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—
Chair

Mr. Art Hanger

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• (1530)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): [Inaudible—Editor] ... The agenda, I believe, is before the committee members. Bill C-10, An Act to amend the Criminal Code (minimum penalties for offences involving firearms) and to make a consequential amendment to another Act is the topic of discussion.

The witnesses before us today are Ms. Kim Pate, the executive director of the Canadian Association of Elizabeth Fry Societies, and she has with her Debra Parkes. We also have, from the Royal Canadian Mounted Police, Mr. Michael Woods, director general of national criminal operations for community, contract, and aboriginal policing services.

Thank you for being with us today.

I will start with the Elizabeth Fry Societies, as it shows on our agenda first. I would ask them to put their presentation forward in approximately ten minutes, and then we'll go over to Mr. Woods to make his presentation.

Ms. Kim Pate (Executive Director, Canadian Association of Elizabeth Fry Societies): Thank you very much, Mr. Chair.

And thank you very much to the committee for inviting our organization to appear and to present testimony before this committee with respect to Bill C-10. I'm here, as you've indicated, representing the Canadian Association of Elizabeth Fry Societies. I'm joined by one of my board members, who is also the co-chair of our social action committee, Professor Debra Parkes. She's also a law professor at the University of Manitoba. So I'm very pleased that she was able to join us as well, and thank you very much for inviting her.

I will skip over who our organization is because it was just a few weeks ago I was here when we were speaking about Bill C-9. But suffice it to say that our organization works with both victimized and criminalized and imprisoned women within the criminal justice system. Our agencies, our 25 members across the country, provide services that range from working with those who have been victimized to those who have ended up in the prison system. It's in this context that we offer our testimony.

Our testimony primarily focuses around a couple of areas, as you'll see from our brief. I won't repeat everything that's in our brief. I'll merely summarize to say that we do have concerns about Bill C-10. Our main concerns have to do with the extent to which we see much of what is being presented as contrary to the principles of sentencing that exist.

The Chair: I'm sorry to interrupt, Ms. Pate. I believe there's some information just being handed out. Please continue.

Ms. Kim Pate: One of the main ones, in terms of the primary principles of sentencing, is proportionality. When we look at this bill, we see that this fundamental principle is not adhered to. In fact, we see it promoting something other than the least restrictive approaches to dealing with individuals who come before the system, with a particular focus I think on aboriginal people. We're seeing concerns in our organization about the increasing numbers of aboriginal people, particularly women, ending up in the system.

As I think you're aware, the same day we were presenting here on Bill C-9, October 17, the Correctional Investigator released information that had the shocking statistic of 1,024 aboriginal people per 100,000 being jailed in this country now. Considering the importance of adhering to existing sentencing principles that very much encourage looking at all of the circumstances of offences—the circumstances of the individuals accused as well as of those who are victimized—it's very important that we look at proportional sentences that can be adjusted, at situations where mitigating circumstances must be taken into account.

When we think about women in particular in relation to this bill and about some of the areas being introduced, particularly around constructive possession of weapons, we know the number of women who will be implicated as parties in these sorts of offences. We already know they're in the system now. This bill will likely increase the amount of time they will end up in prison because they are not willing or able, for all kinds of reasons, often having to do with histories of abuse at the hands of the men who are wielding the guns, for whom they may be hiding the guns, in vehicles or in homes that they also inhabit, and therefore they may risk other issues, in terms of their own safety, should they try to interrupt or interfere with that kind of constructive possession.... There are a number of examples we could use, but rather than dwell any further on those, we're both happy to discuss them more in the question period.

One of the things we see is that sentencing in the absence of such relevant facts is extremely problematic. This is exactly why the principles of proportionality, the provisions that were placed in the Criminal Code with respect to the need to focus on least restrictive interventions or least restrictive penalties, and the need to focus particular attention on issues for aboriginal people, will be interfered with by this bill.

We also see it as inconsistent, actually, with some of the positions taken by the government in other areas. For instance, the seeming allowance of the proliferation of guns that may be occasioned by the abandoning of a gun registry, yet the development of extensive additional penalties for prohibited weapons, does not seem consistent.

It is our respectful submission, therefore, that in the actions of this committee, the public would be best served by the withdrawal of this bill and not proceeding any further with mandatory minimum sentence provisions of this nature.

Thank you.

• (1535)

Ms. Debra Parkes (Member, Board of Directors, Canadian Association of Elizabeth Fry Societies): I'll just make a couple of more comments, adding to what Kim has said.

As we understand it, one of the key bases on which this legislation is being put forward is to act as a deterrent. I think it's very important to keep in mind that sentencing severity, that is, having a harsher sentence—having a four-year sentence rather than a two-year one or six years rather than four years—has been shown not to deter crime, or, rather, the null hypothesis is being accepted by social scientists. It's very hard as academics, or people very steeped in research, to prove a negative, but social scientists or academics are very much coming to a view that accepts the null hypothesis with respect to deterrence due to sentencing severity. The idea that people are deterred by having harsher sentences just simply isn't borne out by the evidence. So if the government wishes to proceed in this way, I think it's very important to be clear that it's not going to produce that particular result, or at least there simply isn't the evidence to support that argument, in our view.

If members of the committee are interested, I do have an article that I could make available to anyone. I don't know if you have it before you, or if you've had Professor Tony Doob appear before you, but it's an article he's written with Cheryl Webster, called "Sentence Severity and Crime: Accepting the Null Hypothesis". It is a meta-study of numerous studies examining whether or not deterrence can be proven.

So this is something we're quite concerned about. If it is being done in the name of deterrence, we ought to be asking some very serious questions about that. There's a burden of proof there that I think hasn't been displayed as to whether this will actually deter people.

Because of that, I think we're seeing a moving away from this approach by other jurisdictions that have taken this approach in a very concerted effort. A number of American states, as well as jurisdictions in Australia, are starting to move away from imposing mandatory minimum sentences, precisely because they come at great human and fiscal cost, as well as not delivering on the promise of deterrence.

So this is something that we think is important to keep in mind when considering this bill.

Thank you for your time.

The Chair: Thank you, Ms. Parkes. I know the debate is certainly going to be in reference to taking people out of circulation, the criminal element in particular, and deterrence is the issue that will probably come to the forefront here, several times, I would suggest, in this debate.

Mr. Woods, please present.

• (1540)

C/Supt Michael Woods (Director General, National Criminal Operations, Community, Contract and Aboriginal Policing Services, Royal Canadian Mounted Police): Thank you, Mr. Chair, ladies and gentlemen.

I'd like to thank you for the opportunity to provide this perspective of the RCMP, the Royal Canadian Mounted Police, on Bill C-10. We recognize that achieving public safety, or a safe society, requires commitment and a continuum of action from all stakeholders. The criminal justice system, including enforcement and sentencing provisions for legislation, is one tool that can assist in achieving this.

[Translation]

The RCMP Public Safety and Crime Reduction Strategy is premised on a few guiding principles, specifically targeting crime, location and offender; simplicity of design and execution; coordination of partners and process; a continuum of action on prevention, enforcement and rehabilitation.

This strategic approach is about preventing crime in the first place, intervening early where people are at risk, taking rapid enforcement action and providing support and rehabilitation and resettlement services to victims and offenders.

[English]

In 2006-07 the RCMP's planning process identified the need to focus on the impact of guns, gangs, and drugs. To that end, RCMP units across Canada will be aligning initiatives to combat this menace. In doing so, we draw on research done on the impact of organized crime in remote and rural communities, the growth of youth gangs, and the nexus with vulnerable populations such as our aboriginal communities. We are working with our key partners and stakeholders at the community, provincial, territorial, and federal levels to operationalize strategies that will increase public safety through the reduction of crime.

[Translation]

The major impact of this legislative reform will be at the provincial and territorial level in the administration of justice. If there are more trials, police agencies across Canada will find their resources heavily taxed by the workload this will require upstream.

I am ready to answer your questions.

[English]

I have prepared a few other notes. If you would permit me to continue, I will read them.

The Chair: Please do.

C/Supt Michael Woods: Police in general believe that harsher penalties and mandatory minimum sentences will both deter and incapacitate the offender and thus are valuable tools in the fight against crime. Unfortunately, it may not be that straightforward. While there is some evidence that mandatory minimum sentences will deter criminals, the prolific offender—and those are the 2% or 3% who commit 80% to 85% of the crime—is less likely to be deterred. Members of this group generally are not calculators who weigh the cost and benefits of their crime. This is from Thomas Gabor and Nicole Crutcher from the University of Ottawa.

It's more obvious that when an offender is incarcerated, he's incapacitated. The threat to the community is eliminated through his lack of access to it, but he may be a greater threat upon his release. Prison allows him to learn his craft better and provides him the opportunity to increase his network. Some—gang members in particular—may see prison as a rite of passage. Of course, for some offenders who are beyond redemption, prison may be the only way to protect our communities.

Mandatory minimum sentences have an impact at the time an offender first comes into contact with the law. A longer sentence can take away the incentive to plead guilty, thus resulting in more trials. This would of course add pressure to police resources.

