renewed sense of deterrence for gun criminals? Secondly, have you had any consultation with Canadian police officers or police associations, and what feedback have they given you? I noticed one of my colleagues praised the Toronto police, so in the effort of praising them we should also listen to them. What are those police officers telling you?

Hon. Vic Toews: Certainly in my discussions not only with the Toronto Police Association but with the Toronto police chief, they've

been very supportive, not only of Bill C-10, but of Bill C-9, which was unfortunately gutted by the opposition.

On the issue with respect to the increase in penalties, yes, we believe that is important along with policing. You can't have one without the other. It doesn't help to simply have tough laws on the books without policing. So the policing that we have seen the Toronto police do this summer has been exceptional—very hard work, targeted. I think you should have the chief here to talk about the use of resources to actually apprehend these individuals. The stories they're telling me about the amount of manpower they need—or “person-power”, whatever the politically correct term is—has been incredible.

They're investing all this in police presence, but if they're not getting appropriate sentences, it's a revolving door over and over again. They point out the fact of the numerous killings or shootings in Toronto that were committed by people out on bail. The numbers are simply staggering. So, again, it shows you that having those people incapacitated, even if it's not going to deter them when they're out, is going to save lives in a very real sense.

So what we've tried to do in listening to the police.... For example, the issue of the loaded or restricted firearm inside a motor vehicle, just possession, is a growing problem. Every police officer walking up to a car now has to assume that there is a loaded firearm in that car. That's an intolerable state of affairs, something that would have never occurred....

I remember years ago prosecuting back in 1977. A police officer on highway number 1 at 2 o'clock in the morning stops a car, the door opens, and the handgun falls out. That was such an exceptional circumstance back then. Now they assume it occurs.

The handguns are being kept under the front driver's seat. So there will be three or four gang members in the car, and then it's difficult to prove the possession—so very difficult to prove. We believe that if you're making a practice of carrying this handgun in your car, loaded, there should be significant consequences.

Now, if the NDP say, look, we should move that up to four years, in that kind of circumstance, I would say, yes, let's move it up to four years. We haven't done that; we've said three years.

Again, I disagree with what the Liberals did. For example, a firearm, a long gun...an aboriginal using it and getting eight years doesn't make sense to me either. There has to be a proportionate response. So I would reject the Liberal response as being one that would unnecessarily increase the inmates in prison of a certain type, who can, I believe, be deterred in other ways other than using the Liberal approach.

• (1650)

The Chair: Thank you, Mr. Brown.

Mr. Easter.

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair.

Welcome, Minister.

I'll not be quite as accommodating as your colleagues across the way because I believe you have a responsibility to be here at this committee when you present legislation.

That's right, but you'd think the minister was coming just because he wanted to be here listening to the crowd on the other side.

Hon. Vic Toews: Well, actually, I do want to listen.

Hon. Wayne Easter: That's good.

You do have a responsibility to be here, but more than that, I think you have a responsibility to provide concrete evidence so that the committee can make evidence-based decisions with background data and not supposition. I'll give you an example that you just used. I don't think you presented the evidence to this committee. You just said a moment ago that the police are telling you they're not getting the proper sentences. I expect the police to say that.

Hon. Vic Toews: No, that's not what I said.

Hon. Wayne Easter: In some cases they're not.

Hon. Vic Toews: That's not what I said. I said it was difficult.

Hon. Wayne Easter: You said this, and I'll quote, "The numbers are simply staggering", of those out on bail. Do you have any documented evidence? Can you provide this committee—

Hon. Vic Toews: Yes, we can get that for you.

Hon. Wayne Easter: —with the background information on what you just said, what the sentences are?

Hon. Vic Toews: No, that's on bail, not the sentences.

Hon. Wayne Easter: That's on bail. Well, give the committee something to work with. The decisions need to be evidence-based.

