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Chair

Mr. Art Hanger

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• (0900)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I call the Standing Committee on Justice and Human Rights to order. Today being Tuesday, January 30, 2007, the committee is continuing its study in this particular case into gangs, gangsterism, and connections to organized crime.

I'd like to welcome the witnesses who are sitting at the head of the table. I really appreciate your attendance here. We have with us Mr. Randall Richmond, from the Department of Justice; from Correctional Service Canada, Mr. Ross Toller and Mr. Luciano Bentenuto; from Maison d'Haïti, Mr. Harry Delva; as an individual, Mr. Claude Bélanger, former principal general counsel, Department of Justice; and Mr. Guy Ouellette, retired sergeant, Sûreté du Québec.

Welcome, gentlemen.

I would ask that we continue as the names appear on the agenda. We'll begin by listening to Mr. Randall Richmond's presentation. Please try to keep your comments, gentlemen, to about 10 minutes. I'll give you some flexibility on that.

Go ahead, Mr. Richmond.

[Translation]

Mr. Randall Richmond (Deputy Chief Prosecutor, Organized Crime Prosecutions Bureau, Department of Justice (Quebec)): Thank you very much.

My name is Randall Richmond. I have been a lawyer and a prosecutor since 1983, and prosecutor for the Province of Quebec since 1988.

I began pleading organized crime cases in the 1990s and I worked in the Proceeds of Crime Bureau (BLPC) from its inception in 1996. In 2000, when the Quebec Ministry of Justice created the Organized Crime Prosecutions Bureau (BLACO), I was named deputy chief of this office, a position that I still hold today.

In addition to my administrative and supervisory responsibilities, I personally pleaded the cases borne from the shooting for journalist Michel Auger. I also pleaded the trial borne of Operations Springtime 2001 and implicating the Hells Angels Nomad Donald Stockford and his associate, the former Hells Angels national president, Walter Stadnick.

The minutes of proceedings of the Standing Committee on Justice and Human Rights indicate that the committee wishes "to examine the overall effect on gangsterism of Bills C-94 and C-24, adopted in 1997 and 2001".

As a practitioner specialized in organized crime cases, I can say without any hesitation that the legislative changes brought about by Bills C-95 and C-24 have been extremely helpful and have had a significant impact on our fight against organized crime in Quebec. We have used the tools provided to us by these two bills on a regular basis and continue to do so.

The changes that have been most useful to us can be summarized as follows: wire taps are available more easily and for longer periods of time; infiltration of criminal organizations is easier; pre-trial custody is easier to secure; sentences are longer; and convicts have to serve more time in jail before being released on parole.

Quebec was the first province to apply these new measures and remains the one that has applied them the most. In the Organized Crime Prosecutions Bureau alone, we have charged over 1,000 people since 2001, due in great part to the tools provided by C-95 and C-24 which facilitated the investigations. The acquittal rate in these cases is less than two percent.

Among these people, many were charged with gangsterism, either in its original form as provided by C-95 or in the form modified by C-24.

Since the creation of the Organized Crime Prosecutions Bureau, its prosecutors have secured the convictions of 286 people for criminal organization charges.

Consequently, we have met the following objectives.

First, end the biker gang war that caused 174 deaths and 150 attempted murders.

Second, break up and put an end to the Quebec Nomads chapter of the Hells Angels as well as the puppet club, the Rockers, by securing sentences of 20 years in prison for the Nomads and 15 years for the Rockers, on average.

Third, suppress crime by the Hells Angels across Quebec. Consequently, as of 2005, half of the Hells Angels in Quebec had been neutralized because they were either in jail, on parole, or on the run.

Fourth, break up and put an end to the Bandidos biker club all across Quebec.

•(0905)

[English]

Other beneficial effects of our work are worth mentioning: putting an end to biker impunity, putting an end to the climate of fear, and exposing the true nature of the criminal biker gangs. Obviously these results cannot be explained exclusively by the new anti-gang provisions of Bill C-95 and Bill C-24. They must be attributed to the combined effect of the legislative changes with other measures, such as the creation of specialized police task forces, with the participation of different police agencies; lengthy police investigations that targeted whole criminal organizations; the use of civil infiltration agents; the creation of specialized teams of prosecutors, such as the Proceeds of Crime Bureau in 1996 and the Organized Crime Bureau in 2000; the construction of the Grouin Judicial Services Centre; and the renovation of several courtrooms around Quebec, which allowed for the instruction of several mega-trials in different places at the same time.

The results obtained demonstrate that it is possible to prove gangsterism, but one should not conclude that it is easy to do so. On the contrary, it can be arduous. In almost all of the cases where we have charged gangsterism, this came after lengthy investigations of 12 to 24 months, during which wiretapping and physical surveillance were carried out and prosecutors were involved as legal advisers during the investigations.

In addition, in 90% of the cases, the prosecution had at its disposition a special witness, that is, an informant witness or a civil infiltration agent. The special witness facilitates the proof of gangsterism, because he has been a member of that organization and has participated in its activities. He can, therefore, testify to the existence of the organization, its structure, its hierarchy, the identity of its members, and its criminal activities.

A notable exception to this is the recent case of *R. v. Aurélius*, where 15 people were convicted, including five for charges of gangsterism, without the help of a special witness. In this groundbreaking case, the first to convict a street gang of gangsterism, the prosecution had to rely on evidence from wiretaps, physical surveillance, and about 40 drug purchases made by police undercover officers. It goes without saying that all of these investigative techniques can be expensive.

In conclusion, proving gangsterism with the present legislation is indeed possible, but the necessary resources must be available for investigation and prosecution.

With regard to Bill C-10, it is likely that for most prosecutions of a crime committed with a firearm, proving the use of a restricted or prohibited firearm will be easier than proving a connection with a criminal organization. However, there are cases where long-barrelled guns are used by criminal organizations; for example, see the case of *R. v. Rodrigue* at the Supreme Court of Canada in 2005. There are other cases where firearms are used in crime, but never found by the police, which can make it more difficult to prove the use of a restricted or prohibitive firearm than to prove the connection to a criminal organization.

So there are indeed circumstances where the connection to a criminal organization can be seriously considered as an aggravating factor in sentencing for a crime committed with the use of a firearm.

Thank you.

•(0910)

The Chair: Thank you, Mr. Richmond.

Mr. Toller, please.

Mr. Ross Toller (Assistant Commissioner, Correctional Operations and Program, Correctional Service Canada): Thank you, Mr. Chairman.

On behalf of Correctional Service Canada, I would like to thank you and the committee members for inviting us here today. It's my understanding the committee is interested in getting an overview of organized crime and criminal gangs within the context of the federal corrections, and I therefore thought it might be appropriate for me to be accompanied here today by our national manager for the portfolio of organized crime and criminal gangs for CSC, Mr. Luciano Bentenuto.

As you are aware, all levels of government are committed to addressing the challenges posed by offenders affiliated with gangs and organized criminal groups. The effectiveness of legislation to combat organized crime, along with a proactive approach adopted by law enforcement agencies, including the increase in successful prosecution of such cases, has resulted in an increased number of gang members or affiliates receiving sentences of two years or more, which, of course, the federal corrections is responsible for.

I've taken the liberty this morning of providing the committee with copies of our policy on the management of organized crime, and more specifically, our CD 568-3. In addition, you will find within your package a series of graphs that I'll be referring to as I walk through this presentation, which I hope will assist you this morning.

If you look at our first page here, on section 467-related offences, you'll see that since 1997, 303 federal offenders were admitted on a warrant of committal for an offence under section 467 of the Criminal Code. Of those inmates, 224 are still serving their sentences—151 are incarcerated, 72 remain under some form of supervision in the community, and one is in temporary detention.

In regard to the increase of 85 in 2003, as shown in the chart, I would add that, as Mr. Richmond pointed out, one of the prosecution's operations in the springtime of 2001 led to a successful number of prosecutions in that year.

It's to be noted that these 224 federal offenders represent 13% of our current offender gang population, and actually 1% of the overall offender population currently within the Correctional Service. For example, someone belonging to a criminal organization may be serving a sentence for offences other than the ones found under section 467 of the Criminal Code, and that's an important point for us in a correctional context in terms of the management of gangs.

As of December 10, 2006, there were 1,752 offenders who were identified as members or associates of a criminal organization in accordance with our commissioner's directives on the identification and management of criminal organizations. If you take a quick look at chart 2, the one titled "CSC gang population", you'll notice that 64%, or 1,119, of those offenders are incarcerated, and 633 of them are under some type of community supervision at present.

In the past few years much attention was given to the outlaw motorcycle gangs and traditional organized crime entities; however, with the emergence of the street gangs and other similar groups such as the aboriginal gangs, CSC has seen quite a change in its offender population, more specifically with the gang demographics. As a matter of fact, the aboriginal gangs now represent the largest type within our service. As of December 10, there were 540 offenders identified as members or affiliates with aboriginal gangs. This is the gang group with the largest number of people; 90% of these members, or 485, are serving their sentences within the prairie region.

Street gangs have also increased to such numbers that they now represent a larger group than the traditional organized crime groups. The new reality is that street gangs are getting involved in illicit activities that were historically held by other organized crime groups. In addition, we're now starting to see a second generation of street gang members. They are older and get more involved in violent offences, resulting in convictions for more serious offences, warranting, of course, longer sentences.

One of the consequences is that the number of offenders affiliated with street gangs has increased by 74%, from 213 members in 2000 to 370 in 2006. The growth of gang members inside our penitentiary has created a number of challenges and has required us to make investments in a number of areas to stay on top of this issue at a time when other issues related to our offender population grow as well, such as mental health, hostility, and the more youthful offender that we seem to be receiving within our facilities.

Our response to this is basically found in a multi-pronged approach, which includes the development of policy that I submitted to you earlier. The key objectives of this policy are to recognize that criminal organizations pose a serious threat to the safe, secure, orderly, and efficient management and operation of our institutions and community operation units, and to ensure all actions are based on approved correctional policy and affirm our intolerance of acts of violence and other criminal activities committed by criminal organization members and their associates in our institutions or in the community while on conditional release.

● (0915)

We have launched, in all of our institutions, a secure network for storing and sharing information on: gangs; suspicious or illegal activities occurring in correctional penitentiaries and in our community; and threats to the safety of our staff, offenders, and the public. Next year we are scheduled to extend the secure network to the operational sites in the community.

The goal is to improve efficiency in responding to security threats by giving institutional security intelligence officers and their counterparts in the community increased intelligence gathering, analysis, and dissemination capabilities. This will allow us, of

course, to safely share classified information with our law enforcement partners, including the Criminal Intelligence Service Canada, the RCMP, the National Parole Board, and other stakeholders. On an even larger front, the network will be linked to the Integrated Threat Assessment Centre, ITAC, which liaises with foreign intelligence organizations right now.

We also developed a certification course for our security intelligence officers, in collaboration with many of our justice partners, such as the police and CSE, justice and law enforcement agencies, in order to enhance our capacity to respond to criminal gangs within this correctional realm. Since 2004, 95 officers have successfully completed this specialized training program. These officers work in various institutions throughout the country and act as the primary professional resource for our front-line staff in regard to the issues of gangs.

In addition, specific gang information sessions have been developed to allow other staff who work with offenders an opportunity to familiarize themselves with the basic features of gang dynamics that they may have to face in their day-to-day duties. This includes a two-day program specifically designed for our parole officers who work directly with our inmates.

Currently a pilot project is under way in the prairie region, which includes Alberta, Saskatchewan, and Manitoba, and where our security intelligence officers have been trained to deliver gang information sessions to all front-line staff. A further expansion of this program will be dependent on the outcome of this pilot.