At first contact with police, an offender may respond more violently if he knows he's going to jail for a longer period of time. On the other hand, a stiffer penalty may offer the offender sufficient incentive to provide information to police about other criminal activity in the community. It may also provide the prosecutor greater sway in plea negotiations for a different charge.

As you can see, it's not a simple black or white situation.

As I noted earlier, the RCMP is piloting a crime reduction strategy in British Columbia, which is beginning to show results. It combines hard-hitting enforcement with a holistic approach to identifying root causes of crime. The key here is a strong commitment from key stakeholders in the community, including the departments of public safety, health, social services and housing, addiction services, probation, prosecutors, Correctional Service of Canada, the department of education, and family services—there is a whole list.

Prime Minister Harper said:

It is equally important that we prevent criminal behaviour before it has a chance to take root. To this end, the Government will work with the provinces and territories to help communities provide hope and opportunity for our youth, and end the cycle of violence that can lead to broken communities and broken lives.

In fact, I've already seen evidence of support from the federal government in some of these programs, and it's beginning to work.

Thank you very much.

• (1545)

The Chair: Thank you all.

I will now turn to questions.

Ms. Barnes.

Hon. Sue Barnes (London West, Lib.): Thank you very much.

First, to the RCMP, are you representing the RCMP totally or just the public safety crime reduction strategy area?

C/Supt Michael Woods: I'm representing the RCMP and I'm presenting the crime reduction strategy as an option.

Hon. Sue Barnes: Okay. In your mind, is this a good option?

C/Supt Michael Woods: It absolutely is a good option. It's beginning to show results.

Hon. Sue Barnes: If you had more money in that option, do you think that would be beneficial to the safety of Canadians?

C/Supt Michael Woods: I think it would be, based on the evidence we've seen thus far in British Columbia.

Hon. Sue Barnes: Okay. Twice you have talked about the workload demands to support increased trials, which will impact on the resourcing levels of police agencies across Canada. Both times you made that as a factual statement. Do you stick by that statement, and why would you see that?

C/Supt Michael Woods: It's anecdotal. We don't have specific measurements. As was referred to earlier, it's hard to quantify those kinds of issues. But anecdotally and in speaking with others, and in particular in the instance where we saw an increase in penalties for impaired driving, there were additional or more trials than you normally would expect, in our experience.

So yes, there would be more trials if the consequences were more severe.

Hon. Sue Barnes: Okay. In fact, I very strongly agree with you that the resources of not only the police but all the court systems will be taxed if we go forward with legislation like this.

Ms. Parkes, from an evidentiary point of view, at this committee, I think most of us like to do evidence-based work. Can you expand not only on Professor Doob's material but on other pieces of existing material that say exactly the same things that Mr. Woods has been talking about?

There has been hard evidence scientifically posed that doesn't rely on the anecdote but has actually been proven. Can you comment on that, Kim or Debra?

Ms. Debra Parkes: I think I'll let Kim go first.

Ms. Kim Pate: In addition to the piece that Tom Gabor and Nicole Crutcher did, which our colleague referred to, there's a whole colloquium that our organization co-sponsored with the Osgoode Hall Law School.

There's an entire package of research-based and evidence-based material that talks about the human cost, the fiscal cost, the pressure to go to trial, the pressure to have more people inside, all of the pressures we've all spoken about today, and the very devastating long-term impact on our entire communities with that type of approach in continuing down that road.

Hon. Sue Barnes: The other thing I wanted to ask you, Ms. Pate, is on the sentencing principles that are mainly found in section 718 of the code. You often hear the minister and other people talk about the deterrence factor or one or two of the factors, but there are in fact at least six factors. Could you flesh out what they are and why they were included back when we did the revision of that part of the code in around 1995 or so?

Ms. Parkes, perhaps you're better equipped to answer.

Ms. Debra Parkes: Yes, I can briefly speak to that.

When the sentencing principles were introduced in 1995, at that point, there were a lot of common-law decisions that these principles had relied on, but they had never been codified in the legislation. It was a result of much research and of the Canadian Sentencing Commission recommendations.

The primary, overarching purpose of sentencing is declared to be proportionality. There has to be a just and proportionate sentence. It means taking into account all aggravating factors and mitigating factors.

There are other principles. There's the promotion of deterrence, incapacitation, the protection of society, and rehabilitation. There's the principle that we would use the least restrictive measures consistent with public safety and, specifically, that imprisonment would be a last resort. This was after much study and much evidence when looking at what was working and what was not working in the criminal justice system.

Our co-presenter commented about crime prevention strategies and other strategies that we as a society need to be doing along with the sentencing process.

Our main concern is specifically around proportionality and that we're very much moving away from that. When you say there's a mandatory sentence, at least for the sentences in which there are significant mitigating factors, it's impossible to have a proportionate sentence in every case, unless you accept the proposition that it's only ever going to be proportionate to have at least five to six years in jail, or whatever it is, no matter what the circumstances are. It's a major concern we have.

Then, of course, with the great human and fiscal costs of imprisonment, we're moving away from the principle of using imprisonment as a last resort.

• (1550)

Hon. Sue Barnes: Okay. Mr. Woods, I have a short question for you. Can you think of any policing reason for why a sentence would be different for a long arm as opposed to a short handgun?

C/Supt Michael Woods: Well, in terms of sentencing, there is a greater danger with handguns in that they're more easily concealed and can be more readily used in the commission of many of the crimes that we see, particularly armed robberies. Handguns would be more serious.

In fact, the handgun is a restricted weapon, and of course a long gun isn't restricted.

Hon. Sue Barnes: But if someone was injured with both of those, at the end of the day, do you think the sentence should be different?

C/Supt Michael Woods: I think the sentence should reflect the specifics of the crime and the particular situation.

Hon. Sue Barnes: I guess that would be taken away if you had a mandatory minimum sanction, because that's exactly what the judge isn't allowed to do. Is that correct?

C/Supt Michael Woods: I would say so.

Hon. Sue Barnes: Thank you. *C'est tout.*

The Chair: Thank you, Ms. Barnes.

Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Thank you, Mr. Chair.

I admit I am a bit surprised, if not disappointed, with the RCMP submission. I expected you to be more generous in your comments. You appear to have stayed at a level of generosity that is not very compatible with the committee's expectations in including your name on the list of witnesses. You restricted yourself to trivial remarks, truisms and platitudes. There is nothing there that can really help us.

I would have liked you to talk about the current gun trafficking situation in Canada, street gangs, groups most at risk. Is there someone at the RCMP who has analysed the potential consequences of Bill C-10? Granted, you are in favour of deterrence, but I must say that no one will become deputy minister with a statement like that.

Your style is easy to understand, but be a little more specific in your comments. Can you give us figures on gun trafficking and information on gangsterism and the street gang phenomenon? Would the bill have a negative impact on at-risk groups?

Live up to your potential a little more. You have given too dry and institutional a viewpoint.

[*English*]

C/Supt Michael Woods: I can give you some numbers. For example, we estimate that there are approximately 7,000 gang members in Canada, and they're organized around 350 or so gangs. Most of the gangs are in Ontario, British Columbia, Saskatchewan, Alberta—

[*Translation*]

Mr. Réal Ménard: Seven thousand or 700 street gangs?

C/Supt Michael Woods: Seven thousand members of various gangs, and approximately 400 gangs.

• (1555)

Mr. Réal Ménard: How are those gangs involved in gun trafficking? What offences are committed in Canada? It is said that more offences are committed with knives than guns. This is a very bad bill and I hope the House of Commons is going to totally defeat it.

In the interest of thoroughness, I would like us to be given more information to validate that data. In Canada, are there more offences committed with guns than knives?

[English]

C/Supt Michael Woods: Last year, for example, there were about 650 homicides, 255 of which were committed by firearms. We have approximately 2,000 to 3,000 firearms either stolen or reported missing annually. Many of the gangs, particularly gangs in the northwest region—Saskatchewan, Alberta, and Manitoba—are using sawed-off shotguns and .22s, most of which are being obtained through local crime, break-and-enters, and thefts. They're stealing these weapons from residents and altering them to commit the crimes. Many of the gangs are becoming increasingly violent.

Gangs have been with us for approximately ten years that we've been measuring, but in some cases, in some jurisdictions, they've been around for as long as thirty years. The trouble with measuring gangs and statistics around gangs is that there's no solid and set definition of what a gang is. We do have some definitions—I can give you one in a few moments, if you wish—but we have a variety of police departments in Canada, all of which are using different criteria for measuring what is a gang activity and what isn't a gang activity. If a member of one gang shoots someone from another gang but it's because they were both going out with the same girl, is that a gang activity or is that something else? So there's a lot of difficulty measuring those kinds of things when we're talking about gangs.

[Translation]

Mr. Réal Ménard: Bills C-95, C-24 and C-18 have been passed on gangsterism and organized crime. As a law enforcement agency, you are surely very happy there is a public gun registry and, unless they are inconsistent, everyone who believes in deterrence believes in the soundness of the public registry for the registration of firearms.

I'm not asking you for an opinion on the gun registry but on gun trafficking itself.