Your emphasis in this bill, in my opinion, seems to be on the mandatory minimums, and I think, in response to Mr. Comartin, you said that we need to send a message. Well, all the evidence, Mr. Minister, in fairness, that we have seen to date suggests that it isn't the severity of the penalty that's the deterrent, but it's having police in the streets, having preventive measures, and getting the information out that makes a lot more difference than just getting the message out on the severity of the sentence. Would you agree with that?

Hon. Vic Toews: No, it's not just the police presence. The police presence is an important aspect of it.

In respect of the statistics, I'd certainly be willing to review the statistics that your party considered in coming up with the eight-year mandatory minimum prison sentences, because I don't think that is justified either. There needs to be a proportionate response. But if you could share that information with me, perhaps I could make a more informed decision about whether we should go from the graduated approach that we have taken, the proportionate tailored approach with respect to certain offences, to this blanket eight-year penalty. I'd like to see that information, and that would perhaps help me come to a different conclusion. I'm sure you could share that with me.

•(1655)

Hon. Wayne Easter: You're the minister. You have available to you all the experience and information from the department. I'm sure you can access that information.

I do find it interesting that in response to a question from Mr. Lee, you did talk about the stats of 2005 but failed to talk about the stats of 2006, because the 2006 stats don't make your argument on the scourge of—

Hon. Vic Toews: If I can just point out, that's where Mr. Lee cut me off and wouldn't let me respond, if you'll recall that exchange.

Hon. Wayne Easter: Well, I'll cut you off too.

Hon. Vic Toews: Okay.

Hon. Wayne Easter: The last question I had is that the bill is mainly targeted at prohibitive weapons, handguns. Does it apply to shotgun crimes?

Hon. Vic Toews: Yes, it does. It applies in a specific context, in the context of gang activity. What we're trying to focus on here is gang-related activity. A person using a shotgun, for example, in the context of a gang-related activity, would attract these new mandatory minimum penalties, so would using restricted or prohibited firearms. It does not apply to the long guns in the kinds of situations for which Mr. Bagnell wanted to raise the mandatory minimums to eight years. If an aboriginal hunter got into a fight with somebody and used a long gun to wound somebody, that wouldn't trigger the new mandatory minimum penalties. We feel that Mr. Bagnell's approach of the eight years' mandatory for an aboriginal hunter would not be appropriate in that circumstance. You could see that the firearms, whether they're restricted, prohibited, or long gun, are in the context of a gang-related activity. That addresses, then, also, Mr. Easter, the issue of the concern about simply filling up prisons with people who shouldn't be there for as long a period of time. It's very targeted, rather than a blanket mandatory minimum.

The Chair: Thank you, Mr. Easter.

Mr. Thompson.

Mr. Myron Thompson (Wild Rose, CPC): Thank you, Mr. Minister, for being here.

Hon. Vic Toews: It's my responsibility to be here.

Mr. Myron Thompson: That's what I heard. But more than anything else, I want to thank you for bringing forward this legislation. I've been here thirteen years, and I've always been excited when some kind of legislation would come forward that would have the victims' interests at heart. I'm seeing that now, and I really want to thank you for that, because I haven't been seeing it for a long, long time.

Hon. Vic Toews: Thirteen long years.

Mr. Myron Thompson: Focusing on the victims is a really good idea. It's a really unique idea to dealing with crime and what we should do.

When it comes to gangs, before the election last year I did some visiting of penitentiaries and checking the gang numbers in the penitentiaries and what their activities were. After the election I got quite interested in it and I continued that until we finally had to come back here to work in April. But I visited with the SIO officers, I believe they're called, the individuals in the penitentiaries who are responsible for looking after gang activity in the penitentiaries. I also visited with some of the members of these gangs. There was the Posse, the Bandidos, the Warriors, Asian gangs, motorcycle gangs. There were all types of gangs.

One thing that's a bit surprising is that it didn't matter what the gang was, there were all walks of life that belonged to those gangs. The Indian gang, so to speak, was not just aboriginal people. There were actually some other people who were involved in it, because it's all about making money; it's all about getting-rich schemes.