Notwithstanding all of our efforts, our capacity to respond remains somewhat limited. The ratio of our security intelligence officers is approximately 1:250 inmates, or one per institution. The reality is that there are currently no security intelligence officers in the operational community settings. While our SIOs monitor illicit activities that could potentially compromise the safety and security of our institutions, community SIOs would work in close collaboration with our parole officers to enhance the intelligence component within our community setting. That's why we are vigorously pursuing this avenue.

Finally, to address the increasing complexity of threats facing CSC, we need to develop a multidisciplinary approach that would allow for a coordinated integrated gang strategy within our setting to be inclusive of our law enforcement officers and key stakeholders. We decided to incorporate this approach within the premise of the intelligence-led risk management model.

You might be aware that police have coined the term "intelligence-led policing", which involves the collection and analysis of information to produce intelligence products designed to inform police decision-making at both the tactical and strategic levels. It's a model of policing in which intelligence serves as a guide to operations rather than the reverse. It's innovative and, by some standards, even radical, but it is predicated on the notion that a principal task of the police is to prevent and detect crime rather than simply react to it.

At corrections we focus on managing the risk within the realm of corrections. We are now in the process of finalizing our national gang management strategy, which will be based on this intelligence-led risk management model that I just referred to. It's a model in which intelligence serves as a guide to operations focusing on preventive- and proactive-type initiatives.

The complexity of the gang dynamics and the variations in their actual structures do not allow for a one-size-fits-all gang management strategy. Although we promote integration among offenders so that they learn to live within the same living quarters—this also replicates the challenges they will face when they reintegrate society at large—we are aware that existing gang rivalries and incompatible issues may force us at times to resort to strategies that tend to segregate certain types of gangs. Therefore, our gang management strategy is one that is flexible enough to accommodate this reality, and one that also focuses on the individuals as much as on the groups they belong to. This means we have developed multiple strategies on prevention, intervention, and repressive models.

Also it's often necessary for us to mirror corresponding activities in the community. It wasn't too long ago that there were significant biker wars going on in the Quebec region. We had to respond accordingly within our population to make sure there was not a spillover within the correctional context. We worked closely, of course, with the police and with our managers in terms of sorting that process through.

• (0920)

For those offenders who are not affiliated with any criminal organizations or who have disaffiliated themselves from such a group, the focus will be on preventing them from engaging in activities that will predispose them to possible recruitment or initiation into a gang. Even though we aim to provide all gang members an opportunity to disaffiliate from their gangs, we understand that the more immediate objective in a correctional context is to get them to not continue their illicit activities once they are under our jurisdiction. Additionally, appropriate measures are taken to prevent them from exercising influence and power in institutions and in the community, and to prevent actions and circumstances that would serve to enhance or look at the image of the status of criminal organizations.

There have been some situations where opposing gangs must be separated, as I just referred to, in order to effectively manage our operations. When this occurs, gangs are housed in separate cell blocks to minimize and prevent contact and avoid potential gang-related situations. However, separation is not always a realistic approach to dealing with gangs. We assess each situation individually and develop approaches and interventions at the local level that would be most effective at ensuring the safety in institutions within our community.

There's no question that the issue of gang management within a correctional realm is a complex one, and the implications of it are certainly broad. The expected increase in the number of offenders identified as belonging to or being affiliated with criminal groups will continue to put pressure on our current resources, as these offenders pose various challenges to our direct operations. As an example, we have already seen an increase in the number of

offenders with gang affiliations admitted with CSC for weapons-related offences. If you refer to chart 3, you will notice that there has been an increase of almost 50%. In addition, there has been an increase in federal offenders identifying themselves to criminal groups during the intake process at admissions at a federal institution. If you have a quick look at chart 4, again, you'll see an incremental growth that continues to move into the future years.

Some of the challenges we have, of course, are the power and control issues that gang members will sometimes exercise through intimidation, extortion, and violence within the incarcerated and supervised community populations; incompatibilities and rivalries among various groups; drug use and distribution within the institutions; continued criminal links with outside criminal organizations; recruitment of new gang members and individuals to pursue extremist ideologies; the potential for intimidation, infiltration, manipulation, and corruption of staff, which is becoming a concern of ours; infiltration of CSC and our partners and service providers; gang leaders, through financial resources or external networks, attempting to interfere with correctional operations; and our maximum security capacity to address growing numbers of convictions for serious crimes that are gang-related, including weapons-related charges, which are beginning to create operational difficulties for us.

As you can see, it's very much a complicated matter for correctional settings that require future investment for us to better be able to effectively manage this issue.

Again, I thank you very much, Mr. Chair and committee members, for my being able to speak here today.

The Chair: Thank you very much, Mr. Toller. We appreciate that report of yours too. There's good information there.

Mr. Delva.

[*Translation*]

Mr. Harry Delva (Representative, Maison d'Haïti): Good morning, Mr. Chair, and thank you for inviting me.

As a result of my role as coordinator of youth projects at Maison d'Haiti, I'm mainly going to address the historical aspect. We deal directly with young people, at the street level. Here we're talking about the situation within families, which we find in the streets and subsequently in the various systems.

In Quebec, the history of gangs began when youths wanted to defend themselves. They told teachers they were being bullied and attacked outside the school, but the teachers couldn't believe them. Those youths therefore decided to call on cousins and big brothers to protect them. Teachers at school told them they could do nothing for them, since the incidents were taking place outside the school. It was really starting in the 1980s that a number of groups emerged. Those groups were initially formed to protect young blacks and young rockers.

The rockers subsequently realized that young blacks very often hung out in large numbers. They concluded from that that those groups were forming very quickly and they decided to withdraw. Understanding that the group gave them a certain strength, young blacks decided to continue. The first group broke off, some of its members settled in Montreal North and others stayed in the neighbourhood around Bélanger Street. There were the Bo-Gars, in Montreal North, and the Family, in the neighbourhood near Bélanger Street. The latter subsequently took control, became the CDP group and moved to the Saint-Michel neighbourhood.

We saw this group grow during the 1990s. On the one hand, there were the guys from the Bélanger Street neighbourhood, and on the other hand, the guys from Montreal North. I believe that's really the street gang stronghold in Montreal.

Our work was to understand exactly what these young people were experiencing and what was going on in the families. We very quickly realized that, in the families in general, the parents had to leave home very early in the morning to get to work, sometimes around 5:00 a.m., and returned home very late in the evening. During that time, the youths needed a place to meet, people to identify with. From that point, the gangs really took control of these youths. The phenomenon continued to evolve in the 1990s. The American dream became an important thing. There were the Bloods and the Crips, which are an exact model of the American experience.

What about the parents of these young people? At the time, we were talking about the youths of the Haitian community because that's really where things began. The youths became disconnected from reality. Their parents didn't exactly understand what they were going through. In addition, the youths were having a very hard time adapting. The parents gave up and said to themselves that, if their children were arrested by the police, the system would take charge of them. In general, we observed that the parents disowned their children.

As for the present situation of these youths, they're living in a threefold culture. They're required to be Haitian at home, Quebecers in the street and Americans in their dreams. Their vision of the world doesn't enable them to understand exactly what's going on. In addition, they're dealing with a lack of jobs, activities and recreations. In a number of places, no recreational activities are available to them. As a result of all that, they have grouped together in gangs.

Today, in 2006, we see there are three levels in street gangs. There are these youths who hang around the schools; these are the juniors. There are also gangs that really identify with the Bloods and the Crips, the Blues and the Reds. Lastly, there are those who do business. In fact, these are people who commit criminal offences of all kinds. We've moreover heard a lot about them recently.

As for us, in the Saint-Michel and Montreal North neighbourhoods, we now have to focus on the problem of youths who are members of the Bloods and Crips. These two groups are really confronting each other in the streets, around the schools and in the parks.

●(0925)

The Bloods and Crips are two groups that detest each other. This is somewhat a copy of what's going on in the United States. For example, when a youth leaves Montreal North with a red bandanna and goes to Saint-Michel, he'll definitely be beaten up by the Blues. Most of the juniors in the streets monitor the road. They're there to monitor what goes on and to see who enters their territory. Then there are the veterans, who we know well. The veterans are still working in drug reselling, prostitution and all kinds of businesses. Sometimes they're affiliated with other groups now called the businessmen.

What must be understood about these different groups, and why the Bloods and Crips are the most important groups for us in the street, is that they have a major influence. Today, we have to start doing prevention with youths who are perhaps five or six years old, because these groups are doing a very good job. With the American dream, the rise of hip hop music, gangsta rap, if you say street gangs, in 2007, you're talking about youths who are five or six years old who have this in their minds. All they see is what's conveyed in the media, what they see on television. They want to be like the rapper 50 Cent, for example. These days, that's their idol, and they want to be exactly like him.

We're talking about prevention with five- and six-year-old children because they often find themselves in the following situation. A youth sees his big brother or his mother, who's 16 or 17 years of age, who has a friend at home who is maybe 17 or 18 years old; he belongs to a gang, has his bandanna and puts it on the table. That same youth will see that the older youth—say, his mother's boyfriend—is watching 50 Cent on TV and it's extremely violent. That's how he's being formed, and we really have to focus our efforts on these youths because it's they who will soon be in the secondary schools and will become the king pins of the Bloods and Crips street gangs.

Why is there so much talk about the Crips and the Bloods? It's obviously understood that these youths, through what's conveyed in the United States, through music, think they've found a way to settle matters. Since they've already been excluded, they figure they no longer have anything to lose. Since they have nothing to lose, even when they wind up in prison and other systems, their threefold culture enables them to get through the system, return to the community and continue doing what they have to do, unfortunately. That's why it's important for us to see how we can reduce the number of youths who head in that direction.

Now let's talk about weapons. Last week, I was talking to a 15-year-old youth, and I asked him how he managed to find weapons at his age. He told me that it was easy, that he just had to go downtown, that he could find a weapon for \$50. It can take maybe 10 minutes for a guy to bring one back.

We recently intervened near a school. One youth had been injured by another in a fist fight. He was 13 years old. In talking to another patroller who spoke Spanish as he did, he said that, in any case, he was going to settle the matter himself, that he was going to get his brother's weapon. That means that, today, from what youths see and experience, it's easy and entirely normal for them to have a weapon in their hands. We have to explain to them, because they don't yet know that it's prohibited to have a weapon. In their minds, everyone has one, so it's cool, and they're also going to try to get one. That's why I can say that we have an enormous job to do in terms of prevention, to make these youths understand the consequences of the various acts.

An act was recently passed. Now when we talk about a street gang, we know it's a criminal organization. Once again, the youths who have gotten involved in the Bloods and Crips groups aren't aware of this fact. The only thing they're going to understand is that, when they're arrested because they've acted in a certain way, they're going to fall under that act. We absolutely have to enable them to learn exactly what the law is and what it means. The same is true for weapons.

• (0930)

Yes, it's true that we can have acts that will enable us to protect the public, but it's also true that most of these youths, if they aren't aware because they're living inside their heads and in their dreams, can't understand that it isn't right to own a weapon, since they regularly see it on television and their idols carry them and have fun with them. If you go to 50 Cent's Web site, you'll see that a weapon opens the site. So a youth who wants to get onto the site knows he has to go "bang, bang" to get in, and that's a situation we experience every day with our youths.

Getting back to prevention, yes, I think we have to work very hard to do it. For a very long time, we've been trying to work with youths in the Saint-Michel and Montreal North neighbourhoods doing prevention. Unfortunately, we don't have the resources to fight this phenomenon, this plague. This phenomenon has been promoted on TV with billions of dollars, with hip hop music and artists like 50 Cent and others, but it's unfortunately very difficult for the various community groups, which are in the field, which every day experience what the youths are experiencing and exactly report their day-to-day experience to us.