[English]

C/Supt Michael Woods: I can't tell you a tremendous amount. I told you that many of the guns that gangs are using are coming from thefts and break-and-enters. We do know there is gun smuggling as well. To that end, the RCMP has created border integrity teams to research and investigate those kinds of offences. It's very difficult, again, to measure specifically what kind of trafficking is going on across the border. That will take some time as we build our case experience and history. We'll then be better able to track it, but it's presently quite difficult.

[Translation]

Mr. Réal Ménard: Do I have time to ask one last question to the Canadian Association of Elizabeth Fry Societies?

[English]

The Chair: You do, Monsieur Ménard.

[Translation]

Mr. Réal Ménard: Thank you very much.

I agree completely with your logic and am one of your fans. It is always a pleasure to hear you on each bill, and the thoroughness of your submission is a credit to your organization.

How will the bill affect women most? I am giving you the opportunity to make an editorial comment.

Ms. Kim Pate: Excuse me, I have to speak English.

[English]

In terms of the constructive possession components of this bill, I'm just in the midst of reviewing some material about Janice Gamble's case, which may be a case some of you are familiar with. She's a woman who was convicted of constructive murder, until it was overturned. Similarly, she would be convicted under this bill because there was a weapon in the vehicle when an armed robbery was being committed...whether or not she was involved. If you know about such a weapon, you can be deemed to be in possession if you're also in possession of the vehicle or the house.

Just last week I was out west and I met with a woman who is in jail because of a situation in which a gun was being hidden in her home. The man who was hiding the gun was also very abusive. She knew the gun was there and she took responsibility—she's in jail now—for not having reported it. But the risk becomes higher for women in those sorts of situations because to report and risk personal violence or to not report and risk jail is increasingly what would be their lot.

•(1600)

The Chair: Thank you.

Mr. Comartin.

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

My thanks to the witnesses for coming.

I want to echo Mr. Ménard's comments, Ms. Pate. The paper you presented was well researched and had some excellent points in it.

The difficulty we have when we do the analysis of this is that the material we tend to get from police forces—and I understand the problems you have in gathering it—oftentimes tends to be anecdotal or not of a rigour that would satisfy social science research. In that regard, in terms of the figures that you gave us on the members of the gangs—the 7,000 figure and 400 gangs—you've said there is no actual definition of what a gang is that's universally applied across the country. With the definition of organized crime and the way we've done the analysis of organized crime in the Criminal Code, would all of the gangs you referred to be caught by the organized crime sections of the code?

C/Supt Michael Woods: Yes, they would.

Mr. Joe Comartin: Would there be additional organizations of a criminal nature that would not be caught by the organized crime definitions and sections?

C/Supt Michael Woods: A criminal organization, by definition, would allow it to fit into the definition of organized crime.

Mr. Joe Comartin: Would that be true with all the police forces across the country? Would they take the same approach?

C/Supt Michael Woods: I think they would, yes.

Mr. Joe Comartin: In terms of the determination that there were these 400 gangs and 7,000 participants, how was that information collected?

C/Supt Michael Woods: I'm not sure. It's—

Mr. Joe Comartin: Let me interrupt you then. What is the source of those two figures? How did you come to those two figures?

C/Supt Michael Woods: They come from Statistics Canada and intelligence gathering through our own processes and systems, our liaison with other police departments, an amalgamation of the information we gathered through the various departments, and an analysis of that information.

Mr. Joe Comartin: That information, though, is again coming from a disparity of analyses.

C/Supt Michael Woods: That's correct.

Mr. Joe Comartin: Ms. Pate, I think I'm going to the paper maybe more than to some of the comments you made, although I think you made reference to it. I want to challenge you a bit on this.

I think in the last Parliament...I can't remember if it was your organization or one of the other ones that came forward, but it was indicated that there was a retreat from the use of mandatory minimums in other jurisdictions. Because Michigan is right beside us, I looked at Michigan. They in fact have backed off the use of mandatory minimums. But my research led me to the conclusion that they did that only with regard to drug crimes; they did not do it with regard to violent crimes. I'm wondering if that's the same pattern we're seeing in Australia and in some of the other states in the United States, or are they also backing off the use of mandatory minimums in violent crimes?

Ms. Debra Parkes: I can say a couple of things. You're absolutely correct. In most cases the retreat from the use of mandatory minimums has been in respect of drug offences. Certainly in the U.S. I think that's been the case. There's a study by the Vera Institute from 2003 that looks at this across different jurisdictions, and it's primarily with respect to drug offences. In Australia, in the northern territory, I think it's largely in respect of drug offences as well. But that's the area in which mandatory minimums had been primarily imposed. Nevertheless, the issue of deterrence doesn't change for drug offences versus violent offences or firearms offences as far as the evidence goes. But yes, it is the case that it has primarily been in relation to drug offences, as far as I'm aware.

•(1605)

Ms. Kim Pate: That's correct, but it's also true that most other jurisdictions have shorter sentences, particularly in the context we were talking about before. We were talking about mandatory minimum sentences also for very serious violent offences, and most of them also have mechanisms for what are often referred to as escape clauses. So if the judges see exceptional circumstances, they do not have to necessarily apply the mandatory minimum. Those kinds of exceptions are permitted, and that is something we don't have currently in our legislation for mandatory minimum sentences.

To go back to when you asked about the other areas that impact women, I didn't repeat it because when I was here for Bill C-9, I talked about it. But the other example of where we see situations is where women are attempting to flee violence and where the men who are victimizing them may have a cache of weapons themselves and they use one of those weapons. Under current legislation as well as the proposed, they could end up with sentences exceeding that which a judge may have given them, or exceeding what many of us

may believe they should get if they are in fact defending themselves and their children, as they often are.

Mr. Joe Comartin: I want to stay with the retreat from the use of mandatory minimums. The additional research I did seemed to indicate that there were several reasons for doing it. Cost was a significant factor. As Ms. Parkes suggests, really questioning the deterrent factor as not working was another factor. Some of it I think motivated governments.... Australia, in the sense of seeing it from a humanitarian standpoint, saw that it wasn't the way to go. As they have retreated, have you seen an analysis of why, in the sense that there were multiple reasons for doing it?

Ms. Kim Pate: There's been a bit in the northern territory, and it is in more recent material coming out of Australia. There they looked at the number of aboriginal people, in particular, being imprisoned. Again, the human and social cost, as well as the fiscal cost of that in terms of impacting generations of individuals, was part of it.

I think the whole issue of not first dealing with what Mr. Woods has referred to in terms of early intervention strategies.... The more resources you put back into the system, the more resources you suck out of preventative strategies that in fact benefit the community far more.

From the statistics we have in Canada, in terms of what it costs to keep people in prison, if you look at women alone, the minimum amount we see in terms of the cost to keep a woman in prison in a provincial jail is around \$50,000. It goes up to over \$300,000 when you look at the various forms of imprisonment applied to women serving federal sentences, all of whom would be serving federal sentences under this new bill. If you're looking at that cost per community, we have yet to find a community—when we do our public events, when we do information sessions—that doesn't want to see those resources invested in their community for anything from child care, to education, to health care, to early intervention strategies for kids who may be getting into difficulty, to mentoring approaches. The list goes on and on as to what they first want to spend their money on before they would want to spend it on longer sentences.

The Chair: Thank you, Mr. Comartin.

Mr. Thompson.

•(1610)

Mr. Myron Thompson (Wild Rose, CPC): Thanks, folks, for being here today.

I certainly agree that when it comes to intervention there should be a continuum of action, including prevention. Prevention is something that, as a principal of a high school and a junior high school, we had going on all the time. We had all kinds of programs—kids at risk, you name it. We could identify them at a pretty early age. You could almost tell in grades 1 and 2 if there were going to be some problems escalating from this child, whatever the situation was. I think a lot of these programs are worth putting a lot of resources into, to work hard at catching them at an early age, because I think that's when you have to do it. Those kinds of activities I've never objected to.

Also, what we have going on today is a public outcry. Guns are killing people. Gangs are killing people. Do something about it. They want them off the street. Unfortunately for the Elizabeth Fry Societies, jail is the alternative. That's how you get them off the street. People are willing to build more prisons if we have to. The public is saying to address that problem, to put more resources into the courts, to put more resources into whatever, but to get this thing taken care of. It's a serious problem, and they want guns, gangs, and drugs dealt with. After all, the public are the ones that pay the bill, and they're willing to foot that kind of bill if they get a lot more protection on the streets of their cities and communities. It's not too much to ask for.

When I sit here on this committee and I sit in the House of Commons, we come up with legislation that tries to do just that: provide a safer society. Give the police the tools they need to do it. Provide the things we have. Over and over again, I keep hearing Elizabeth Fry coming in and saying that jail should never be anything but the last alternative. Well, the public outcry now is that it's the first alternative for gangs and guns. That's the outcry. There's no doubt about that.

I would really be interested in knowing what kind of proposal the Elizabeth Fry committee would bring forward to this committee to consider in terms of what to do about it. I haven't heard anything other than that this won't deter it and that won't deter it, but I haven't heard of anything that will—not a thing.

I've been here 13 years, and I've listened to you folks a lot of times, but show me the kind of legislation that will take care of this problem. Don't give me any nonsense about the gun registry. You know that gangs don't run to the registry and register their handguns. They just don't do that.