I had some interesting conversations with them, Mr. Minister, in terms of what would it do to stop the kind of activity that's going on. I find it sad for them to say, "Well, there isn't a whole lot for us to worry about right now. There isn't too much that's going to occur. Yes, there are some of us in here for life, but that's what happens when you murder somebody." But there's much more to the active issue. These are the people who are actually trying to change their lives and want to do something.

I asked, "What about the registry? Did that have any effect?" They laughed and said, "Did nobody tell you about gangs? We don't register our guns." Well, no, nobody really told me that. I just sort of suspected that was true. They said, "Why don't you toughen up the laws? Why don't you build more prisons if you have to? There are a lot of bad people out there in gangs, and they need to be stored." These are actual words coming from those who were convicted and are in penitentiaries today, those belonging to gangs, saying, "It is getting out of hand. When I got into it, I didn't think it would go to this severity, but it's getting worse and worse."

So I commend you on this legislation. It's a step in getting tough on them. I get sick and tired of hearing about the registry, which has not saved one life that I know of—not one. We have to do something about protecting the innocent people, the victims, and I applaud you for that. I think this bill is going to do it.

That's my speech.

I have one question, on Mayerthorpe. I'll never forget the Mayerthorpe tragedy. It's one of the worst we've ever seen in this country, where four officers lost their lives. You know the mastermind behind that activity, the criminal that was involved? If this kind of legislation had been in place, what would be the likelihood of that guy being out where he could commit that kind of crime?

• (1700)

Hon. Vic Toews: I agree that the Mayerthorpe situation was a terrible tragedy. Indeed it was more than a tragedy, it was a crime. I always like to specifically call things a crime rather than a tragedy. A tragedy somehow indicates to me that it couldn't be averted, and I prefer to see these as cold-blooded crimes.

I don't know what the record was of that individual. I have to agree with Mr. Comartin that some of the repeat offenders here

would be fairly rare, but isn't that who we should be targeting, those repeat offenders who keep on coming back and using firearms to injure their fellow citizens and injure the police who are out there every day helping us go about our lives? I don't know whether he had prior offences.

Obviously, had that individual lived he would have faced first degree murder charges. The 25-year mandatory minimum for first degree murder was brought in by a Liberal government, and it's something that I support—life imprisonment for those individuals convicted of first degree murder.

In that particular case, had the individual been left alive and let's say the officers had not been killed, let's say they had been injured, we certainly would have been able to then attack him under the dangerous offender legislation. As a result of the decision in 2003, the number of dangerous offender applications has been halved in this country. It's gone from about 25 a year—because we're talking about the really dangerous individuals—to about 12 as a result of that decision. So what we are trying to do in our dangerous offender legislation is restore the law as it was prior to that Supreme Court of Canada decision in order that the 12 or 13 individuals who are now escaping this dangerous offender net are picked up in that net so that people are protected. That's what we're trying to do.

Are we going to get everyone? No, we're not. But we can do a much better job than we have been doing. Part of it is mandatory minimum prison sentences. Another part of it is policing. Another part of it, which I happen to believe in very strongly, is diversion of youth, opportunities for youth, so that we get them out of the gangs and so that they don't get into the gangs. It's a very important aspect. That's why I'm proud of my government's efforts in that respect.

So you can't look at this bill and say it's going to cure everything. It's not going to cure everything. There has to be a holistic, societal approach to dealing with the issue of crime.

I'm proud that my government is supporting more diversion. I'm proud of the aboriginal justice strategy programs that my department is involved in. But I also want to say that with all of the money we're putting into social programs, educational programs, community programs, if we're leaving the guys with the guns and the drugs out on the street, what chance does that next generation have when they're recruiting these kids at eight, nine, ten, eleven, twelve years old? When we leave those individuals out on the street, what chance do those young people have to ever get out of that life of crime?