Unfortunately, we can't find the funding to be able to keep caseworkers who can continue working with these youths. Today, we've definitely realized that we have to start earlier. Unfortunately, we have to start in kindergarten, with children five or six years old, because they already have a red bandanna or a blue bandanna in their pocket and they already know... I don't mean these youths belong to gangs, but they already know their allegiance. That means that, if they belong to the Bloods, they know they have to hate and detest the Crips, and if they belong to the Crips, they know they have to hate and detest the Bloods, and when these youths meet in the street, they're going to shoot each other or they're, in a way, going to continue the same fight.

Will we manage to stop all this? I tell you right now no, unfortunately, but we'll have to be able to work upstream with a new generation with whom we can make contact and make a difference. I

say quite often that we have to be able to give these youths something to lose because, for the moment, they have absolutely nothing to lose. When they wind up in the prison system, they still have nothing to lose, and it snowballs, because all they know is that, in the street, they'll find a way to make hay, as it were.

• (0935)

[English]

The Chair: Thank you, Mr. Delva.

Mr. Bélanger.

[Translation]

Mr. Claude Bélanger (Former Principal General Counsel, Department of Justice, As an Individual): Good morning, Mr. Chair, ladies and gentlemen of the committee.

My name is Claude Bélanger. First, I'm going to note that the Bélanger Street neighbourhood Mr. Delva referred to in his presentation has nothing to do with me.

For a little more than 32 years, I have acted as Crown attorney or permanent Crown prosecutor in the federal Department of Justice. During those 32 years, which I've spent before virtually all the courts of all jurisdictions, I've followed the trail of a very large number of members of organized crime. Unfortunately, when I began my career, the organized crime act had not even been conceived of, and I'm not sure anyone felt the need to do so.

The legislation concerning organized crime and the proceeds of crime are indissociable in my mind. They cannot be separated from each other because the purpose of the crimes committed by organized crime is to appropriate material property, money, and all that entails.

In 1989, when the new act on the proceeds of crime came into force, I established the Mont-Joie ski resort case, which you may have heard about. This involved individuals who, through narcotics imports in southern Florida, had acquired enough money to build a ski resort in North Hatley, in the Eastern Townships, in Quebec.

Since the act was new, this case went on for four years. I worked on it full time and managed the police investigation. I wasn't a police officer, but we had to train the police officers who were starting this type of investigation based on an act that had previously never existed. The case ended in 1993 with, among other things, the confiscation of the ski resort.

In 1994, I managed the prosecution — I wasn't the one who established this case — in all the proceedings instituted by the Attorney General of Canada following the RCMP operation designed to operate a currency exchange desk in the Montreal business centre. Police officers played the role of clerks there. The purpose of that police operation was, first, to identify individuals likely to make use of this type of procedure to erase any traces and mask the origins of money and, second, to determine where that money went.

Some individuals appeared with hockey bags the size of those that Ken Dryden used to transport his goalie equipment. They put these bags filled with money on the counter and told the clerks, whom they obviously did not know were police officers, to send the money to given locations. The officers then immediately knew where the money was going. However, they didn't know what happened from that location. That was the purpose of the operation. This was another case that we established. The police investigation started in 1990, and the trials ended in 1997.

It was probably for these reasons that, in late 2001 and early 2002, at the RCMP's request, the Department of Justice assigned me, as legal counsel, to the Combined Forces Special Enforcement Unit, or CFSEU, that the RCMP had just established.

● (0940)

That unit consisted mainly of veteran investigators mainly from the RCMP, but also from Sûreté du Québec and the Montreal and Laval police departments. The RCMP spearheaded the investigation. The unit's first target was what the RCMP calls traditional organized crime. That's the organized crime that you don't see and whose existence you generally don't suspect, in other words, the mafia.

At first, working on that investigation, I very soon saw that it was an illusion to think that the federal Department of Justice alone, within its jurisdiction, could make a complete, qualitative contribution to the investigation. It wasn't because the investigation was generally conducted by federal police officers that the members of organized crime were going to be content with committing "federal" crimes. I therefore requested the assistance of the provincial Ministry of Justice, which assigned a very experienced lawyer to the role. We both started supervising the CFSEU investigation from a legal standpoint.

What did we do together? The way you investigate definitely varies with the type of organized crime concerned by the investigation. In 2001, a new act had just been amended. To a certain point, the organized crime criteria had been changed, and it was in that context that we started working on the new investigation.

The lawyer René Domingue and I first had to consult in order to agree on the definitions and interpretation to be given to the new act. Then we spent a fair amount of time training the investigators, not because they lacked experience, on the contrary. In virtually all cases, these were veteran investigators, but what they had to investigate was entirely new to them. Why? Because, under the new act, elements that absolutely had not constituted evidence at the time the investigators had conducted the investigations and acquired their experience now did constitute evidence. We had to investigate.

To obtain our investigation tools, we supervised the required affidavits. These were affidavits for wire taps, search warrants and installations of GPS systems in vehicles. There was also the affidavit pertaining to what I call the special warrant, provided for in the Criminal Code, which is quite recent. It's a warrant used by police officers and allowed by the law in cases where the investigation procedure or the anticipated invasion of privacy would constitute an illegal or abusive search, were it not for this provision of the Criminal Code, in section 487.01. We also supervised the affidavits required to force the institutions to provide documents, applications for retention of seized articles.

The government amended the Criminal Code and facilitated the use of certain investigation methods, including wire taps. Unlike Randall Richmond, I don't think it's easier to obtain permission for this. On the contrary, the time it takes can be longer than that originally provided for by the Criminal Code. You can even listen to private conversations for a full year with legal authorization.

● (0945)

However, if you install a GPS in a vehicle, legal permission to do so is valid for only 60 days. In other words, when the Criminal Code was amended, they forgot to amend certain provisions. As simple as it may seem, this causes quite particular problems.

With regard to seized articles, we're normally required to return them following the seizure. We can obtain extensions of up to one year, the same period as for wire taps. However, for an organized crime investigation like the one at that time, the period, whether it be three months or one year, isn't enough. Police officers spend a considerable amount of energy preparing all the documentation, affidavits and explanations required to obtain an extension of the time for retaining seized evidence. The more the number of these procedures is increased, the more the investigation is jeopardized. Each action police officers take requiring court authorization requires documentation filed at the court house, and that involves risks. It's a bit like lottery tickets: the more you buy, the more chances you have of winning. The more necessary actions must be taken to conduct the investigation, the greater the chances of jeopardizing that investigation.

Having spent nearly four years judicially supervising the investigation, I can tell you without hesitation that the police officers spent almost as much energy protecting the investigation's existence as they did obtaining the evidence that ultimately led to the arrest of 70 or 90 individuals in Montreal.

Another problem — and this is what I've been asked to talk to you about — was endorsing the warrants. Let's simply take the example of a search warrant. In the kind of investigation we're talking about here, despite the fact that the centre of the investigation is in Montreal, the area concerned is Canada as a whole and, very often, foreign countries. That was the case of this investigation. Consequently, a warrant may be issued in Montreal, but have to be executed in another province. In many cases, quite extensive documentation accompanies the warrant application. Under the Criminal Code, if it is anticipated that the warrant will have to be executed in another province and the execution of that warrant will require entering a house or domicile, the warrant must be endorsed by the local judicial authority of the place where the warrant must be executed.

Despite the fact that there are two official languages in Canada, warrants drafted in French were also a problem, and I can understand that. In very small municipalities where warrants had to be executed, we had to go before the local judge, who didn't understand the documentation because it was drafted in French. Here again, I'm telling you about problems we faced every day.

● (0950)

[English]

The Chair: Mr. Bélanger, I'm going to interrupt for one moment. We do have one more presentation. I know you haven't finished giving your information, but I'm going to encourage you, during our question period, to bring forward some of these other concerns that you have about how these warrants and the investigations are hampered by whatever.

I find your information very interesting, as does the rest of the committee, but I'm going to go to Mr. Ouellette. We have to get through the presentations. We'll have approximately one hour for questions. Thank you very much.

Mr. Ouellette.

[Translation]

Sgt Guy Ouellette (Retired Sergeant, Sûreté du Québec): I realize I'll have to be very concise in the next 10 minutes, Mr. Chair.

I was a police officer with Sûreté du Québec for 32 years. I've been retired for six years. I'm highly specialized in organized crime, both biker and Aboriginal organized crime. Most of the case law that was prepared for this committee, whether it be the Leclerc decision, the Carrier decision or the Lindsay-Bonner decision, concerns trials in which I had to testify as an expert witness.

The first anti-gang law was passed 10 years ago on May 2. I followed it, and I'm still very much involved at all levels because I still have to testify regularly across Canada in various cases.

I would have liked to tell you about the opportunity I had to write a book, which unfortunately is only available in French. It concerns the president of the Hells Angels, Maurice Boucher. By the way, those who read the *Journal de Montréal* this morning will see that picture on the front page. They say the Revenue Department will be seizing Mr. Boucher's houses. I want to tell you that the day we think about seizing their assets, we'll have understood that that's their life blood.

Bill C-53, which parliamentarians passed on November 25, 2005, hasn't yet been used by any police force in Canada. Why? I'd like to tell you right off the bat that organized crime very often takes advantage of the fact that the system is disorganized. It's disorganized because police officers don't talk to each other, because federal agencies don't talk to provincial agencies, because Bills C-95 and C-24, which have become the anti-gang laws, were passed because there were gang wars in Quebec. The rest of Canada didn't care; they were killing each other in Quebec.

We have a bill, Bill C-10, on firearms. Why? Because people are shooting guns in Toronto. And last year in Toronto, 52 murders were committed with firearms, including that of a young girl, Jane Creba, on December 26. Now there's pressure, and we're going to amend the Criminal Code of Canada because, I'm telling you and I repeat, it's the Criminal Code of Canada, not that of Quebec or Ontario.

We've had quite extraordinary results — Mr. Richmond told you about that — with regard to convictions for gangsterism in Quebec. I'd like us to do the same thing in Ontario, Manitoba and Alberta.

You'll be hearing from someone from the Vancouver police department two days from now. Do the same thing for Vancouver, and you'll see that there have been very few gangsterism convictions there. You'll realize that, in the other Canadian provinces, when charges are laid for offences under Bill C-24 and C-95, they are withdrawn in exchange for a guilty plea on drug trafficking charges. That's what's called plea bargaining. It has a harmful effect.

I have two examples to cite on this point: one occurred in Ottawa and concerns the Hells Angels Nomads, who are based in Ottawa, in your beautiful city; the other one occurred in Oshawa, another project of an Ontario police department. The guy is going to be sentenced to six years for drug trafficking. But we have the Canadian Conditional Release Act. On a first sentence for drug trafficking, an individual is eligible for parole after serving one-sixth of his sentence; that's called accelerated parole review. As a result, a guy who is sentenced to six years can get out of prison after one year.

What's been done? If he had been convicted on gangsterism charges, the penalty would have been longer, harsher, but we could have asked that he at least serve half his sentence. That would delay his conditional release by the same length of time and would send a message. However, the message we're sending right now is this: we're charging you with engaging in gangsterism, but someone in British Columbia, the president of the Hells Angels, is filing an application to challenge the wording of section 467.11 because it isn't clear. Oops! Another trial is being held in Quebec in which lawyer Benoît Cliche is also challenging section 467.11. And now the blows are coming from everywhere. If you need information that the Vancouver police department has gathered as part of their investigation, I can't give it to you.