I'm really confused when you say not to go here because that should be the last resort, and don't do this because that won't deter that. Please, tell me, what does?

Ms. Kim Pate: I'm sorry that we haven't been clearer than in our presentations, because I think we have presented, as I mentioned earlier, that the early intervention approaches do work—

Mr. Myron Thompson: I've already admitted that. Please understand that. Now we're at the point at which it didn't work. Now what do you do?

Ms. Kim Pate: We work particularly with those who are seen as the most difficult to manage in the system, because we consider it our responsibility to work with those individuals because of the work we've chosen to do. Particularly when we talk about the women with whom we work, what we see when we do take different approaches—not just longer sentences and more brutalizing environments—is that when women who have been in jail for long periods of time are coming out, if we've been able to assist them on appeal when they come out, they don't come back into the system. I was talking to a woman this morning who's been out three years; everybody predicted she would be back in, but as a result of intensive support and supervision when she came out of prison, she hasn't gone back in.

I think there are lots of examples that we do provide. They're on the continuum; they're not a lot different from what you see at the beginning, but as we're seeing more of those resources cut, I would

suggest that if you now went back into the high schools you worked in, you wouldn't see all the support services you may have seen there. So it's not a big surprise that we're seeing more and more of those kids who are most marginalized, not feeling like they fit in. Unfortunately, the places they are fitting in tend to be the places we don't want to see them and that aren't advantageous.

I'd also challenge you...when I talk to the public and I ask the simple question, "If someone commits an offence, should they go to jail?", most people may say yes, but if you ask them how they think that will assist in their not going back there, or how they think that will assist in keeping us safer, you don't have to scratch very far to have people give much different responses. Very few people, I would suggest, are willing to spend a lot of money on more jails, particularly when they look at the results, when we're seeing the resources sucked out of other places in order to fund those systems.

Mr. Myron Thompson: I guess I have to look at it like this. When I was a principal I had the strap and a paddle. It was right there on the wall. They knew I would take it down and use it if necessary, but you know, I never had to. It was a deterrent. It really was.

Ms. Kim Pate: I don't know if it was a deterrent or if some of the other people providing supports in your school may have been assisting those individuals to have other options available too. Whether it's sports.... We don't see the same sports activities available in most schools; we don't see the same after school activities, the same tutoring activities.

Mr. Myron Thompson: My point is there is such a thing as a deterrent. There really is.

Ms. Kim Pate: Well, if a deterrent worked, then the United States should be the safest place in the world to live right now—if that argument worked.

• (1615)

Mr. Myron Thompson: No. The point is this. People are saying they don't want that individual, who is going to hurt others, in their midst. So what do you do with him? If not jail, what do you do with him?

Ms. Debra Parkes: The incapacitation point has come up a few times, and I've made the submissions about deterrence. Obviously protection of society through incapacitation is another of the goals of the sentencing process, but we always have to keep in mind that it's only selective incapacitation for a particular period of time, right? Unless we're prepared to go to the ultimate position, which would be to keep people in jail indefinitely for every offence because we think there's some risk that they might potentially reoffend, then we simply cannot rely on incapacitation beyond that very narrow promise it offers for that period of time. The concerns we have are around the allocation of resources and the great cost of allocating these resources without allocating, at least somewhere, a proportionate amount of resources to community reintegration for people leaving prison.

The Auditor General's report—I believe it was in 2003 or 2004—mentioned specifically the proportion of resources spent on imprisonment versus community release. It's not surprising that we see prison not working in the way we suggest it should work when there aren't the resources for supervision and support in the community when people leave a three-year sentence, a four-year sentence, or whatever.

I agree with you that there is a role for selective incapacitation in particular cases, but ultimately it doesn't deliver on the promise that the public is being given for it, and we need to always keep that in mind. Again, just to reiterate the point, when the public has more information about sentencing.... There have been numerous studies in Britain and in Canada to the effect that if you give them the one-liner that someone committed a particular offence involving a firearm and they got a one-year sentence or whatever, there's usually going to be a primary response that it's too lenient. When they have more information, even just a paragraph of facts, about that particular person and the nature of the offence, the public generally supports the range of proportionate sentences, from very low sentences in some cases, in which there are many mitigating factors and not many aggravating factors, up to more serious offences.

Mr. Myron Thompson: Are you telling me that the system works fine as it is? Is that what you're saying?

Ms. Debra Parkes: Not at all. That's not—

Mr. Myron Thompson: Then would you provide me some legislation? I'd like to look at it and maybe we'll put it through.

The Chair: Mr. Thompson, unfortunately your time is up.

Mr. Myron Thompson: This is the point I'm getting at, and I don't hear that.

The Chair: Ms. Parkes, you may have to pick that up on another answer.

Mr. Bagnell.

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

I'll just summarize what Ms. Parkes just said.

Your reservation, right here, collaborates that, and it's that—unlike what Mr. Thompson said—the public is not in support of mandatory sentences. Once they know the situation in fact, if you look on page 14 of 19 of your submission, it's only 17% who were in favour. So we agree with that.

If you don't want to support 83% of the population, that's fine.

My next question is for the Elizabeth Fry Society. Northern Australia got out of mandatory sentences, or backed off, because it exacerbated the problem of already having a disproportionate number of aboriginal people in prisons. Do you think that if this particular bill went through it would exacerbate the problem we have of a disproportionate number of aboriginal people in prisons in Canada? And would it be even worse than the proportions we have now, or would it just exacerbate it at least equally?

Ms. Kim Pate: It's hard to know speculatively, but certainly, based on what's happening in the United States and Australia, we'd say it would at least exacerbate it with the continued prorrate at what it is now, but also for African Canadian young people, particularly African Canadian young men. I think you are meeting soon with the

African Canadian Legal Clinic. They are certainly much more versed in this than I am, and our organization is, but they have done some important research on how this will impact their communities as well. And I suggest, picking up on the Ontario Commission on Systemic Racism, that we're likely to see increased numbers of racialized African Canadian young people in particular, and young men in particular as well.

Hon. Larry Bagnell: Thank you.

Mr. Woods, normally I agree with Mr. Ménard, and maybe it's because he's so collegial, but I disagree with his comments on your testimony. I think you're one of the best witnesses we've ever had, because we very seldom have witnesses take both sides of a case. You gave me a number of very good reasons that I wasn't aware of against this bill when you spoke about the things that can happen, the problems that can happen, with increased incarceration. So I appreciate you for going into that depth.

You also mentioned the support of Elizabeth Fry for early intervention and crime prevention, as did Mr. Thompson and Mr. Harper. I hope you'll just encourage Mr. Harper to get the departments to start approving the crime prevention projects, because, as you said, those are good, and this summer they just all went on hold. I've been fighting to get some projects approved, and they're not approving any; they're all on hold...and that would help us all. We wouldn't have to do bills like this that don't necessarily work.

I was glad to also hear you talk about the root causes and how it's important to deal with those. The head of the Toronto police said that on the front page of the paper a couple of weeks ago too, that in terms of the problems with the murders in Toronto, it was the root causes that needed to be worked on. I wonder if you could elaborate on that. I think that's a very important point, actually, and I agree with you.

● (1620)

C/Supt Michael Woods: We broke down some of the root causes, but perhaps I can put it in perspective by making reference again to the crime reduction strategy. The police component of the crime reduction strategy in fact is hard-hitting enforcement of the law.

We identify victims, and we work with them so that they become more able to deal with their environment and minimize their victimization. We identify criminals, and that's where the partnership comes in, in working with Corrections Canada, and probation. We focus on the specific criminals, the prolific criminals who are committing most of the crimes. We focus on them until we catch them doing something else and put them back through the system.

We also focus on location. We identify high-risk locations, which could be as small as the front entrance of a mall, or an intersection, or a neighbourhood, and we focus there until we catch the bad guy and put him through the system. That's the hard line; that's the enforcement component, but that only cycles people through the system.

We also have to have a mechanism in place that will deal with the person at the root cause. I can give you a list of the root causes. The individual or family factors include early substance abuse; anti-social, hostile, or aggressive behaviour; social deprivation or isolation; family history of gang violence or involvement; parental neglect; issues with family structure; low academic achievement, dropout, or truancy; unemployment, under-employment, few employment prospects.

When we go to the socio-economic and community factors, we have social upheaval, poverty, income inequity, racism, and proliferation of gang culture.

There's another component as well, and that's the media. The media glorifies gang lifestyles and contributes to the adoption of linguistic codes and dress styles. You see it. It becomes popular. Your children may be wearing clothes that they see glorified in the community and in the media environment. All gang members are presented in some light, without recognizing diversity of membership, and there's a focus on violent actions of gang members. Quite frankly, the gang members in particular, who are young and often immature, revel in the focus they're getting from the media. So for all of those reasons, something has to be done at the fundamental level to deal with that.

The biggest innovation of the crime reduction strategy—and a lot of it we've done piecemeal for many years, and through a lot of partnerships we've worked together to do it—is a more focused comprehensive model. As I listed earlier, we have a lot of partners in the community who can help with the process. It has to be a committee at the community level to which the educators can direct problem children they identify before they've committed a crime and which can mitigate the circumstances of those children's environment.