So this is one aspect of giving those younger kids a break, because they're victims too, the individuals who in the early years are tempted into the gang life. I've seen that development over the past 15 years in a place like Winnipeg, especially, which I'm most familiar with. The kind of gang crime that we have going on now didn't exist back in 1990. In 1991 there was an explosion of gang crime. We need to find appropriate tools. Diversion is a good one, but also policing, giving our police the support they need, and thirdly, the mandatory minimum prison sentences for those guys who just won't learn.

• (1705)

Mr. Myron Thompson: Recruiting of young people by the gangs is one thing they mentioned that is getting completely out of hand.

The Chair: Thank you, Mr. Thompson.

Mr. Murphy.

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

There's some agreement that mandatory minimums are useful in this justice context. The effect of the 1995 introduction of mandatory minimums probably hasn't been objectively empirically studied enough to see what good they have done in deterrence. One would think that has to be done as we go forward.

The second thing I'm happy to hear you say—and I want to get the tape of it—is that you considered Liberals, at least during the campaign, to be tougher on crime than the Conservatives, so I appreciate that comment.

I'm going to ask all of my questions at once, because you're passionate about your beliefs here—perhaps often wrong, but never in doubt. I don't want to give you short change on the answer time, so I'll just posit the questions one by one.

When we received our briefing from the Justice people, there was a Mr. Daubney who prepared a report for Justice, and unless things have changed drastically—and I was certainly new at the job—I didn't think the Department of Justice was overwhelmingly recommending further mandatory minimums. I'd ask you to comment on whether there has been a born-again retribution and denunciation religion that I'm unaware of within the justice department.

On the studies themselves, you mentioned that you have the names of studies. We're looking forward to getting those once the copyright translation issues are dealt with.

Hon. Vic Toews: We won't be able to deal with the copyright translation, but—

Mr. Brian Murphy: Mr. Chairman, on a point of order, I'll just get the questions out, and then the minister's passion can overflow the cup.

Levitt and Kessler is one you mentioned. But as you know, we have Loftin and McDowell and all these other competing studies that on the whole suggest that the deterrent effect of increased mandatory minimums is not there. The empirical studies don't support your allegations that this will work, and we've seen lukewarm responses on these studies in general.

On the aboriginal aspect, I don't think you fairly answered Mr. Bagnell's question. You make it sound in your answer—and I'll wait until you get your advice before I ask this pertinent question—

Hon. Vic Toews: I have to try to remember all your questions.

Mr. Brian Murphy: I know, and I'm going quickly to give you more time to answer, Mr. Minister. We all like to hear you, especially when you say Liberals are tougher on crime than Conservatives. Those are magic words.

Hon. Vic Toews: During an election.

Mr. Brian Murphy: That's what I said. I didn't take you out of context.

On aboriginal crimes involving the disproportionate aspect of aboriginal “incarcerees”—if that's a word—how will paragraph 718.2(e), “Other sentencing principles”, be further honoured by further imposition of mandatory minimums? And more important than what you will say or what I say, do the associations that represent aboriginals—some of which we read today, like that of Chief Brazeau, who is friendly to your government—support your position on mandatory minimums?

● (1710)

Hon. Vic Toews: Let's deal with this issue of the born-again Department of Justice. When I came to the Department of Justice, a very interesting dialogue occurred. We had a wonderful dialogue about the most effective way of carrying out the election promises our government made.

For example, you'll note in our election promise that it was ten years for firearms offences. So we looked at that particular issue and said, is that a proportionate response? That's something the department says. What can be justified is—and they developed the program for us, so that only on a third offence would it be a mandatory minimum ten-year sentence.

I also heard what the Liberals were saying during the election. So I thought, a Liberal saying eight years, let's see where we can work with that. We heard Mr. Comartin during the election, or his party, at least, say a mandatory four years. So we took all those and said, what's a proportionate response? So I had a very good dialogue with the department.