● (0955)

It's very, very hard to exchange information. That goes as far as it went in the Lindsay-Bonner case, which you have in your case law report. The Ontario Provincial Police was required to go and execute a search warrant in the exhibit vaults of a British Columbia police department to obtain evidence that would help it convict criminals on gangsterism charges.

We have to stop making up stories, splitting hairs and believing that we're good and nice. We'll be able to deal with organized crime if we talk to each other and if everyone in the system works together.

You parliamentarians have to decide on the fate of Bill C-10. You're leading the parade. You'll have to decide, to conduct a clause-by-clause consideration of a bill on firearms. Thank you! You're giving police agencies tools. Now they have to use them. Thank you! You're giving Crown attorneys tools. Now they have to use them.

Before Bill C-10, section 95 of the Criminal Code contained a provision stipulating that the minimum penalty for possession of a firearm was one year in prison, if the holder was charged with an indictable offence. But only a fine is provided for if the individual is found guilty on summary conviction. I'll tell you that, in my 10 years of fighting organized crime very closely with the units in the field, in a number of cases, people are charged under the summary conviction procedure in order to avoid work, save time and avoid a trial. So the criminals pulled up, took out their little case and paid the clerk their little fine. And we had to start all over again!

As regards gangsterism charges, subsection 515(6) of the Criminal Code provides that it is up to the accused to provide evidence in order to obtain his release, to give the system guarantees. It wasn't normal that there was an extensive operation in Toronto in which 125 individuals related to street gangs such as Jane Finch and another, the Jamestown Crew, were arrested. It wasn't normal that, for the vast majority of these people, it was the third time this year that they were arrested because they hadn't been charged with gangsterism and that the justice system had released them for all kinds of reasons.

For the majority of people who are charged in Quebec, there are automatic release investigations, particularly as regards organized crime. Moreover, I would say that, in more than 60 or 70 percent of cases, people will be detained following their release investigation, which is conducted with the assistance of police officers, experts and so on.

We have another problem in Canada. We want to have laws, we want to have a lot of things, but we have a big file on the Italian mafia. I checked with Claude a little earlier: we don't have an expert witness who can testify in order to prove gangsterism.

I've been retired from the Sûreté du Québec for six years, but I don't have a successor. I'm retired. When you retire, you're supposed to be at home in a rocking chair watching the cars go by your house. But they call me regularly because they have a problem and have to provide evidence of gangsterism. It takes an expert witness who is able to tell the story. So organizations have to provide for that.

It's not normal for a guy like Harry Delva, who, as he told you, is in the field in Montreal North and Ville Saint-Michel to tell you that, every day, in the pool of emerging street gangs, he sees youths of five, six, nine, 10 and 15 years of age, which corresponds to the real police definition of street gangs. However, every six months, he's forced to fight with various departments in order to authorize a program to train a successor. There's nothing permanent in his work, and he has no security. However, it's announced that there will be 2,500 police officers or more and \$10 million to invest in prevention programs. But, every six months, he is forced to fight for \$90,000 in funding. And yet he's the one who has them in his face every day.

● (1000)

I'll conclude by telling you that, in the few minutes you've allotted me, organized crime has fought the disorganized system. The day we manage to regularize the situation and work together just a little bit, there will be no more criminals. I wrote in my book that I find it hard to understand why 15,000 police officers can't control 150 bikers. The answer is simple: we all have to work on the same side and stop fighting over details. Give us the tools we need, and the police officer in the street will make his observations, the investigator will investigate, the attorney will do his job, the judge will decide, the conditional release guy will manage the sentence, and you'll pass laws to help those people. You have a social responsibility toward the citizens of Canada. But there won't be any difference between a gangsterism crime committed in Quebec and another committed in British Columbia, and no one in British Columbia...

Only three years ago, in 2003, the Hells Angels did a big national run in British Columbia. Quebec police officers who went to help their British Columbia colleagues were told that, if one of them was

seen monitoring a Hells Angels member, he'd be put back on an airplane and sent home. Such is the fight against organized crime in Canada. I don't want to be very negative, because I still like doing what I do, and I still say yes when I'm asked to go and testify, but I think we have to stop thinking that we're good, that we're nice and that everything is going to solve itself. We all really have to work together.

You represent different ridings in Canada. Apart from Mr. Bagnell, from the Yukon, where the British Columbia Hells Angels go from time to time, all of you have horror stories to tell, whether it be about the Hells Angels in Windsor, the Bandidos in London, street gangs and bikers in Moncton, or about Asian street gangs that do drive-by shootings in Calgary. The same thing is going on in Montreal with the Haitians. The same is true anywhere else in Canada.

So from the moment we work together, we'll achieve good results. Thank you.

[English]

The Chair: Thank you very much, Mr. Ouellette. I think that was very informative—I dare say reflective of a police officer.

I have a point that I would like the committee to have maybe a little bit more clarification on, brought up by Mr. Bélanger. Mr. Richmond made some comment in reference to wiretaps, as did Mr. Bélanger, on the effort put in to acquire a wiretap warrant. I know there are slight differences of opinion there, but I'm curious as to the position of a prosecutor. I am a former police officer myself, and I know that wiretap information usually involves a lot of time and effort.

So I'm just curious if you could clarify that point for the committee.

● (1005)

Mr. Randall Richmond: The reason I said that the anti-gang legislation made it easier for us to get wiretaps in criminal organization investigations is that prior to 1997, the general rule, which still applies to all other cases, is that before you can get authorization to do wiretapping, you have to prove that the police officers in their investigation have exhausted all the other investigative possibilities. What the 1997 legislation did was that it said you don't have to exhaust all other investigative possibilities when you're investigating organized crime.

In that sense, that was one criteria we had to meet before that we didn't have to meet starting in 1997. So that has been very useful in terms of our requests for authorizations to do wiretapping. However, I understand why Mr. Bélanger says it hasn't become easy, because it's still a very lengthy process.

One other improvement with the 1997 legislation, which Mr. Bélanger did mention, is that it's possible to get authorizations for a longer period of time. Before 1997, the general rule applied, and that is that you had a maximum of sixty days where you could do wiretaps. After that you had to get judicial renewal of your authorization. The 1997 legislation allowed us to get an authorization right from the start to do wiretapping for 12 months, which is very appropriate, because these investigations that we do in criminal organization investigations, they tend to be very lengthy—as I said, from 12 to 24 months.

So it is better, I would say, than it was before 1997, and it is easier, but it's still a lot of work. I know that people like Maître Bélanger spend a lot of time preparing those wiretap requests.

The Chair: Mr. Bélanger.

[Translation]

Mr. Claude Bélanger: The only reason I say it isn't easier is the Canadian Charter of Rights and Freedoms. If the courts that have to rule eventually find that the criteria that were in effect before the organized crime law was passed — that is to say the old criteria for obtaining wire taps — are the basic criteria consistent with the Charter, there are risks that certain courts may find that if these basic criteria that have been in existence since 1974 aren't met, wire taps will constitute an abusive seizure.

Earlier I told you that we started the investigation that has just wound up in late 2001 or early 2002. We haven't gone to court yet; only the investigation is complete. If the courts find that the application for wire taps does not meet the basic criteria established by the Charter, because the organized crime law goes beyond the basic requirements under the Charter of Rights, wire taps and their results will be ruled inadmissible.

Do you have any idea of what that represents? We're talking about a four-year investigation that risks being thrown out. I'm not saying that's the case. That's why I'm saying that it isn't necessarily easier to obtain wire taps because, in the statement of grounds for seeking wire taps, authorities indirectly ensure that the initial criteria that were set are met.

It's in that sense that I'm saying that it's not more difficult to obtain it, but that it isn't easier either, because authorities ensure that the minimum required by the Charter is met.

[English]

The Chair: Thank you very much, Mr. Bélanger.

We'll go to Mr. Lee.

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

After Monsieur Ouellette's remarks referring to Mr. Bagnell, Mr. Bagnell just whispered to me that he was in fear of biker gangs resorting to Ski-Doos up in the Yukon. So you never know what the future will bring.

I'd like to address a question to Mr. Toller. I was going to ask how the heck you manage to actually ID someone who has an organized crime connection if the court hasn't already found that. Of course, your documents today have included the commissioner's directive, which shows how CSC does that. I've had a look at it. It looks very

good. I should commend CSC for doing just that. This was issued in 2003. I'm sure it's a very useful procedure.

The only question that lingers—and I don't want to be seen as going to bat all the time for the alleged bad guy here—is if, in the scheme of things, an offender in an institution is wrongly designated. The procedures here would seem to preclude that. There's a very fair system of investigating and vetting and designating. But in the event, if there would be a problem with that, the protocol here doesn't identify it.

Would it be the offender's procedure that he, or perhaps she, would go to the ombudsman or the correctional investigator if there were a problem? Is there any escape from being wrongly designated, other than the de-designation that's mentioned here?

• (1010)

Mr. Ross Toller: Yes, there always are a number of avenues to which an inmate can have recourse. Certainly we have an internal grievance system that could be used. There is a possibility for an inmate, if evidence can be provided to the contrary of what's been recorded, to make alterations to the file in terms of the case management record. A correctional investigator is certainly another avenue. The court system is another avenue.

What we have found in our experience, though, in general terms, is that we have had a number of inmates who have come in with almost the opposite. They have made claims to be at some sort of level an affiliate, I think in some way to try to have in their own minds a sense of stature or a sense of importance. What we have done in our policy, as you've seen here, is look at the verification of that with the respective police forces. We have a number of wannabes—but they're not really at all associates or affiliates—who like to use that claim.

Our tendency is more the opposite. The information we have when the person is designated is shared with the inmate. It forms part of his or her plan. It often then addresses what we're going to do in terms of the person's need to move it.

Mr. Derek Lee: So there are avenues, and that's good.

Now, this business of tackling organized crime and gangsterism is something that's been developing for 50 years now, if not longer. I know that 30 or 40 years ago there was an informal way for police and other community representatives to communicate with the parole board. If you have a career criminal in there who's 35 years of age, it's dollars to doughnuts that when he leaves, he doesn't have an occupation; when he's back on the street, he's going to go back to his original occupation, which is not a good thing.

The parole board has been mentioned here, but they're not a witness. To your knowledge, when the parole board is considering a release at one-third or two-fifths or whatever sentence the mathematics take you to—even at mandatory supervision, at two-thirds—are they in a position to receive from CSC, from police, and from other public institutions information with respect to this gangsterism category that would allow them to alter the period of detention or the conditions of release?

Mr. Ross Toller: They are, absolutely. Every piece of information we have with inmates is shared with the National Parole Board. We actually have, in many circumstances, actually joint shared printers. Police reports are received, crown attorney reports are received, reasons for sentencing are received. Those form part of the actual package that is reviewed by National Parole Board members.

In relation to what you've said in terms of identification of lack of employment, obviously part of the other side of the correctional approach is to look at those particular needs. It might be possible to learn some employment skills that could be used out in the community.

That's all a matter of record. That all forms about the capacity to manage the risk inside the community, but police information from our security intelligence networks is completely shared with the parole board, as is the contact made in the community before a person is being presented for release. We'll do community assessments. We'll talk to the local area police force of jurisdiction where they're going. We'll cross-reference all our material. The documents that go to the board for their decision-making processes are actually very comprehensive.

• (1015)

Mr. Derek Lee: Have you seen circumstances in which CSC or other parties have concluded in the offender's case management file that the guy is absolutely going back to his gang, almost beyond a shadow of a doubt, and that's the recommendation to the parole board? If you know the gang owns the guy, and he's going back to his occupation, has that been the clear recommendation to the parole board? Is CSC able to be that clear about it and give those kinds of recommendations to the parole board?