If we don't intervene early, or we fail in our early intervention and things get to the courts because the child has committed an offence, now we're focusing on the location; we're focusing on the criminal; we're focusing on the victim. We get that person to court or we divert him. There has to be a structure to pick that up. What are we going to do with that—in some cases—14-year-old or 15-year-old, or that 25-year-old?

If we can start addressing some of the issues that put him in the environment in the first place—like poverty, like racism, like hopelessness—and if this committee can provide that, we're not going to catch everybody, we're not going to solve all the problems, but we may solve some of those. So we have them go through the process once and get them diverted back to an acceptable lifestyle, and we don't have to deal with them again.

That 3% who keep recycling and keep committing all the offences will continue to do that unless there's an intervention.

•(1625)

The Chair: Thank you, Mr. Woods. Thank you, Mr. Bagnell.

Mr. Lemay.

[*Translation*]

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

I have listened carefully to the comments. Thank you for being here. I have fairly specific questions.

Mr. Woods, has the RCMP assessed the additional costs that would result from the implementation of Bill C-10?

C/Supt Michael Woods: No, not at all.

Mr. Marc Lemay: What would you do if the bill took effect today? Your last paragraph states the following:

The major impact of this legislative reform will be at the Provincial/Territorial level in their administration of justice. Workload demands to support increased trials will impact on the resourcing levels of police agencies across Canada.

As you know, there will be many more trials. I concur with your statement that are going to be more trials, but how can you say there will be heavy demand for resources if you have not done any assessment of the potential cost of implementing a bill of this kind?

[*English*]

C/Supt Michael Woods: As you said, there will be more trials. When there are more trials, that means police officers will have to attend court to give evidence, and there will be more police officers in court than on the street. So if they're in court, those resources will be utilized on an hourly basis—

[*Translation*]

Mr. Marc Lemay: Yes, but my question, Mr. Woods, is more specific than that. I don't doubt the translation is extraordinary, but have you done any assessments? There are going to be more trials. Representatives from the Correctional Service of Canada have told us they did assessments and it would cost them in the neighbourhood of a few million dollars. If the bill came into effect tomorrow morning, would you know how much more would it cost you in men? When I say "in men," you understand that also means "in women" because I think you are beginning to have many police women. How much more would you need, approximately?

[*English*]

C/Supt Michael Woods: As I said, we haven't made that kind of assessment. We would have to study the environment to determine how much more it was going to cost.

[*Translation*]

Mr. Marc Lemay: Ms. Pate, thank you for your submission, which I appreciate very much. Let's go to page 7 of your submission. You can use the English version, since you are more comfortable in English. I draw your attention to the third paragraph, on the Aboriginal issue, which concerns us a great deal. It says, and I quote

In addition, current trends portend the continued contributions of mandatory minimum penalties to the over-incarceration of racialized groups, especially Aboriginal people.

Can you explain to me what you mean by that statement? The good Minister of Justice, the extraordinary Vic Toews, has told us there will not be more Aboriginal people incarcerated. The proportion will not increase; it will probably be similar. According to you, there is going to be an increase in the number of Aboriginal people incarcerated. Can you explain that to me?

• (1630)

[English]

Ms. Kim Pate: I'm actually very surprised to hear that was the representation put forth, because the Correctional Service of Canada—not the Department of Justice—has projected that by 2017 the number of aboriginal young people in this country will exceed most other groups of—

[Translation]

Mr. Marc Lemay: Excuse me.

[English]

The Chair: Mr. Lemay, your time is up, but if you'll allow Ms. Pate to answer the question—

[Translation]

Mr. Marc Lemay: Mr. Chair, I have a point of order. I would like Ms. Pate to speak more slowly to allow sufficient time for the interpreters, because the figures she is giving us are very important. That's all I wanted to ask.

[English]

The Chair: It shall be done.

Ms. Kim Pate: Okay. *Pardon. Je m'excuse.*

There are two major factors. I apologize if it's not clear enough in the brief from us. There is the Gladue decision that provided extra mechanisms that the Supreme Court of Canada said should be looked at and followed for aboriginal prisoners. Mandatory minimum sentences will not permit that. That's one.

Two, because of the changing demographics in this country, with increasing numbers of young aboriginal people—it's the population that is going up, particularly in the prairie provinces—to pick up on the submissions that were just made, the very important discussion of some of the precursors, such as the socio-economic status issues with people feeling disaffected, particularly young people having no ability to contribute and consider themselves part of the community, the existing racism, the ongoing issues that are plaguing many aboriginal communities in this country.... The Correctional Service of Canada has already estimated that those numbers of aboriginal young people in the system will continue to grow.

It used to be with youth justice over the past 15 or 20 years that when you entered the adult system your youth record didn't follow you. Now it does. We see that trajectory of young people progressing into the adult system much faster. It's not the 2% to 3% that Mr. Woods was talking about, but an overwhelming number of people who are there essentially for poverty-related offences.

The Chair: Thank you, Monsieur Lemay.

Monsieur Petit.

[Translation]

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

My question is for Kim Pate or Debra Parkes.

In your report, you explain that there are offences with minimum sentences, for example, for impaired driving. As far as I know, when someone is charged and found guilty of impaired driving and the judge applies the minimum sentence to a White person, an Aboriginal person, a Black person, a heterosexual, a homosexual, there is no discrimination. What would you answer?

[English]

Ms. Debra Parkes: I can respond to that. I apologize. My French is not very good, so I'll answer in English.

The idea that having a mandatory minimum sentence is “equality”—and I use that in quotes because it's a simplistic version of equality. You have to actually look at the circumstances that people are in. A mandatory minimum sentence doesn't allow any of those circumstances to be taken into account. When we're talking about sentencing, we're talking about proportionality and taking the circumstances of the individual and the offence into account. When you put in a blanket mandatory minimum sentence, you don't allow any of that to be taken into account. You don't have a substantively equal approach.

• (1635)

[Translation]

Mr. Daniel Petit: You are a lawyer, I believe. An alcohol level of 0.08 grams per decilitre of blood is the same for a person of the Black or White race or an Aboriginal person. Is there a difference according to the Criminal Code? It is a minimum sentence. If you exceed 0.08 grams per decilitre of blood, you are guilty. A bottle of alcohol is always the same, for a White person, a Black person, an Aboriginal person, as far as I know. Isn't a minimum sentence, in fact, an equitable measure as far as sex, race, colour, etc.? Are you telling me that some groups drink more than others?

[English]

Ms. Kim Pate: If there was equality before the 0.08, then I think that argument might hold more water. When we look at mandatory minimum sentences for drunk driving, for instance, the research shows that it has predominantly been the public education activities that have been effective. It shows that those people who are picked up still tend to be those who can't afford to be taking taxis and don't have money for expensive intervention programs. If you try to get into a drug or alcohol addiction treatment program these days, you're looking at four or five months.

The reality is, the inequality happens in many other ways. To only look at the penalty as being equally applied, when the application of every other facet of early intervention for people who are seeking support to avoid having to drive.... All of those things are part of where the inequality comes in.

[Translation]

Mr. Daniel Petit: I would like to ask you one last question, Ms. Pate. I don't know if you are familiar with Montreal, but I'm going to explain to you what is currently happening there. There are currently street gangs. One of your documents states that African Canadians—in this case, they are Haitians—are involved in street gangs. They control the drug trade, prostitution and gun trafficking. You just have to read the book by Ms. Mourani, a Bloc Québécois Member of Parliament, and you will understand what is currently going on in Montreal.

I am asking you this question, of course, because you say there is going to be over-representation of Haitians in prison. I understand; they are the only ones currently in gangs. Before, there were the Hells Angels and Italian Canadians. You say we are going to target poor Haitians. I understand; they are currently the only ones. Maybe later it will be Jamaicans or Chinese, I don't know. I am trying to understand. You cite racism. You say that White people only target African Canadians, or Haitians in this case. In your opinion, that argument justifies not imposing a minimum sentence. I am trying to understand your logic.

Don't be afraid. I'm not shouting and I'm not angry, far from it. I am simply trying to understand your argument. You raised it, not me. I am trying to follow you, because we, the members of the committee, have to make recommendations. Thank you.

[English]

Ms. Kim Pate: If we were talking about only people who are involved in organized crime and senior members involved in organized crime, we might be having a different discussion. But what we know is that these laws won't only apply to those individuals. These laws will apply across the board. For those who do think about the penalties—and I would suggest that's not the average person I've seen in the prisons, whether it was when I worked with men, with young people, or, for the last fifteen years, with women—they will be the ones offered up. They'll be the ones in the front who will be getting these penalties. It certainly won't be the people who are funding much of what you and I and most people would be concerned about. If in fact that's the logic, I would suggest it's a flawed logic in terms of actually dealing with those people who are most problematic.

The more you focus on this sort of approach, the more you draw resources out of assisting the very individuals who might otherwise get drawn into that lifestyle because they have virtually no other options, whether they're in Montreal, Toronto, northern Saskatchewan, Winnipeg, or wherever we're talking about.

• (1640)

The Chair: Thank you, Mr. Petit.

Mr. Woods, I have a question for you, since you're providing information on this particular bill. There's already a minimum sentence for use of a firearm in committing certain offences. It's four years, I believe, on a specified list. Is that not correct?