I can tell you I didn't write the bill you have here. It took a lot of dialogue with the department, with interest groups across the country.

Now the suggestion that we should go to the aboriginals and ask what they think about this particular bill.... This is not targeted at aboriginals. The Canadian Police Association, for example, includes many aboriginal organizations as well—police organizations. The CPA has been very supportive of this type of legislation, and I'm sure they've canvassed the police officers in that context.

What we also want to point out is that the bill itself doesn't target the kinds of concerns Mr. Bagnell raised about an individual with a hunting rifle who injures somebody with that hunting rifle. For example, if you had a duck hunter who was down on his luck, who walked into a store, held it up with a shotgun, that wouldn't attract these mandatory minimum prison sentences, other than the existing ones that were put in place, I believe, by your government—the four-year mandatory minimum.

So the issue here is, we are not targeting, nor does the legislation in any way affect, those types of sentencing principles. What we are doing is targeting gang activity and the use of firearms in the context of gang activity, and therefore we believe it's proportionate. It's a proportionate response to a very serious problem.

Mr. Brian Murphy: So you would just....

Just twenty seconds?

The Chair: Make it twenty. Your time is actually up.

Mr. Brian Murphy: So you would say under section 239, attempted murder, if someone tried that three times, the duck hunter down on his luck—and I'm a duck hunter, but I'm not always down on my luck. If you go into a store, or whatever, it's attempted murder. The third time it's a minimum of four years under the 1995 amendments. The third time, if I'm a member of a gang or a criminal organization, it's ten years minimum, and there's a difference because it's a different type of gun.

I'm a duck hunter. I have a shotgun in the first case. In the second case I have a restricted—

Hon. Vic Toews: Is this a gang walking into the store—

Mr. Brian Murphy: With a restricted weapon.

Hon. Vic Toews: Even a shotgun, for example.

Mr. Brian Murphy: I was trying to make it very simple, yes.

• (1715)

Hon. Vic Toews: Five years, first-time gang activity, whereas if it were the duck hunter down on his luck, it would be four.

Mr. Brian Murphy: But for the duck hunter, the third time it's four years still, minimum. He'll get more, I know that, but it's four years minimum. For the gang member with the shotgun, let's say, for the third time it's ten years.

Hon. Vic Toews: That's right.

Mr. Brian Murphy: Same weapon, different activity, more than double the—

Hon. Vic Toews: That's right, different context. That's correct.

The Chair: Thank you, Mr. Murphy.

Mr. Breitkreuz.

Mr. Garry Breitkreuz (Yorkton—Melville, CPC): Thank you very much, Mr. Chair.

Thank you, Mr. Minister.

As you know, I've dealt with this particular issue for quite some time. I find it very interesting that during the election campaign the Liberals took a Conservative approach to this and after it was all over they took a typical Liberal approach, and I think you've already made that observation—being soft on crime.

The other thing I'd like to observe is the demand on the other side for evidence. I find that very interesting in light of the fact that they introduced a firearms registry with absolutely no evidence—and there still isn't—that it was working. Also, I would like to observe that when I listen to their speeches in the House on this particular issue they argue that this won't be effective, and by extension, they would be saying that penalties are not a deterrent. In other words, shut down the prisons and use conditional sentences and all that kind of thing. I find that whole approach absurd. Very often people don't make that observation.

Hon. Vic Toews: What they fail to distinguish is a deterrence on the one side and separation and incapacitation on the other. We know there is a direct effect on the crime rate by keeping a dangerous person in jail for a year, for example. We have a very clear impact on the crime rate.

It's the general deterrent effect that is more questionable, and you'll have various studies. I think the point was made by Mr. Murphy that there's probably a need for more studies actually on the deterrent aspect. I don't doubt that for a moment. On the incapacitation, the separation, and the benefit, on the impact on the crime rate, there's no question about that.