Mr. Ross Toller: Yes, there are certain circumstances like that.

We even have the capacity, if we believe that the risk is heightened in a number of areas, to actually detain the person from the mandatory supervision date to the period of the warrant expiry date. In cases such as that, if we believe the risk to the public remains high, the likelihood of a negative recommendation on getting parole is extremely strong.

Yes, I have seen cases like that.

Mr. Derek Lee: Thank you.

The Chair: Go ahead, Monsieur Ménard.

[Translation]

Mr. Réal Ménard (Hochelaga, BQ): I'd like to ask three questions. I'm obviously very pleased with the quality of the evidence heard today. When I tabled my motion before the holidays, I didn't know that Judge Bonin would render the decision he rendered. But I'm a bit concerned.

First of all, I'm always pleased to see Guy Ouellette and to see his aplomb. I say to myself: the progress we've made. In 1995, I remember meeting Allan Rock with the mother of the young Daniel Desrochers. Senior officials at the Department of Justice told me at the time that we didn't need an anti-gang law, that they would dismantle that with the conspiracy provisions contained in the Criminal Code. I don't need to remind you of the whole battle we had to wage, all parties together, to get provisions to that effect.

Here's the subject of my concern. When I read the Bonin judgment in the Aurélius case, I was very pleased. Now I ask you the following question. In the Criminal Code, when it's defined what a criminal organization is...

Mr. Ouellette reminded us that, in British Columbia, section 467.13 — not section 467.11 — was challenged. As it is at the trial stage, it's binding only in British Columbia, but that's not important. As the legislator, shouldn't we immediately say that, when we read section 467.1 and talk about criminal organizations, there should be express wording referring to street gangs? I ask the question because, of the 70 pages of the judgment rendered by Judge Bonin, there is only one where he states that, yes, the two gangs that he's talking about — the Pelletier Street gang and the other one — are street gangs, but he doesn't justify the elements that constitute that offence in relation to section 467.1. I'm afraid that won't stand up to a court challenge. I hope I'm mistaken. If we don't need to amend the Criminal Code, I'm very much afraid this will go to the Supreme Court. As Judge Bonin, at the trial stage, described the evidence and relied on the evidence without explaining why street gangs were now included in criminal organizations, I fear there will be subsequent challenges.

I'm going to ask my three questions at the same time; you may then answer them. My first question is for Mr. Richmond.

I now have a question for the Correctional Service. First, when a person is assumed to belong to street gangs or organized crime, how is he treated within the Correctional Service? Mr. Toller, give us some examples in which, as you said, gang leaders intervene in the management of the Correctional Service. Perhaps there are some things that should be amended in the Criminal Code. I'd like you to give us some examples on the subject.

Lastly, can you tell us, Mr. Ouellette, with supporting examples and your pedagogical sense, how investigation techniques differ for street gangs and organized crime? Are any elements missing in the Criminal Code that would help investigators be more effective?

Let's start with Mr. Richmond. Am I wrong to be troubled or not? Do you think we don't need to amend the Criminal Code?

Mr. Randall Richmond: In my view, the question whether a specific reference to street gangs should be added to the Criminal Code was answered last week in the context of Judge Bonin's decision in the Aurélius case, in which, for the first time, we saw that the present definition of a criminal organization could be applied to a street gang.

If he had decided that it did not apply, we might perhaps be asking ourselves the question, but I think we got a positive answer, to the effect that it's not necessary to amend the act to add the notion of street gang. In the office where I work, no one is demanding that this specific notion be added to the Criminal Code.

In my opinion, there's another reason not to include it. I observe that I've never really heard a very good definition of street gang. I've heard certain attempts to define a street gang, but every time I hear those definitions, they seem inadequate to me.

In his decision in the Aurélius case, Judge Bonin used the definition that had been submitted to him by the police. But you'll note that reference is made in that decision to adolescents or young persons. However, if you consider the individuals who were convicted by Judge Bonin, you can calculate that the average age is 34, and the average age of those who have been convicted for gangsterism is 31. Consequently, this shows, as one of the witnesses mentioned this morning, that we're seeing a second generation of street gangs. The members of the street gangs of the 1990s are getting older and are still involved in crime. So the definition that refers to young persons is no longer valid. These individuals are still engaged in criminal activities. So we shouldn't have a definition that's based on age.

All the other definitions that I've heard are essentially similar to the definition of a criminal organization in the Criminal Code. It should also be kept in mind that, in 2001, with the adoption of Bill C-24, the job was greatly facilitated by expanding the definition of criminal organization: it's now required that only three persons work together for the purpose of committing crimes involving money.

• (1020)

Mr. Réal Ménard: With your permission, I'm going to come back to that. I'm more concerned than you, but I hope I'm wrong. We'll get back to that, with your permission.

As regards what goes on in the prisons, give us some actual examples. How are people handled when it's known they belong to a street gang or to organized crime? How do the gang leaders intervene?

[English]

Mr. Ross Toller: Each case is looked at individually, of course, but we have a number of responses. The first....

[Translation]

Perhaps it's better to speak more slowly.

Mr. Réal Ménard: The important thing is that the Chair grant me more time.

Mr. Ross Toller: All right. Pardon me.

I can try to answer in French, if you wish, but my—

Mr. Réal Ménard: No, that's fine. The important thing is that I get an answer.

[English]

Mr. Ross Toller: Okay. Merci beaucoup.

We have a security response that we would look at in terms of the management of inmates of organized crime within a correctional frame. Right now we have in Canada one extreme special handling unit that is our highest level of security, which is in the Quebec area. Right now perhaps one of the most prolific inmates who is known to organized crime is incarcerated there. This person, from our perspective of looking at the case, still poses a significant risk to the staff and other inmates within the correctional frame and also poses a significant risk of having the capacity to maybe continue to even influence control from within a penitentiary centre. We have placed him and will continue to monitor his case and have always

that option available to us for the restricting of security movements at the highest frame.

In addition, as you know, we're structured along levels of security for maximum and medium institutions. Those in themselves have limitations of movement, limitations of capacity to associate, limitations within visits that we can apply at every particular point in time.

You asked about the treatment component. Again, it's an array. We look at each case in terms of individual needs. In terms of the complexities, when you're dealing with organized crime, you have variations across a number of scales. There are some who are absolutely extremely hard-core, committed to their gang, and I think no matter what will never change. I think that's the example we've given. We have others who are maybe wannabes, who maybe want to join just for the sake of being a joiner. We have to look at each one of those in terms of our responsibility. What is it that will stop that? What will discourage the interest to join? We look at the needs across a number of scales. Did somebody join because of a lack of education? Did somebody join because of a lack of employment? Did somebody join because of his hostility scale? Has somebody joined because there are some mental health issues? In each case we do a comprehensive intake assessment of each individual case associated with that as well look at what we can deliver in terms of programs to try to mitigate or dissuade that person from continuing on in those types of processes.

They are often individually based in terms of treatment. We are beginning to do an awful lot of work around the research. I think we heard some testimony here today, certainly from the community, on young children who are looking to join gangs. We've intercepted pictures of visitors coming in where young children are beginning to show gang colours to somehow, I guess, continue in the representation of their family.

So we continue to work on family matters, continue to work with the community on those types of elements.

• (1025)

The Chair: Thank you, Mr. Toller.

Mr. Comartin.

[Translation]

Mr. Réal Ménard: I asked Mr. Ouellette a question; can he answer it quickly?

[English]

The Chair: You may get his answer, yes.

Mr. Ouellette.

[Translation]

Sgt Guy Ouellette: There's nothing to change in the Criminal Code. Let's use what we have properly. We don't need to change anything whatever right now.

What's different in the investigation techniques regarding street gangs is that they are less visible, less structured and less obvious. They don't wear patches. We have a Charter of Rights and Freedoms in Canada. It's not illegal to wear patches, but it is to commit crimes.

I'd like to help Mr. Toller by telling him that he's not working any miracles if the police aren't doing their job, no more so than if the prosecutor, when seeking the sentence, withdraws the gangsterism charges and, for the needs of the court, doesn't say that the guy belongs to a criminal organization, that he's a member of the Hells Angels. If he says nothing, because there's been a plea bargain in order to send an individual to prison for six years on drug trafficking charges, he doesn't know.

Over the years, I've prepared an album of pictures of all the Hells Angels in Canada. I shared that list of names with the Correctional Service people. When they have a problem, they obviously ask questions. They ask what gang the guy belongs to. The guys said they were members of another particular gang. Officials checked with police. However, if the police don't have all the facts so that they can provide evidence in court, I'm sorry, but the Correctional Service people can't classify the individual: they're forced to classify him in relation to the prison. So it's not them yet. So if people aren't doing their job and there's no communication between the parties, at some point, the inmate may find himself in the wrong wing and get beaten up.

[English]

The Chair: Thank you, Mr. Ouellette.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair, and thank you to the witnesses for being here. It's been a very interesting morning so far.

I want to pursue this point *avec vous, Monsieur Ouellette*.

[Translation]

In my opinion, that's always a problem. Take the example of the police officers at our offices who worked in the Bernardo and Pickton cases. We think that, if police officers communicated more, perhaps we'd get results more quickly and perhaps we could prevent crime.

Is there a province or a city where that's done properly, where police officers from different offices cooperate? Does that occur somewhere in Canada?

Sgt Guy Ouellette: It's happened in the context of the fight against organized crime. We experienced it in Operation Wolverine, at the start, when we forced — that isn't too strong a word — police organizations to meet and exchange information. I'm not engaging in advertising, but I mentioned it in my book. We all work together, except that, in the case of a major operation where we manage to bring 90 or 100 individuals together, observe how the press conference takes place: all the officers put their uniforms on and it's a competition to grab the microphone to make a statement. Then people identify the police departments; they see red, blue and green, and they of course identify the RCMP. If someone from the RCMP speaks, then, in people's minds, it's the RCMP that did the work.

We'll really get total cooperation among all police departments the day we all dress in suits, like this morning, to step up to the mike and hold a press conference. At that point, people will say that it's the police that did the work. But we're still very far from that because there are also a lot of cultural differences between the federal and

provincial levels. Computers don't communicate information in the prisons.

Let's talk about the federal parole system. An inmate is serving his first federal sentence and is eligible for accelerated parole review. He may have had five or six provincial convictions, and the federal level doesn't know it. The inmate is released, whereas he's on his sixth conviction, because the computers haven't transmitted the information. So there's a little work to be done in that area. There's no perfect model; we need men of good will so that we can hope to change the situation.

We're facing a challenge. Mr. Ménard mentioned section 467.13. I referred to Mr. Ciarnello. He challenged section 467.11 after winning his case against section 467.13. But as our police departments have trouble exchanging information among themselves, the attorneys have trouble as well. So when we manage to have people convicted, if the information isn't transferred to the Correctional Service, everyone has trouble. However, we have to continue working on that.

• (1030)

[English]

Mr. Joe Comartin: Mr. Richmond, along the same lines, when the push came by the Sûreté du Québec and Mr. Ménard, one of the former Solicitors General, to go after the bikers in Quebec, and Manitoba did the same thing two or three years down the road—and now Ontario has finally got to it—we ended up with both Manitoba and Quebec squeezing the bikers into Ontario. Now what's happening, and it's happening in my home city of Windsor, is that the street gangs are being squeezed in Toronto and they're moving into some of the other municipalities. But that's not being communicated.

Was there any strategy in Quebec, when you started your process, to deal with the other provinces? As we've heard today, the spillover is there, the interconnection is there with the biker gang, certainly, and with the more traditional organized crime.