C/Supt Michael Woods: I would have to verify it.

The Chair: You don't know if there are minimum sentences on the use of firearms?

C/Supt Michael Woods: Yes, there are minimum sentences.

The Chair: Have you done any work, study, or examination on the number of charges laid where the firearm has been used and the number of charges that have been withdrawn when they get to court, or thereabouts—what percentages?

C/Supt Michael Woods: I haven't personally. I have some statistics here. Perhaps there might be some here that you're looking for.

I have weapons offences for 2003, 2004, and 2005.

The Chair: I'm not talking about convictions. I'm talking about charges laid where firearms have been used and then the number of cases where the firearm charges have been withdrawn.

C/Supt Michael Woods: I didn't research those.

The Chair: You didn't do that.

Thank you very much.

Mr. Lee.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Thank you.

Could I ask our researchers to verify, today or later on, that there is an existing four-year mandatory minimum in the Criminal Code for a firearms-related offence?

Mr. Robin MacKay (Committee Researcher): Under section 344 of the code, for example, robbery with a firearm has a minimum punishment if you use a firearm.

Mr. Derek Lee: Of four years?

Mr. Robin MacKay: Yes.

Mr. Derek Lee: Thank you.

A term that has come up here in this discussion is “incapacitation”. It's interesting to see how the lexicon evolves, because the average person speaking to me about this would say, “Well, if the guy's a real bad criminal, I want to get him off the street.” That's essentially incapacitation. That's not deterrence, because we've had a whole mixed bag of information on deterrence, to the point where it's not clear to me that heavy sentencing is a deterrent.

So we have this incapacitation thing, and it would be nice if we could just identify them, like back in the days of *Oliver Twist* or *Les Misérables*, when you could just say, “Those are the bad people. Those are the criminals and everybody else is a good person.” You could focus on incapacitating all of those bad people.

But criminals have a way of popping up in the strangest places these days, including in Parliament. I had a colleague who was convicted about forty or fifty years ago for the offence of armed robbery. Mr. Thompson had a colleague convicted of a very serious sexual offence. And you have the odd criminal who manages to find his or her way into a police force and into a church. So society isn't quite that simple.

Judges have to do sentencing, and you have young people and old people. I'm sure that if you had a 90-year-old who managed to get himself into difficulty somewhere with a firearm, a judge would be really happy sentencing that individual to a mandatory minimum.

I must say that local police have come to me and said, "Gee, I'd just like to put some of these guys away. Put him away for a period of time and you know he's off the street." It's usually a "he". Is there any evidence about this whole concept of incapacitation and what it might save in terms of crime? Has anyone tried, either from the point of view of the Elizabeth Fry Society or that of the RCMP, this incapacitation function? Would it work for us, realizing that you can't incapacitate somebody forever and that they do come back out on the street? Has anybody ever costed that?

C/Supt Michael Woods: Not that I know of. It perhaps has been done somewhere.

My personal experience is that incapacitation does work. When the person is in jail, they can't commit other offences. If you can identify, as you say, the most prolific offenders and keep them in jail the longest, then you're going to have a significant impact on crime. But the key is identifying the prolific offender. If you have others in jail who are not prolific offenders, the impact on crime is much less noticeable and much less effective. Incapacitation, to get your best bang for your buck, has to be focused on the prolific offender, but it does work.

• (1645)

Mr. Derek Lee: But these days you have to have a record as long as your arm to be identified as a prolific offender. That's my experience. Your first three offences, if they're—if I can use the term—the run-of-the-mill, may get you some time, but you're not going to do five years. So incapacitation is rather light.

C/Supt Michael Woods: If I may, when we're talking about the judicial process, we now have victim impact statements in court. Perhaps it's time for a community impact statement to be entered in court and to be given weight by a judge when the decision for a punishment is ready. Perhaps that might serve to identify who should be put in jail and for what length of time.

Mr. Derek Lee: We realize, of course—and I think you've already made reference to it, Mr. Woods—that if you do place somebody in prison for a material period of time, he, and probably she, will become accustomed to the environment present in our prisons. So that's a huge social downside. Prisons are schools of crime. That perspective is part of your crime prevention initiative, but has anyone become more specific? Have you found any evidence that would allow us to measure those other downside costs of increased incarceration or the school of crime factor?

C/Supt Michael Woods: We do have evidence that it does take place. Particularly in the case of young people, in their first and second exposure to jail, they learn their craft from the experts they meet in jail. They increase their network of contacts. In fact, we're seeing an increase in the areas in Canada in which we find gangs. One of the reasons is that young people are going into prisons and associating with gang members and taking that modus operandi back to their communities and developing mini gangs of their own. There's no question that they learn their craft and they broaden their networks while they're in jail. That's why it's so important to try to intervene, so they don't go back, or to give them some hope where there is no hope.

The Chair: Thank you, Mr. Lee.

Ms. Pate.

Ms. Kim Pate: Thank you for asking the question. It's been a while since I worked in the community with the police, but I did volunteer with the police, and I at one time worked at the RCMP as well.

One of the initiatives that I think you may have been alluding to is focusing on those individuals who are seen as causing the greatest difficulty. I remember when I was working with the Calgary Police Service in particular, there was a group that had developed looking at youth participation. They estimated that of the young people who were then being jailed, they needed less than—I believe it was—5% of the beds that were then available to imprison young people. To actually achieve the results, they needed to move those individuals out; decarcerate the rest; and have community services and better support services in place for those young people. There may be some of that material left from the old SHOCAP, as it was called, the serious habitual offender comprehensive action program. You may want to look at some of that, out of Calgary. I think they were working in conjunction with other groups. As well, the National Crime Prevention Council did some research on this, building on the RAND study that was done in the United States, of a similar nature on the long-term costs of imprisonment over crime prevention and other supports.

I suggest you also look at some of the material we talk about in our brief, regarding the impact we're seeing of the cuts to those other areas, and the long-term impact we're seeing with people who have mental health issues ending up in the prisons. Not only are the issues you've raised coming up, but we're actually seeing people getting into the prison system and not being able to get out.

Someone who swears and yells because of a mental health condition may be seen as problematic in a prison setting, and so ends up being held in the most secure setting, often accumulating charges. We have people who come in on very short sentences and end up accumulating charges in the prison itself. A young aboriginal woman whom we're dealing with right now came in on a three-year sentence and is now serving 22½ years. That's not a risk to the public. There's nobody out in the community who would be concerned. But yes, there's been a risk to herself, to other prisoners, and to some of the staff she's working with. Yet almost everybody agrees that most of those individuals shouldn't be in there in the first place, and that they are there because of the cuts to all those other services.

I'd encourage you to look at some decarceration models of specific groups. Jerry Miller who was then—I can't remember if he was the minister now or deputy minister for juvenile corrections in the state of Massachusetts, but he basically decarcerated all the young men in that state when he was in charge of corrections. He wrote a book called *Last One over the Wall*. He was brought up here for a while to do some work on youth justice issues. What he said was that the piece that they didn't do right when they decarcerated those kids was to not actually have those resources flow with those kids into the community, because essentially the only kids who went back into the system were those who had no supports in the community to start with.

• (1650)

The Chair: Thank you, Ms. Pate.

Just for the benefit of the committee, the mandatory minimum sentences that exist at present are for the following: attempted murder, discharging a firearm with intent, sexual assault with a weapon, aggravated sexual assault, kidnapping, hostage taking, robbery, and extortion. Those are presently offences, in which a firearm is used, that will have a mandatory minimum of four years.

Mr. Moore.

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

Thank you to our witnesses for being here today. I've appreciated hearing your testimony.

I took note of the suggestion regarding community impact statements. I think all of us, as members of Parliament, do hear from our communities when a significant crime takes place; I know I do. When something happens, when perhaps a number of people are victimized by violent crime or property theft, there is a definite impact on the community. But the community, and in many cases even the victims, are sometimes left out of the equation, so I did take note of that.

As well, a lot of the discussion has been on prevention and resources. All of that, I think we all agree, is very important. I certainly agree with that. We're providing funding for 2,500 new municipal police officers and 1,000 new personnel with the RCMP. That's part of the story, and it is government's responsibility. We certainly have taken it on to provide, at the front-end level, the enforcement. But this bill deals with what happens after someone has committed the offence.

We could all sit around and agree that we have to work with youth at risk, that we have to provide more police resources. I agree with those things. But when the conversation goes down that road, I think we might lose focus when it comes to the bill we have in front of us. The bill has very specific penalties for specific offences. I would categorize these as very serious offences, many of them, including some of the use offences with firearms.

I'd like to hear from the RCMP on this. We're hearing this argument that maybe there is no such thing as deterrence, that it doesn't matter what the penalty is, you're never going to deter anyone. Personally, I would categorically reject that argument. I know just from common sense, from things we hear from offenders, and from other testimony we've heard that there is a deterrent effect

if you know you're going to get a slap on the wrist versus a more serious penalty.

Can you comment a bit on the use of gangs of young people to commit offences—i.e., property offences, break-and-enter, theft of an automobile—for the very reason that they know that the young offender will not face as serious a consequence as an older person will? Does that happen? And if so, is it partly because there's less of a deterrence?