Mr. Garry Breitkreuz: In one of the studies I read on that particular item, and I'm wandering from my original question, they found that by communicating clearly to the criminal element—especially in those regions of the city that were having a problem with gangs—that there were increased penalties, it actually brought gun crime down. Not only do we have to implement this, but we also have to clearly communicate that there is now a much more serious thing.

I throw that out as one of the studies I read about that was very effective in bringing down gun crime.

Hon. Vic Toews: The same thing can be said on impaired driving, for example. There is a clear correlation between the public education program hand in hand with the stiffer penalties.

Mr. Garry Breitkreuz: I want to pick up on something else that was brought up on the other side—the cost of incarceration. One of the studies I read points out—and I believe this is from Simon Fraser University, but I could be corrected on this—that the cost of not incarcerating could be up to twelve times more than the cost of incarceration. The cost to the victims, the cost to society, is many times greater than the cost of incarceration.

I wonder if you could comment on that.

Hon. Vic Toews: Yes. For example, and this is something the Surrey Chamber of Commerce pointed out to me, the average cocaine addict steals \$1,000 worth of product a day—admittedly, this isn't a gun crime—so the direct economic cost to businesses is \$365,000 a year, because cocaine addicts don't take a day off. They need to do their work every single day. So if you actually look at the direct economic cost to a business, the cost is much more expensive than incarcerating that individual.

Now, I'm not talking about the indirect costs of victimization and the deterioration of neighbourhoods, the deterioration of property values. If you do that, the cost is much, much more staggering. Again, when you deal with the issue of incapacitation and separation, apart from deterrents, I think it's a modest thing to say that for every individual you're putting away for one year, twelve other serious offences are not committed. So what is the benefit there?

An interesting argument I heard the other day in question period with respect to the gun registry was that even if the gun registry saved one life, the money was well spent. Quite frankly, there is a much better way to spend that billion dollars, other than on a gun registry, that would save much more than one life. I think while any loss of life is regrettable—any loss of life is regrettable—because we don't have unlimited funds, what's the most effective way in terms of considering all the principles of sentencing, including denunciation, including rehabilitation, all those? What's the most effective way with a person who's been convicted, for example, in the rare situation of three of these serious offences, where he's now facing ten years? I would submit, in that case, from a purely cost-effective point of view, that is the most cost-effective part.

• (1720)

Mr. Garry Breitkreuz: Right. Mr. Minister, on that point, the billion dollars on the gun registry, I read one study that pointed out that if we'd taken that billion dollars and put it into extra police on the street, we would have actually reduced crime substantially and saved many lives. There's no evidence that with the registry we've saved any lives.

I think that's a very key point, that we have to put in place cost-effective laws, so I appreciate your point.

Hon. Vic Toews: Thank you.

The Chair: Thank you, Mr. Breitkreuz.

Minister, I have a question I would like to pose. Given the fact that the legislation that is before us is very targeted, as you pointed out—and I think that's a very legitimate point to dwell on. You have gangs; you have firearms used by those gang members, but you have another sort of overarching issue. Those gangs exist for a reason. A lot of it is for their own personal gain. It's often quite organized. Of course, the other issue that overrides it all is the issue of drugs. Drugs are driving so much of what is happening. When we see the shootings on the street, innocent people are getting caught up in these shootings, and the gangs continue to exact their revenge upon one another so often.

What is your plan—and I know you alluded to this a couple of times in your presentation today—to deal with this drug issue that we have in this country? We don't have a national drug strategy that is broadly based and is effective, although there's money being placed into it. Where do you see this strategy going?

Hon. Vic Toews: I've consulted broadly across the country on the issue, on the aspect of the drug strategy to do mainly with penalties. For example, in a place like Vancouver, we see one in thirteen individuals going to prison for actually trafficking in drugs. In the rest of British Columbia, generally it's one in seven. And it... circumstances change.