Is there any communication, when you put a push on, such that you tell Ontario, tell Manitoba, and maybe tell the maritime provinces that there's going to be some spillover from this?

Mr. Randall Richmond: First of all, I'd like to make a comment on something that has at times been said in the media. People are given the impression sometimes that the bikers in other provinces, such as Ontario, came from Quebec. I don't think that's an accurate reflection of what has happened.

It's true that the Hells Angels as an organization came to Canada in Quebec before they came to Ontario. But when all of a sudden Ontario woke up with over a dozen chapters of the Hells Angels motorcycle club... Those biker clubs had already existed in Ontario, and had patched over to become members of a much larger international organization.

Mr. Joe Comartin: But there was an aggressive attempt on the part of the Hells Angels to take them over.

Mr. Randall Richmond: Yes.

Mr. Joe Comartin: And part of that aggression came from the fact that they were being pushed out of Quebec.

Mr. Randall Richmond: No, I wouldn't say they acquired chapters in Ontario because they felt pressure in Quebec. The effort had begun much earlier. In fact, there were a couple of members of the Quebec Nomads chapter who were actively recruiting all across Canada to try to get other biker clubs to patch over and become Hells Angels. Another thing is that when we made our effort against bikers in Quebec, the result was that most of those we charged were put in jail; so they weren't pushed out into other provinces.

But I think the proper attitude to take is not to ask who is to blame and which province is responsible. I think the proper attitude is that we have to work together all across Canada, because most of these organizations are national and international in character; they have members all across the country and they share information and resources, and we have to do the same if we're going to counteract their activity effectively.

Because of that, I have been cooperating as much as I can with people involved in prosecuting organized crime across the country. I have given lectures to organized crime prosecutors in Vancouver. I have had regular meetings with prosecutors in Ontario. We have contact with the prosecutors in other provinces. And we're presently setting up a website where all prosecutors in organized crime will be able to share information, to be right at the cutting edge of organized crime prosecution.

A lot of efforts have been made and we have to continue in that same direction.

The Chair: Thank you, Mr. Comartin.

Mr. Thompson.

Mr. Myron Thompson (Wild Rose, CPC): Thank you very much for being here. I'd like to congratulate everyone for their presentations.

I was especially pleased, Mr. Delva, that you dwelt on youth at risk and the importance of that particular issue. Having spent 15 years as a high school principal and a junior high principal before coming here, I recognize how serious that situation is. Thank you for that.

I also thank Mr. Ouellette for pointing out the need for getting this disorganized system organized through communication between police forces throughout the country, and noting how disorganized it is.

And to all of you, thank you for your comments on the red tape you have to go through. The red tape in this country is just phenomenal, and I just don't quite understand why it's all that necessary.

To the correctional service, Mr. Toller, I've been to many penitentiaries and I've had presentations from the SIO, special intelligence officers, who do an excellent job. I would recommend that every politician, particularly members of this body, go to a penitentiary and visit with the special intelligence officers to become very informed. They do a very good job about the gangs that exist in our penitentiaries, and I commend them for their work.

But I'm extremely puzzled about something that I can't seem to get the answer to. In our penitentiaries we have what we used to call "solitary confinement"; now they call it "segregation". Because I'm

so old, I'll use the old term. Solitary confinement was always there to punish people for misbehaving, in most cases. Now it's filled with people—in every unit that I was in—who need protection from the gangs that exist within the penitentiary. I visited these individuals and asked, why are you in here? They responded, I owe a drug debt or I owe rent. But I'd say, wait a minute, you're in a penitentiary; how could you possibly have those kinds of debts that you're fearful of your life in a penitentiary in Canada?

The answers I get from some frontline officers are, well it's a pretty simple answer, Mr. Thompson: they are running the show and we're just following along. The officers are very frustrated. And the answer from these people in the segregation units or solitary confinement is, I'd be a dead man if I didn't stay where I am, because of the gangs and because I owe rent.

If you told taxpayers across the country that a whole bunch of people are in solitary confinement or segregation because they don't pay their rent when they're in prison or they haven't paid for their drugs, people would say that you've got to be kidding.

Has anybody got any explanation for why this is out of control within the penitentiaries? I'd like to hear it.

• (1035)

Mr. Ross Toller: You're putting a number of questions there.

I guess the first thing I would say is that close to 80% of our inmate population comes to prison with some level of drug association. Close to 50%, actually, have an association directly with drug activity. In a number of circumstances, the lessons they have learned in the community at large—to extort, to intimidate, and to look at methods available to secure drugs and use drugs—continues. It has been part of our response, as you just mentioned, in terms of segregation.

And yes, we do see increases in segregation for people who have a level of need to get out of the population. We have responded, unfortunately, with elements at times to increase some of our double bunking, continuing to build on the security intelligence network. What we find, as we build on our security intelligence network, is that it serves our purpose quite strongly in terms of being able to identify these particular issues. But then it creates these infrastructure issues that we're trying to deal with and to take stock of the new numbers that we're beginning to pull up.

Part of our strategy, again, includes a repression part that is beginning to look at trying to limit those who might have an interest in continuing to participate or who might have an interest in even looking at joining.

In terms of the drug approach, we recently finished a national drug audit that looked at this from a number of interdiction capacities that we need to strengthen and improve upon. One of those areas, again, was what I referenced earlier in terms of the security intelligence officers and the important role they play. You did note that they are limited. We have one in each institution, at this particular point in time, for 250 inmates. There are none in the community right now as we begin to transpose that information. To us, that is the best method, we feel, in terms of really managing this issue and getting at this particular issue.

We're catching a bit of a bow wave here, as you've seen. The numbers are beginning to increase with this. We've been responding, as mentioned in my opening comments, to try to keep pace with this and with other elements that are coming at us in terms of our inmate population, along mental health lines, at the same time.

It's a complex issue. It's a struggle issue. Even on the segregation units, as you've mentioned.... And I'm well aware, as you mentioned to me last time about your visit to Bowden, that the prairie region is in an even more unique situation, with the aboriginal gangs. We have built in a process to allow for, in some cases, the monthly transfer of inmates, even across regions. That in itself is sometimes complex, because in some cases, although they might be aboriginal gang members, there's family support in certain cities. So you remove that to allow for a level of integration into a regular population.

I'm not sure if I've touched on some of your issues.

• (1040)

Mr. Myron Thompson: I recognize the complexity of this. There's no doubt about it. It just seems to me that there ought to be a major effort towards a strategy of some sort to say that gang activity will not exist in a penitentiary—not in this country—and we should start moving towards that and mean it.

But every time, it seems like there's a hindrance of some sort when it comes to policy making. I find it really frustrating when maybe a policy or legislation or even a regulation is brought forward, and it doesn't pass the charter test. It can't go that way; it doesn't pass the charter test. Who's the charter protecting in this country? Is it protecting the criminals or is it protecting the victims? I think we've got to start taking a look at how these decisions are being made. It isn't right that this continues.

Mr. Delva mentioned prevention. Boy, that is as necessary as can be. Prevention is really necessary, and I commend you, sir, for your work to that end.

I can remember that after 1982, when the charter came into effect, every time we tried to mention TV programs, mention certain music, mention certain Hollywood ventures, and that maybe this ought to be fought by the principals' associations and educators, we were accused of censorship in a flash.

This kind of attitude is destroying us. We need to get youth out of bush parties and out of block parties where people are being killed. Nobody does anything about them any more because, well, you just can't go there. But that's nonsense. I want to know when the authorities in this country, including the politicians, are going to wake up and do something about it and stop blaming poverty for everything. Because it goes far beyond that.

The Chair: Thank you, Mr. Thompson.

I have a question for the two retired gentlemen—the prosecutor and police officer.

Even though it's considered more of a police officer role when it comes to expert witnesses to organized crime, how many experts would you say there are in this country who could actually fill the position, as you have for a number of years, with biker gangs? You may not be associated with the Asian gangs or others, but how many would be able to replace you?

Sgt Guy Ouellette: There is no plan to replace me in the future. If we are talking about street gangs in Quebec, there is one guy, and he's from the Montreal city police. They use him in Toronto, Ottawa, and Niagara Falls. He is the only one. There is no will to produce other guys, because you spend your life there, and you need to be dedicated.

With the other problems out there, they would drown some cases in Ontario. They would drown the gangsterism cases because they don't have any expert on the Hells Angels to help the crown prosecutor. If you read closely the decision of Lindsay and Bonner, you see a comment there that they were using a retired police officer, not an active police officer.

I'll give you an example. In Saskatchewan there was a murder of an inmate called Aime Simard, who was an informer for us, at some point, on a biker gang. He was stabbed 182 times in the penitentiary. It was probably a "suicide", or something like that.... Two inmates there who did the job have not been charged yet because there is some battle out there between a federal agency and their boss in Ottawa: who's going to be used as an expert to help the Crown in this case? We cannot use a retired police officer from the Sûreté du Québec; he's not a guy from the RCMP. These guys have been warned, and the Crown has been warned, you need to choose a guy here in Saskatchewan who can do the job or no money to do the case.

The Chair: Mr. Bélanger, the prosecutor's position.

• (1045)

Mr. Claude Bélanger: I'll tell you one thing: I agree with Mr. Ouellette that somebody who makes it his calling to become an expert witness has to spend 24 hours a day on it, for the simple reason that if he doesn't, he's not an expert. He's not up to date on whatever is happening.

So in order to become an expert witness, you have to have, by definition, knowledge about a subject that is higher than that of the average citizen's. That is an expert.

The Chair: Doesn't the court designate that witness as an expert witness?

Mr. Claude Bélanger: Yes, the court will do that if the witness provides the court with the groundwork to be declared an expert witness.

The Chair: Thank you, Mr. Bélanger.

Mr. Bagnell.

Hon. Larry Bagnell (Yukon, Lib.): Thank you all for coming. It's very excellent information. I'd be happy to hear, if any of you wrote to the committee, about how we could help organizations cooperate and coordinate, or about other tools you need to catch organized criminals.

I want to go to the other end of it for now. One of the concerns is for the victims and for the safety of Canadians. Given that everyone's going to get out, we haven't heard too much on how to make people safe after these people are released.

I'd like to ask Mr. Delva if he'd like to comment on whether he agrees with Myron's last comment that we shouldn't blame crime on poverty.

[Translation]

Mr. Harry Delva: I obviously agree. You can't blame poverty for everything that doesn't go right. When you talk about street gangs, for the moment, unfortunately, it's sort of the whole system that should be reviewed. That means that, today, these youths unfortunately can't find their place. It's not necessarily a poverty problem. A number of these youths have parents and are growing up normally, but the aura surrounding street gangs and all these video clips encourage them to follow that fashion. It's no longer a poverty issue, it's a fashion issue. Since they have nothing to lose and nothing to hang on to, they'll obviously continue following that fashion.

There must be a system that enables them to grow up, to continue learning and to see themselves as part of this society. I very often observe youths in the Saint-Michel neighbourhood, and I sit down with them to ask them what they want to be later on. They don't have an answer to my question. They say they want to be a doctor or a lawyer, while adding "but" after their answer, because they think there's a limit and their place isn't there.

As long as there is this barrier, we'll unfortunately have a problem. These youths have the impression that street gangs offer them this opportunity. That means that, if you join a gang, you can become someone, drive a Mercedes and have a lot of money. Of course, there's a price to pay, but it's much smaller for them. That's how they perceive matters.

Criminal youths who start entering gangs at the age of 15, 16 or 17 change levels once they reach the age of 24 or 25. They're no longer at the street gang level: they become something else. For example, they want to become bikers. They want to go somewhere else. For them, belonging to a gang first means being able to control or protect their area.