• (1655)

C/Supt Michael Woods: It does happen. Adults will use young offenders because young offenders will not be punished as severely as the adults.

The issue of deterrence is complex. The deterrent factor primarily is getting caught, not so much the sentence itself. Some research shows that the average person is afraid of being caught by the police, so in fact more police in the community will have a positive impact on the level of crime. Many people don't even know what the sentence is that's associated with a particular crime; it's just the getting caught part.

One positive thing to be said about mandatory minimum sentences is that you will be heightening the awareness of punishment in the community during this discussion. You'll be talking about more serious sentences, and that will filter out to the community in general.

Mr. Rob Moore: I agree with you, I think that is a message that has to be sent. We saw this in Toronto specifically, where there was gang-related gun violence. That's what this bill primarily focuses on, the gangs who use guns and the individuals who use guns to commit offences. We saw that there were repeat offenders. We saw that people were continually victimizing in some communities. So that's where I think this community impact statement might be valuable.

At the time, all political parties—including the Liberals and NDP, but not the Bloc—were calling for tougher mandatory minimum penalties. That sometimes gets left out of their questioning, that in fact they were calling for penalties that were actually more severe than what's in this bill. But I'll leave it at that; I won't focus on it.

You mentioned the 3% who continue to reoffend. I want your thoughts on how this bill, with its escalating penalties, might address this. For the first offence, the mandatory minimum is lower than for a second and third and subsequent. There's an escalating penalty, unlike what has been proposed by others.

Can you comment a bit on that, on the escalation, and maybe even comment a bit on that 3%? What is it like to deal with them? What goes through their heads, so to speak?

C/Supt Michael Woods: The 3%, in particular the youth gangs, are extremely anti-social. For that reason, and for a number of reasons, they're not going to be positively impacted in their psyches by mandatory sentencing. As I said earlier, time in jail is a rite of passage. The media glorifies what they're doing.

The positive impact of mandatory sentencing comes from the incapacitation component.

Mr. Rob Moore: I was speaking to a police officer in a major city who said their police force undertook a major initiative focused on one community that was having severe gang problems. They knew who the offenders were. In this sweep, when they locked those gang members up, the homicide rate in that area, which was measurable, went completely flat. They were having serious gang and gun violence there and it dropped.

So that's a part of what this bill does. If you offend, if you use a gun to assault someone, if you use a firearm in the commission of a gang-related offence, you're going to jail. If you do it again, you're going to jail for a longer time; and if you do it again, you're going to jail for an even longer time. If someone doesn't get that message the second, third, or fourth time—with respect to what Elizabeth Fry is doing and so on—they're just not getting the other messages, whether they're resource-based or so on.

We have to send a message at some point that we value human lives that could be caught in the crossfire, we value people's property, and we value a safe society. If someone is going to repeatedly use a firearm to commit a criminal offence, at some point the protection of society comes into play. That's why this bill is incremental. It doesn't come down hard the first time; it's the second time, and the third time is worse.

• (1700)

The Chair: Thank you, Mr. Moore. Your time is well over.

Mr. Murphy.

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

I've read the briefs from Elizabeth Fry and agree with much of what is there, so I might not have as many questions for them as for the representative of the RCMP.

Do you still have the title of superintendent?

C/Supt Michael Woods: Chief Superintendent.

Mr. Brian Murphy: I know Chief Superintendent Woods from a prior life. I don't know if I have a conflict, in that I was on the hiring committee when we engaged him at the Codiac RCMP detachment. But I do know that he has extensive experience in a community, and being the chief police officer for the RCMP—

[*Translation*]

Mr. Marc Lemay: There is a conflict of interest.

[*English*]

Mr. Brian Murphy: Do you think so? I think it's confluence of interest, because he's a great fellow and I think we made a great decision—so there.

I know you have experience in aspects involving communities. I heard some of what you said—it was very reasoned, and I've read

your one-page summary—on whether the general deterrents will get out in the community. I think in Moncton—Riverview—Dieppe they might get out there.

However, I also understood you to say that the deterrent is not so much Mr. Lee's point about the garden variety criminal's knowledge of the permutations of the Criminal Code and what the penalty might be, but just the general idea of getting caught, which goes to resources. I understand that.

Mr. Moore rightly points out that the code has had mandatory minimums for some time. I know you don't speak for the whole force, but do you think the mandatory minimums proposed here, escalated as they are, will reduce crime in general? That's the first question.

The second point I put out as a bit of a red herring. It has been raised by opposing members often enough to bring it out and ask a person who's used to dealing with communities. If anybody says statistics show that crime rates are on the decrease, there's this red herring thrown out that it's because people aren't reporting crime. In the old days, certain council members might have said it was because they had fewer members of the police going on surveillance and deterrent or detection services, and therefore they didn't catch criminals as often. You know that criticism.

So on those two questions, given your experience in a community policing situation with problem-oriented policing and all that sort of thing, what would you say?

C/Supt Michael Woods: The proposed legislation will have a positive impact on crime rates in terms of incapacitation. You're putting more people in jail, and if you're lucky enough to hit the prolific offenders, then the people committing the most crime will be behind bars and not committing crimes while they're there.

There are two problems. I'm thoroughly convinced that it doesn't deter them from committing the offence. More importantly, what happens to the community when they come back out?

The honourable member from New Brunswick—Kennebecasis Valley, I think—did some policing there.

Mr. Rob Moore: Yes.

C/Supt Michael Woods: It's progressively more serious sentencing, but each time the cycle of sentencing ends, they have to come out and re-victimize someone before they hit the next cycle, the next sentence.

So, yes, there will be a positive impact on crime because of the incapacitation, but if you're not dealing with the root causes of that behaviour, then you're going to have that person cycle through and continue to victimize the community when they're not in jail.

In terms of the crime rates, generally they are going down for a variety of reasons. Partly it's the fact that most crimes are committed by young men. The baby boomer years have seen those young men—the big spike and the parabola—move on into their 40s, 50s, and 60s. There's not the same number of young men available to commit crimes, so you're going to see a reduction.

As well, police across Canada—and you should be proud that we have a tremendously high calibre of police forces across the country—have been working with crime prevention programs and models for a number of years, and they are having some impact. There is a reduction in crime because of this.

I don't think it's a valid statement that people are fed up and just aren't reporting crimes. Crimes are being reported based on what is happening.

• (1705)

Mr. Brian Murphy: As a final follow-up, you mentioned the problem is whether or not you have the more repetitive offender—you used a fancier word—and whether the non-repetitive offender, so to speak, can be rehabilitated.

What I'm getting at is that in some cases judicial discretion might lead to a probation order with conditions. Do you think this bill and increasing mandatory minimums take away some judicial discretion? How important should judicial discretion be to the community?

C/Supt Michael Woods: Obviously this takes some discretion away from the judge. Experience with judges over my career has been varied. Like any other group of people in the community, you have some you agree with very strongly and others you don't agree with so much, in terms of their judgments.

However, particularly in small communities they know, judges have very good opportunities to respond to crimes through judgments in ways that would best help the communities.

Certain minimum sentencing does work, particularly for certain offences. In fact, firearms offences belong to the type of offence impacted by minimum sentencing, but you have to look at the degree of impact and the alternatives.

As I mentioned earlier, there are significant alternatives being worked with presently.

The Chair: Thank you.

Mr. Brown.

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

My first question will be to Mr. Woods, and then I'll have a follow-up question for Ms. Pate and Ms. Parkes.

The first question is, what role do you believe minimum sentences play with victims? Is there a positive aspect? When we're looking at trying to view the justice system through the window of the victim, is there adequate protection for their concerns about sentences that meet the crime?

Further, in terms of deterrence, which we've paid some attention to, do you believe there is an understanding of the sentencing amongst the criminal population? Are they cognizant of sentences that have stiffer penalties, and does this actually come into play

when they're contemplating an activity that is not in sync with the community?

C/Supt Michael Woods: When I was reviewing some material for my presentation today, I came across one article on interviews with armed robbers in Australia. The robbers told the interviewer they had indeed been aware of the varying penalties associated with carrying a firearm. Interestingly enough, it hadn't had an impact on their behaviour, and they said it wouldn't have an impact on their behaviour in the future. So the robber who had carried a gun to commit an armed robbery, and who went to jail fully aware of the increased penalty because of the fact that he carried a gun, intended to carry a gun the next time he committed a robbery.

Again, we're talking about the prolific offender, the 2% or 3% who are anti-social, and who have a variety of reasons for why they are anti-social, versus the other 98% or 97%. Now, some of those people in the 97th percentile may commit crimes and the deterrent impact of the sentencing that you're proposing would probably have an impact on them, because they're not at the same level of anti-social behaviour as the 2% or 3%. So there would be some deterrence in the rest of the crowd—not so much in the 2% or 3%. As I said earlier, the incapacitation component speaks for itself.

As far as the victim's feelings, voice, and preferences are concerned, I think that shortly after being victimized there would be a sense of revenge, a sense of wanting to see this person punished. My thought, though, is that over a longer period of time, particularly if there were a positive intervention for the victim, as our crime reduction strategy would have, you would see a greater understanding and perhaps less of a desire to see that punishment or revenge.