People have brought concerns to me on, for example, methamphetamine labs, and the dangers they cause to firefighters who arrive at an explosion, open up the door, and are overwhelmed by toxic fumes. These labs are fire hazards. As I understand it, in the greater Vancouver area one in eight house fires is caused by some kind of drug production lab. That's very dangerous for a neighbourhood.

I've toured these neighbourhoods, and they're not what one would consider to be low-end housing. We're talking about houses that cost

half a million to a million dollars. And these individuals are simply given fines, most of them treating the fines as simply licences to do business. If a house burns down, it's a million dollars gone, but they find new houses quite quickly and set that up again.

On one street I went down in the Coquitlam area, eight out of the 25 houses on the street were marijuana grow ops or meth labs or MDMA labs. I'm not exactly sure what the distinction is, but I know they're all serious illegal drugs. The toxic sludge coming out of those houses—eight out of 25 on one street—into the sewage system, into the rivers, is staggering.

What the citizens have been calling for, what the police have been calling for, and what organizations have been calling for is mandatory minimum prison sentences in respect of certain types of drug offences. That's what they've been calling for.

In my department, along with Health Canada and others, we are developing this national drug strategy. Again, I want to emphasize that legislation is only one aspect of a national drug strategy. Some of the things that were brought to my attention—about treatment, about the need to cooperate with provincial authorities in terms of finding appropriate treatment beds and the like—are all part of a broader scheme.

So I can tell you that our departments are working on it and that we will be coming forward with an effective national drug strategy.

• (1725)

The Chair: With that, the money undoubtedly will be taken out of the trade, and there will be less gun activity on the street.

Thank you, Minister.

Mr. Bagnell, you have the last word. You have time for one question, two at the most.

Hon. Larry Bagnell: Thank you.

I have just one question, Mr. Minister. Without this law, judges could still impose, if they so chose, even severe penalties in these minimums. Given that, do you believe Canadian judges make wise decisions from the options they have of sentencing today?

Hon. Vic Toews: Yes, I do, because the way the law is written...

For example, with conditional sentences, when I was a provincial justice minister in Manitoba, your government had promised that conditional sentences would never apply to serious or violent offences. It was a specific promise made by Allan Rock, repeated by Anne McLellan, that they wouldn't occur. So when people were dying, when there was impaired driving causing death and conditional sentences—which, because of the amendments you've put back into Bill C-9, will continue to occur—we took that up to the Supreme Court of Canada. The Supreme Court of Canada said that the penalty of conditional sentence was available. A judge was entitled to do that.

We took the position that, because of the way the law was drafted, we needed to correct it, to make good on the promise that your ministers had made before that it wouldn't apply in those kinds of situations.

Hon. Larry Bagnell: But you just said that judges are making good decisions. So if they're making good decisions, they could make the decisions that this law will allow them to make on minimum sentences, and they don't need this law.

Hon. Vic Toews: No, you misinterpreted. They make good decisions on the basis of the law as written. Judges apply the law. They don't make social policy. Parliament makes social policy. So from a social policy point of view, as a parliamentarian, I say that in respect of impaired driving causing death, there shouldn't be the availability of conditional sentences. And a judge, then, looking at the law, would say that there are no conditional sentences for impaired driving causing death. That is a social policy, then, put into law, which the judges apply. If the judges apply it, they're making good law. But you can't blame a judge by saying, "Oh, the judge gave him a conditional sentence when...."

Hon. Larry Bagnell: He didn't have to choose the conditional sentence. You said he made a good choice with the conditional sentence. He could have put him in prison.

Hon. Vic Toews: I didn't say he made a good choice.

Hon. Larry Bagnell: You said they make good choices.

Hon. Vic Toews: All I'm saying is that he was applying the law correctly.

Hon. Larry Bagnell: You're saying they're making good choices.

The Chair: Thank you, Mr. Bagnell.

Thank you, Minister and department officials, for attending the meeting and informing us about Bill C-10.

The meeting is adjourned.

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