Once they've passed that stage and move on to another level, they no longer necessarily consider themselves as belonging to street gangs. They belong to another organization, such as the Hells Angels or another group, because that's a lot more honourable in their minds and it's the proof that they've changed levels. Perhaps the problem is to be able to understand what goes on in the minds of these youths. Men 30 years of age and over who belong to a gang no longer wear colours and don't consider themselves as belonging to a gang.

To get back to the question, although poverty is a factor, it's not just a poverty problem. We have to make room for these youths so that they can see themselves doing something else.

• (1050)

[English]

Hon. Larry Bagnell: When they're incarcerated, does the incarceration help or hinder them? Do they come out with better connections and more training to be criminals, or are there good treatments in the penitentiaries to solve the problems you're talking about—psychological or whatever—and to solve their desire to be involved in crime?

[Translation]

Mr. Harry Delva: In general, as a result of the programs they've taken in prison, youths have very good intentions when they get out. They've learned something and want to do things differently. But

when they enter the population, we have nothing more to offer them. We're afraid of them. When we talk about street gangs, we may be talking about young blacks who have an education, who have a diploma. There are no jobs for them.

We have absolutely nothing to offer a young black who gets out of prison and enters the community. He's somewhat obliged to go back with his peers. His peers will follow him for a month or two, ask him what he's doing and tell him that he still has his place. They'll put him at another level, since he's proven himself. They'll also tell him that, even though he was arrested, he's ultimately not the problem: he's paid for someone else. Since he was quiet and did his time, they'll add that he has a run ahead of him and he can keep on going.

Even though the system offers some assistance, this youth has nothing to do two or three months later. He hasn't worked and can't even find a place to live because his parents have disowned him. So he finds himself with a big problem.

[English]

The Chair: Thank you, Mr. Delva.

Ms. Freeman.

[Translation]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Mr. Delva, you say that these children have a big problem. Earlier, we talked about five- or six-year-old children who have already chosen sides with the Reds or the Blues, whose future is already laid out. You work in this environment, and you see them heading toward that quite sad career. In your opinion, at what point could we intervene to try to offset this phenomenon? There's always talk about depression, but I should emphasize that there are also the Haitian and Quebec cultures and the American dream, which isn't the same thing as—

Mr. Harry Delva: We've been clear about this today: when we say street gangs, it's no longer just Haitians who are in question, but all youths.

We have to start intervening with youths from the age of five or six, when they haven't yet understood that, since one clan doesn't like them too much, they should turn to the other one. At that age, children are with their parents. The role that parents play shouldn't be forgotten. Parents also have to be trained to enable them to understand what their children are going through. This is the perfect age to supervise youths. If you observe what happens in the school yards, you'll see that youths of five or six are already leading the group. We find that harmless because they're five or six years old, but they already know that they have friends, that they're the ones who are leading and that they are stronger. This way of doing things starts there and is transposed to the secondary level.

When youths start secondary school, I've realized that it is unfortunately too late because their minds are already formed. They already know that there's something, an attraction that makes them think they can become this or that. However, at five or six, they don't yet have that attraction and can still listen to what their parents tell them.

Mrs. Carole Freeman: You assume that the parents are able to supervise their children, which doesn't seem to be necessarily the case of the parents of the youths we're concerned with.

M. Harry Delva: The parents are...?

Mrs. Carole Freeman: You seem to say that the parents are able to supervise their children, which doesn't seem to be the case here.

Mr. Harry Delva: Many parents have enormous difficulty supervising their children, for lack of time or because they aren't there. We've realized that a lot of parents unfortunately work between roughly 15 and 18 hours a day. That means that, when they finish one work day, they start another. A number are forced to work evenings, which means they leave between three and five o'clock in the morning. When the youth gets home at three o'clock in the afternoon, he is alone, or with an older brother. Unfortunately, the parents aren't there. We talk about single-parent families, but, even when both parents are present, one is already working outside the home and the other is still driving. For example, a taxi driver works 15 or 20 hours, while the mother works as a nurse.

So there's a lack because parents aren't there and can't supervise their children. That's why I say that, if we can help these parents supervise their children, that will enable them to be more present and to continue helping and supervising them.

• (1055)

Mrs. Carole Freeman: All right.

I'd like to ask Mr. Ouellette a question.

Mr. Ouellette, you mentioned that we in Quebec proceed in a broader fashion with regard to gangsterism, whereas, in Manitoba and Ontario, that seems to be more difficult since plea bargaining is often used. The more we listened to you, the more we realized that people acted in one way in Quebec and another in Manitoba, and that there was a flagrant lack of exchange and standard procedures in Vancouver.

What exactly do you propose? You closed your presentation by saying that we didn't need to change the existing laws because they're adequate. The laws in place are fine; we're here to make the laws, but it seems that nothing works.

Sgt Guy Ouellette: It's not that nothing works; it's that we have to use the tools we have and to make the most of them.

As a result of Bill C-10, you're in the forefront with regard to firearms, which is a Canadian, indeed global problem. You are lucky to be at the head of the parade and say that, for offences, things will happen in such and such a way. There's an aggravating factor with criminal organizations.

There are one or two attorneys in Quebec who specialize in street gangs. As for those who specialize in bikers, they belong to a small group called the Organized Crime Prosecutions Bureau.

We indeed all have to work together and acknowledge that we have a problem and that we'll try to improve our communications, to exchange, for example, with the guys from Manitoba.

Mrs. Carole Freeman: That's what I understand.

Sgt Guy Ouellette: For example, Randall talks with the attorney and asks why he's withdrawn his gangsterism charges. There's a reason for everything. You have to talk and to ensure that the Criminal Code of Canada is uniformly enforced, not because we passed an anti-gang law because there was a biker war in Quebec

and because it was a bit different at the time, or because we now want to pass Bill C-10 because things are getting a lot worse in Toronto, where a lot of weapons-related murders have been committed. There's a firearms problem in Alberta, in Edmonton, Calgary and Vancouver, but there's big pressure in Toronto because there was an innocent victim. There were 29 innocent victims during the biker war, and that happened in Quebec. Perhaps we should disregard these things and say to ourselves that, in Canada, we have a Criminal Code, a Charter, laws to enforce, and that it would be preferable that we all work toward the same end.

A Supreme Court judgment in the Stinchcombe case concerns the disclosure of evidence. In the context of the biker bill, the criminals have the 375 CDs concerning disclosure of evidence. In Winnipeg, in the context of Project Defence, the criminals have the 15 CDs also concerning disclosure of evidence. However, when I, as a police officer or expert witness, have to file an application concerning gangsterism and know what was seized in Winnipeg, I have trouble getting what I need, madam. In Ontario, when a request is made in the Lindsay-Bonner affair, a search warrant is necessary in order to conduct a search of the police in Delta, British Columbia, whereas all the bandits in the village have the information. It's nonsensical. We must not give up. We're talking about these things, and that does some good.

Mrs. Carole Freeman: That's true.

Sgt Guy Ouellette: But we have to say to ourselves that we'll continue moving forward, if we can change certain things. Perhaps it would be interesting to establish a central depot in Ottawa where all disclosed evidence, which would be available for all police investigations, would be forwarded.

Mrs. Carole Freeman: You're proposing that a common base be created?

Sgt Guy Ouellette: Yes. The criminals have this kind of system. In Quebec—

Mrs. Carole Freeman: Indeed, and at Mr. Richmond's office, it seems they're starting to say that this exchange of intelligence is also taking place. It's for investigations that you don't have—

Sgt Guy Ouellette: Here are some facts. In Canada, there's a founding member of the Hells Angels named Robert Bonomo. He's a computer scientist and enters in computers all the disclosures of evidence of all draft police investigations across Canada concerning the Hells Angels. He puts all that at the disposal of lawyers in Canada, whoever they may be. If I'm going to testify in a case in Alberta, the lawyer in that province comes and stays in Quebec. He then prepares it for the cross-examination that I'm going to do in Alberta. We're far from that.

Thank you.

• (1100)

[English]

The Chair: Thank you, Ms. Freeman and Monsieur Ouellette.

Monsieur Petit.

[Translation]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Good morning and thank you for being here this morning.

I'll be very brief in view of the allotted time. First, I'd like to make a brief comment. My question is mainly for Mr. Delva, who has drawn my attention more particularly.

You very much struck me when you said that a lot of five- or six-year-old children were at the school of crime and that a number of people had spoken to the teachers but that the latter didn't dare intervene outside the school yard. In Quebec, we talk to teachers through the CEQ or another union.

You raised another point, which is not entirely under our jurisdiction. You said that youths watch programs or listen to songs by 50 Cent, which is a violent group. On that group's site, there is a picture of a revolver, which I've never seen. That's what's called media treatment. We're dealing with youths from the media generation.

You also referred to another field. One public television network recently presented a Haitian group whose members had big houses in Haiti because they were selling drugs in Montreal. A youth who looks at that kind of program sees that his racial brother has big houses in Haiti and a little apartment in Montreal North. Our media create envy in that youth, who says to himself that that's what he wants to become.

So the media play a very important role in the phenomenon we're concerned with today. We're all good people. We all have an interest in protecting the victim, in seeing that criminals are punished fairly and without discrimination, and so on. But the media try to get such a powerful new story that youths of six, seven or eight years are virtually blinded. They want to become what the media transmits to them, either through a song or a Hollywood film. Earlier it was said that criminals were virtually being shown as the good guys, and the good guys as the bad guys.

The Conservative Party has spent about \$10 million to fight street gangs and try to find a solution to this problem. Doesn't media technology, which virtually exalts the dark side of our society, have a harmful effect? Regardless of what will be said around this table, we may well have problems and not be able to solve them.

What do you think of that?

Mr. Harry Delva: What you say is correct.

When I think of the youths and street gangs we see these days, I say that street gangs are in the heads of young people. Why? Because, with millions of dollars, the media have the opportunity to promote them.

We're talking about promoting gangsterism. Earlier, I cited 50 Cent, who's the ninth richest man in the United States, after Bill Gates and others. So he's one of the richest men on this continent, thanks to video and the video game, an extremely violent video game, where you see him using weapons, weapons that he really uses.

For our youth, this is the only way to identify with someone, since they have to identify with what's going on in the United States. They're going to identify with what they see in the media, which reflects them. They're going to identify with films like *New Jack City*, which is ultimately trying to expose a situation. But what youths remember is that the actor in the film can do that and that it's

cool to be like that. These days, most young people wear G Unit brand clothing. That 50 Cent's brand. For young people, belonging to G Unit is a statement that they belong to an extremely powerful group.

Unfortunately, as long as the media continue to present this kind of thing, these kinds of films... Recently, 50 Cent's film was presented and we saw what that caused. What did we see? A group of young people went and fired a weapon at a police car because they saw that scene in his film.

Young people know that 50 Cent has nine bullets in his body. At the same time, he's one of the biggest hip hop stars. That means that, if I ever take nine bullets in my body, that's okay; that's the dream of youths today.

Unfortunately, since they don't see the positive part of what he represents on TV, youths are forced to buy and to embrace exactly the most negative aspect, which unfortunately is street gangs. When I say street gangs, I'm really talking about the Bloods and the Crips, those gangs that were born in the United States and that youths in Quebec are establishing. But when you talk about Bloods and Crips, that's also related to the war between them, and that war between them is also occurring between the various singers. For example, young people will take certain singers who are Bloods, who'll show the colour red, whereas others will show the colour blue.