I'm speaking on my own behalf now. This is not an RCMP position; this is my position.

• (1710)

Mr. Patrick Brown: The second question is for Ms. Parkes and Ms. Pate. From the perspective of your organization, are there any circumstances where you believe the current minimum sentences are useful? Do you support the existing minimum sentences in the Criminal Code?

Ms. Kim Pate: No, we're on record taking a position against mandatory minimum sentences generally, because of some of the issues we've already raised.

To pull back to some of the discussion around the table a little while ago and to some of the examples we talked about in our brief, at this time when we're seeing crime rates and rates of imprisonment generally in other areas going down, we're actually seeing the rates of imprisonment of women going up. It's not because there's a crime wave. It's not because there are increased numbers of women committing offences per se, but we are seeing it linked very much to the cuts to social services, the cuts to health care, the cuts to other support services that have been taking place across this country.

When we look at the system's statistics in terms of who's coming back and the related issue of repeat offences, less than 5% of the individuals in prison are coming back for new offences. The stats from the National Parole Board on those who have been released and have come back for committing violent offences show they are less than half of 1%.

Even though the rates of imprisonment of women are greater, when we're talking about the issue of whether or not mandatory sentences would have any impact, I think it just falls away completely when you realize that the majority of women are not there because of anything more than.... I mean, they're there and they take responsibility; many of them plead guilty to the offences they're there for, but the judges take into account the circumstances now of why they're there, unless it's—

Mr. Patrick Brown: How about minimum sentences for firearms? Do you support the existing minimum sentences?

Ms. Kim Pate: No, we did not when they were brought in.

Mr. Patrick Brown: Are there custodial dispositions in the code that you're in support of?

Ms. Kim Pate: Certainly. We support the use of community-based sanctions. We support the use of added supervision in the community. We support the use of more appropriate supervised and structured interventions.

Mr. Patrick Brown: But in terms of jail, is that actually a punishment that is appropriate in some cases?

Ms. Kim Pate: It's not one that we've seen work very effectively for most people.

Mr. Patrick Brown: At all?

Ms. Kim Pate: For most people, no. And certainly our position is very much for women, in thinking there should be an incarceration strategy.

Mr. Patrick Brown: So we should get rid of jails? Is that the position of your organization?

Ms. Kim Pate: Well, our position is that the least restrictive measures would mean those who are a risk should be removed from being made a risk—but in fact the ways we've used imprisonment have not been effective.

Mr. Patrick Brown: Thank you.

The Chair: Thank you, Mr. Brown.

Mr. Woods, you made a comment during your presentation, or during the question time, and in fact the Elizabeth Fry Society made similar comments, that—and I'll paraphrase it—criminals, if jailed, become more accomplished criminals as a result of being inside the system. That's quite a significant statement to make, when you.... It

doesn't say much about our jail system, I would have to suggest. Maybe that's what we should be concentrating on, exactly what is going on inside the jails. Is it because you feel the criminals are running the jails? Why would you make that statement as clearly and defined as you did?

C/Supt Michael Woods: It's simply that prisoners in jail, no matter what kind of jail it is, are living in very close proximity. Unless you have them all in solitary confinement, there's no way you can prevent them from socializing—talking, sharing stories. It's through that story sharing, that information sharing, that young people who are less sophisticated in the ways of crime will learn better ways to commit crime from the boasts of the older prisoners. That's a truism and a long-standing belief.

● (1715)

The Chair: What would you suggest to prevent that from happening? Nobody seems to want to address that particular issue, and yet it's been brought up in our deliberations here by I don't know how many witnesses.

C/Supt Michael Woods: In my view, first of all, some criminals deserve to be in prison.

The Chair: Absolutely.

C/Supt Michael Woods: And in some cases they deserve to be in prison for the rest of their lives. But once they get to prison, I don't think there's any reasonable way of preventing them from interacting socially with other prisoners. In fact, to prevent interaction at the social level would probably create an even more violent or less-controlled prisoner.

So, number one, certain people should go to jail, and number two, they're going to have to suffer the consequences.

The Chair: It's a fact of life.

Thank you.

Mr. Bagnell.

Hon. Larry Bagnell: Mr. Woods, some of the best information you gave us—in fact, most of it—was the stuff that wasn't in your brief. I'm wondering if you could provide the clerk of the committee with some of that information—that was very good—that list of root causes, all that type of stuff. Perhaps you could provide it to the clerk, so we could circulate it.

C/Supt Michael Woods: Certainly.

Hon. Larry Bagnell: Also the comments you made on your first intervention...that would be great.

We have to recognize that for all these crimes, everyone who goes to jail comes out, except for the couple of dozen lifetime offenders. Both witnesses have made very good points; society is more at risk if people come out having had less than the best treatment and are more dangerous than when they went in.

The options and what happens to them and the time of treatment.... We had the stats person in, who suggested that on conditional sentences alone or with probation, it takes an average of 700 days of working with a person to make sure they come out safer, and in strict prison sentences they're there for only 47 days.

In making society safer, it seems obvious to me, but I'd like to ask the Elizabeth Fry Society.... And keep in mind, in all these crime bills we're dealing with, there's no reduction of the maximums. The courts, the judges, can sentence people to the maximum. They can keep the dangerous offender in for life, so there's no reduction of any of those. The judges still can do...all those serious crimes.

I'd like to ask everyone if, in your experience working with prisoners, you found helpful the discretion the judges now have. Are there times when it's good that the judge has broader discretion? Most of these bills we're dealing with are limiting that discretion, limiting the choices.

The Chair: Mr. Bagnell, get to your point, please.

Hon. Larry Bagnell: That was my question.

The Chair: A quick response, please. I do have one more question.

Ms. Debra Parkes: Thank you.

Absolutely, we do take the position—it's in our brief—that interference with judicial discretion is one of the major problems with this bill, in particular because it doesn't allow the factors to be taken into account. There are always a variety of factors, including mitigating factors, such as a person who has a defence of duress. They don't meet the defence of duress or self-defence, but they're very close to it in terms of the defence. So on sentencing, that can be taken into account, that this is a less serious robbery, at least that the person's involvement, the woman who was the accomplice along with the man who was.... She was under some duress but doesn't meet the full defence. That can be taken into account in sentencing. When you do this, you take that away entirely. You don't have a proportionate sentence, in our view.

The Chair: Thank you, Ms. Parkes.

Did you want to reply to that, Mr. Woods?

C/Supt Michael Woods: I'll make one quick comment. Most judges that I've met should have as much discretion as they have now; there are a few that shouldn't have any. That's the reality.

The Chair: Thank you, Mr. Woods.

Mr. Thompson, one quick question, please.

Mr. Myron Thompson: A quick point, and then I have a question.

In terms of a comment that comes from me quite often about not reporting crime, I know a lot of victims who I've met and talked with who would rather not report it for fear of further repercussions, because of the lack of help from the court system. There's quite a few of them.

Also, I have a son and daughter whose house was broken into, jewellery, furniture, all stolen, and there was never an investigation of the crime. It was reported, but there was never an investigation, no attempt to find them. It was simply because there wasn't enough

manpower in that rural area to get to that kind of crime. I want to point out that this is why that's being said by me so much.

But in the prisons, the gangs are very operative. Is this correct?

● (1720)

C/Supt Michael Woods: Yes.

Mr. Myron Thompson: Your socializing factor, as far as I'm concerned, is going to happen. But the gang activity, where they have outside contacts, have ways and means of getting resources in and out of the prison, where they're charging other inmates rent, charging for all kinds of services to other inmates, who, in turn, ask to go to solitary confinement for their own safety, that whole operation....

I think our chairman has hit the nail on the head. Maybe we need to look inside that penitentiary system and see what we can do with it. Outside contact can certainly be stopped. But their inside social... we expect that to happen.

Am I off the beaten track here? What is your assessment of that?

C/Supt Michael Woods: I really can't comment one way or the other. I don't have any personal information nor have I researched that area.

Mr. Myron Thompson: On that point, I've visited the penitentiaries; I've visited with the gang members, who aren't all of the same race or ethnicity. The Warriors and Indian Posse you would think are aboriginal, but there are a number of members of those gangs who are not of that origin.

The Chair: Thank you, Mr. Thompson.

Mr. Myron Thompson: It's extremely active, and I think that's something we really need to consider.

The Chair: I agree with you, Mr. Thompson.

I'm going to actually bring the meeting to a close. We do have—

Mr. Joe Comartin: Mr. Chairman, a point of order, before you do that.

The Chair: —some other business to take care of and I would ask members to stay put.

Mr. Joe Comartin: Might I ask Superintendent Woods if there's an assessment being done of the experiment that's going on in B.C., and if there is, could he provide us with a copy of it?

The Chair: Mr. Woods.

C/Supt Michael Woods: Yes, there is, and I can.

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

The Chair: If you would, that would be fine.

Thank you, Mr. Comartin.

I'm going to suspend. I would first of all like to thank the witnesses for coming and presenting. I believe it's given the committee some information to deal with. I do trust we will get the additional information that you have at your fingertips for the rest of the committee and for our report.

Thank you, again.

[Proceedings continue in camera]

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