Our youths are living at a time when all they eat and swallow is, first of all, the Internet. Now there's a portal on the Internet called YouTube. Problems are starting in Montreal now on YouTube. Young people call that "bitching", as it were, if you'll pardon the expression. In other words, on YouTube, you'll have one group of young people who will throw a song at another group, and that group will repeat it. Then what do we see? Drive-by shootings will be happening in Montreal North. But where did that start? On the Internet, on YouTube. Young people have started throwing things like that at each other.

We've definitely designed tools to enable us to make progress much more quickly, but young people also very quickly use those tools to achieve their ends. What are their ends? It's to believe that, through the Internet, for example, they can sell their gangsta rap and take control of certain areas and the fact is they're doing it. So they no longer need to yell at each other on the street corner; they can yell at each other on YouTube, then shoot at each other in the Saint-Michel neighbourhood, for example. And that's the reality of 2007.

It's also true that an enormous amount of money has been spent, but until we think first about the people who've been in the field for a certain time and who know exactly what's happening... When we talk about the gang problem, some people have been around for 15 to 20 years working in this environment, including Maison d'Haiti and others. People very often can describe, present very beautiful projects, and then they try something, whereas there are already groups that don't try because they know how things work; they know where this comes from and they know where it's headed. They're there, in contact with young people; they talk to them every day. All they're asking is for a certain guarantee that they'll pay their rent in three or four months.

• (1105)

Mr. Daniel Petit: Thank you.

[English]

The Chair: Thank you, Mr. Delva.

I'm going to ask that the committee stay put for a few minutes.

Witnesses, I want to thank you. Our time is a bit extended, but I would like to give Ms. Jennings and Mr. Moore the opportunity to ask some questions also.

Ms. Jennings, please go ahead.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you, Mr. Hanger.

[Translation]

Thank you very much for the presentations, which I moreover found very interesting. Most of the questions that I would have liked to ask have already been asked, except for one. The answer was provided in part by Mr. Richmond.

Apart from the legislative amendments that the federal government could put in place to address the deficiencies and weaknesses of the system for combating gangsterism as a whole, what other measures could it adopt or develop to urge, encourage genuine cooperation, coordination, the sharing of networks and information, etc.?

Mr. Richmond, you referred to the Web site. Mr. Ouellette and Mr. Bélanger, you talked about a repository. Mr. Delva, you mentioned allocating financial resources to the groups that, for years, have been working on the ground, which is very fertile for raising and training gangsters at an early age. What other measures could be taken?

As legislators, we tend to think that we need another bill, other provisions, instead of focusing on what already exists and seeing what the deficiencies are and how, through the government, we can use all the measures at our disposal to remedy the situation.

That's all. Thank you.

• (1110)

Mr. Claude Bélanger: May I answer your question, madam?

I don't claim that this is the ultimate measure. As Mr. Ouellette said, money is the lifeblood. For my part, I said that organized crime and the proceeds of crime are indissociable. Despite all the efforts that have been made, it seems to me that the Criminal Code lacks a presumption concerning the proceeds of crime, as a result of which, when the Crown has proven a certain number of elements, it's up to the accused to explain that he has in his hands assets that can in no way be justified based on his legitimate income.

Mr. Réal Ménard: It's not enforced, for a wrong reason, but Bill C-53 provides for that.

Sgt Guy Ouellette: There's an annoying phrase in Bill C-53: the offence has to be proven, and the judge has discretion... It's the judge who grants the right to... That's not reversing the burden of proof. When the judge refuses because the required demonstration has not been made, he relies on C-53.

Mr. Réal Ménard: The burden of proof comes into play in the second analysis; that's clear. The purpose of the next motion that must be introduced is to evaluate C-53. Yesterday I learned that a

first leading case will be mounted by the RCMP. I'm just as troubled as Mr. Ouellette to learn that, a year and a half later, we haven't used it, but, on the other hand, as long as we live in a system in which the Charter applies, we'll never be able to completely reverse the burden of proof.

The burden of proof will always be reversed in a second analysis. Once the chain of possession has been established and it has been determined where the asset comes from and through which hands it passed, Bill C-53 provides for a reversal of the burden of proof. However, I admit that that proof is hard to make.

[English]

The Chair: Thank you, Monsieur Ménard, that's enough. I want to give Mr. Moore an opportunity to reply. I know that both Mr. Bélanger and Mr. Ouellette would really like to respond to you as well, but we'll save that for a moment or two and let Mr. Moore go through his presentation.

Mr. Moore.

Mr. Rob Moore (Fundy Royal, CPC): I just have a quick question.

I do appreciate that any one of you could have filled an entire committee. You've raised a lot of important issues—youth at risk, the resources for police—and took particular note of the need to better deal with communication between police and the different levels of government. That's something that this government is going to continue to strive for—to work on methods so that we can better facilitate that cooperation. Specifically, on youth at risk, I know that the Minister of Public Safety has a keen interest in that.

One component of all of what we can do, as federal legislators, is on the legislation side, on the Criminal Code side, and we are dealing right now with a bill that does target gang-related activity. Bill C-10 targets gang-related activity, particularly when it involves handguns, but also any weapon, if it involves a gang-related activity. So I want to get some comment.

Mr. Richmond, I believe you said in your presentation that

...it is likely that in most prosecutions for a crime committed with a firearm, proving the use of a restricted or prohibited firearm will be easier than proving a connection with a criminal organization.

That's one of the reasons that provision is in there, because we've mentioned that in these cases in Toronto we've had a number of summers now that have seen such an increase in violence over what people are used to. We heard from Chief Blair from Toronto. He mentioned the type of weapons that are often used in these crimes, the prevalence right now and the difficulty in targeting gang-related activity, and the fact that there's an acknowledgement on the part of many of the participants that there's not going to be a severe consequence because they know many of their fellow gang members have not been met with a severe consequence for their actions.

Would any of you like to comment specifically on Bill C-10, on the fact that it does bring in some tougher sentences for people who use a restricted or prohibited firearm or for one of the designated offences when it is linked to a criminal organization? With respect to some of the offences targeted—attempted murder, robbery, extortion, aggravated sexual assault—many of those involve criminal actions that have been associated with gang activity. Would any number of you like to comment on how Bill C-10 will impact on that?

• (1115)

[*Translation*]

Sgt Guy Ouellette: Bill C-10 will definitely permit certain things, such as increasing prison terms and putting offences in perspective. Frequent reference is made to criminal organizations in Bill C-10, but proving that an organization is a criminal organization will continue to be a problem. Everyone knows that the members of criminal organizations that monitor members flying their colours or gang leaders possess firearms. Everyone knows that, but you have to prove it on the facts before the court.

Everyone knows that criminal organizations have weapons caches, in houses and vehicles, among other places. Last Sunday evening, two of these individuals, who had gone to intimidate someone at the casino, were searched. There were firearms in the middle of the Montreal Casino. The problem for us will be to have to prove that these people are associated with a criminal organization. We'll have to prove that connection. It will be difficult to call people as witnesses to testify in court, to ask experts to establish that connection with the criminal organization or to present a definition. If it's in the act and we use it, we'll check. If we can't prove the connection, we'll check to see whether there's a provision under which someone can be charged with an offence punishable on summary conviction. That person would then be sentenced to a fine, and that would nevertheless appear on his criminal record.

We'll have tools, and they'll already be in place, which is marvellous. The day we're able to provide this evidence, to have more people, including experts, and to have better communication, those tools will already be in the Criminal Code. When the system is ready, we won't be forced to wait for the politicians to examine the bill. You've gotten a head start, and that's very good. That's a good thing for all of Canada. Everyone knows that criminal organizations, whether they're in Vancouver, Calgary, Regina, Winnipeg or anywhere in Ontario, Quebec, New Brunswick or Newfoundland, use firearms to do their work. Considering that, the system must ensure that the statutory provisions are enforced.

[*English*]

The Chair: Mr. Richmond.

Mr. Randall Richmond: I want to start off by saying that I don't have a mandate here to comment on whether Bill C-10 should be adopted or not. I don't have a mandate from the Attorney General of Quebec to come out for or against the bill, so any comments I make on it are purely personal and engage only myself.

But I have had an opportunity to look at Bill C-10. I've also had an opportunity to read many of the transcripts of witnesses who came here in previous meetings of this committee. I can say to you, definitely, I am not against Bill C-10 at all. I was surprised to read in many of the transcripts of other witnesses that the debate seemed to

be on whether mandatory minimum sentences are good or not. It surprised me, because in Bill C-10, for almost all the offences that are mentioned there, there already is a mandatory minimum prison sentence, and all that's being done in Bill C-10 is to raise it slightly in the case of restricted and prohibited firearms. In most cases it's an increase of one year for a first offence, and in some cases it's an increase of two years.

The really big increases are for repeat offenders who come back for a second or a third time within a period of 10 years. In the case of someone who hasn't learned his lesson the first time and is repeating within 10 years, I don't think those sentences are abusive.

So it's hard to see this legislation as extreme. I don't think it's extreme in any way. I think it's a serious attempt to try to attack a growing problem—that is, the use of firearms, particularly handguns—and it's true that we've seen that all across the country.

• (1120)

[*Translation*]

Mr. Claude Bélanger: I'd like to add that, in my experience, the burden of proof necessary to secure the additional sentences provided for by the bill is extremely heavy and that that sentence would ultimately be increased not very much if the accused pleaded guilty to the charge as laid. Once he had done that, the Crown would have to prove that he did it for a criminal organization, or on behalf of a criminal organization, or that he obtained the weapon through the criminal organization. The courts are so busy now that there is a real chance that part of the charge would be dropped, and your bill will simply have no effect. The burden is so heavy that it's not worth the trouble to try to prove the charge, since the accused would be sentenced to only one more year for the first offence.

[*English*]

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

I do want to correct one thing. There's no need to prove under this bill that it was committed with a weapon that was obtained through crime. It just has to have been committed with a restricted or prohibited weapon as defined. So that's specifically targeting individuals, gang organizations, using handguns or sawed-off shotguns. If anyone uses a sawed-off shotgun or a handgun, whether it's gang related or not, that is captured by this bill.

The Chair: Mr. Toller or anyone else, do you have any comment?

Mr. Ross Toller: The only comment is that, as you know, we're on the receiving end, obviously, of the legislation as things pick up, and have appeared before the committee before in terms of the potential impacts this would have in a correctional frame. We're very pleased to have been able to have done that earlier.

The Chair: Thank you, Mr. Toller.

Mr. Delva, did you want to make a quick comment?

[*Translation*]

Mr. Harry Delva: I'll be brief. This could be a very good thing because, in certain areas, such as Saint-Michel and Montreal North, people are starting to be afraid. These days, you can rent a weapon. That means that the weapon will be rented from someone; it will be passed to someone, who will settle what he has to settle, and then it will go back into the loop. That weapon turns over. When you see that youths of 13, 14 and 15 have the opportunity to obtain weapons, that definitely makes us extremely afraid in the community.

However, I'd especially like it to be possible, and we have certain laws, to promote them, so that everyone can understand them and know they exist. Most young people experiencing these kinds of things today don't know this at all. It's only when they appear before a judge perhaps that they learn about this sword of Damocles dangling over their heads. I think it would be very interesting to be able to do this for all the students and not to be afraid to go into the schools and explain exactly what that means.

[*English*]

The Chair: Thank you, Mr. Delva.

Go ahead, Mr. Moore.

Mr. Rob Moore: Thank you.

Thank you all for your testimony.

The Chair: I would like to thank the committee for staying as long as they have, and thank certainly the witnesses for bearing with us. We're about half an hour past our normal time, so we really appreciate your comments and the information that you have presented here. We have lots to think about. Thank you very much.

This meeting is adjourned. Our steering committee will reconvene shortly.

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