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Chair

Mr. Ed Fast

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• (1530)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order. This is the 19th meeting of the Standing Committee on Justice and Human Rights. Today is Monday, May 4, 2009.

You have before you the agenda for today. By order of reference, we still have before us Bill C-15, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts.

We have before us a number of organizations and individuals to assist us in our study of this bill. We have Hugh Lampkin and Ann Livingston, representing the Vancouver Area Network of Drug Users; Deborah Small, from Break the Chains; Kirk Tousaw, representing the BC Civil Liberties Association; and Gord Perks, representing the Toronto Drug Strategy Implementation Panel. We also have Jerome Paradis, of Law Enforcement Against Prohibition (LEAP); Philippe Lucas, of the Vancouver Island Compassion Society and Canadians for Safe Access; and finally, Eugene Oscapella from the University of Ottawa.

Welcome to all of you.

We'll begin with Mr. Hugh Lampkin.

Mr. Hugh Lampkin (Vice-President, Vancouver Area Network of Drug Users): Thank you for having us here today.

My name is Hugh Lampkin. I represent VANDU as vice-president. Our membership consists of approximately 2,500 people.

I will read our submission.

The Vancouver Area Network of Drug Users is a group of users and former users who work to improve the lives of people who use illicit drugs, through user-based support and education. Located in Canada's poorest urban neighbourhood, the downtown east side of Vancouver, most of our members are economically and socially marginalized. Drug prohibition serves to further marginalize our members because, in Canada, police profiling centres on poor, visible street users and sellers. Canadian jails and prisons house the poor, and our most visible drug users and sellers and aboriginal and people of colour are overrepresented.

Bill C-15 will increase the harm to illegal drug users in society. Similar to our current drug laws, mandatory minimums will affect people who are visible street-level users and small-scale sellers. We only need to look south of the border to understand the long-term effect of mandatory minimum sentencing for drug offences.

In the 1970s and the 1980s, Congress and many states legislated in mandatory minimum sentencing for drug offences. By the 1980s, it became apparent that the poor and people of colour were the most vulnerable to police profiling and imprisonment for drug offences, even though drug-use rates were no higher than in other subgroups.

For example, one in nine black men between the ages of 20 and 34 are behind bars in the United States, according to the Pew Center on the States, 2008, page 8. In the United States, over 7 million people are moving through the criminal justice system: in prisons, 2.3 million; or on probation or parole, 5 million. That's from the Pew Center on the States 2009, page 1.

However, there is no empirical evidence that demonstrates mandatory minimum sentencing decreases illegal drug consumption and selling. In contrast, numerous studies demonstrate that mandatory minimums in the United States contribute to a higher incarceration rate, the highest incarceration rate in the world, where one in 100 people are in jail or in prison, according to the Pew Center on the States, 2008.

In its report, "One in 100: Behind Bars in America 2008", the Pew Center on the States points to three decades of prison growth that is bankrupting states without making a dent on crime, recidivism, or illegal drug-use rates. Significantly, they point out on page 3 that

...current prison growth is not driven by a parallel increase in crime or a corresponding surge in the population at large. Rather, it flows principally from a wave of policy choices that are sending more lawbreakers to prison and, through popular "three-strikes" measures and other sentencing enhancements, keeping them there longer.

The rising cost of corrections and the economic crises in the United States have led policy-makers to examine sentencing and correctional policy more closely. For example, the New York State legislature and Governor David Paterson have reached an agreement that would end mandatory sentencing codes for drug offences, the infamous Rockefeller drug laws enacted in the 1970s. Today it is recognized that mandatory minimum sentencing for drug offences is costly and ineffective.

Bill C-15 will have a negative outcome in Canada. Around the world, drug-user groups like VANDU and policy-makers, judges, and elected officials point to the health and social harm of prohibition. They state that addiction should not be criminalized. The Health Officers Council of British Columbia and other groups advocate for a regulated legal market for currently criminalized drugs. Prohibition fuels not only a black market but also a drug trade, related violence, and stigma and discrimination against illegal drug users.

Bill C-15 will disproportionately impact poor racialized street users and sellers and impose unjust sentencing and expense. Instead of moving toward harsher mandatory sentencing and costly prison, Canada should look toward other nations—Portugal, Britain, Italy, the Netherlands, etc.—that are abolishing harsh drug laws and adopting drug policies that reflect our health and human rights.

Thank you for the opportunity to represent VANDU at the House of Commons Standing Committee on Justice and Human Rights. VANDU opposes Bill C-15.

Thank you.

• (1535)

The Chair: Thank you.

We'll move on to Ms. Small. You have 10 minutes.

Ms. Deborah Small (Executive Director, Break the Chains): Thank you.

Good afternoon. My name is Deborah Small, and I'm speaking on behalf of Break the Chains. We're a national grassroots advocacy organization committed to educating people living in communities disproportionately affected by common drug policies about the various negative effects of the war on drugs.

I wish I could say I was happy to be here today, but in all candour, it actually pains me to have to discuss the many problems inherent in Bill C-15. In my view, coming to Canada to make the case against mandatory minimum drug sentencing should be as unnecessary as travelling to a business school to explain why investors should avoid collateralized debt obligations, the derivative instruments that have nearly brought down the world's financial system. The evidence is so overwhelming and irrefutable. In many ways, mandatory minimum drug sentences are the criminal justice equivalent of credit default swaps. They offer the promise of short-term gain and enhanced security, but in fact contain elements that can significantly compromise the integrity of the criminal justice system.

For those of you who still cling to the belief that mandatory minimums have something positive to offer in the fight against drug-related crime, I'd like to share with you a few facts that should give you some pause. For many years, drug sentences in New York, as throughout the United States, have been shaped by public concerns and political pressures that have been indifferent to the need for proportionality. Factors including the persistence of drug use and abuse, the deterioration of cities, the rise of symbolic politics, racial undercurrents, fear of crime, and an unwillingness to tackle social problems, among others, have encouraged politicians and public officials to embrace inordinately tough sentences for drug felonies.

As you heard earlier, in 1973, the state that I'm from, New York, led the country in enacting mandatory sentences as a response to drug addiction. What's interesting is that the governor who proposed the Rockefeller drug laws was in fact originally a champion of drug treatment and rehabilitation as a first response to drug abuse, but he became frustrated by the high relapse rates attached with addiction and the fact that it wasn't as easy to address as he thought it would be. So in 1973 he rejected his previous support for treatment and advocated what became known as the toughest drug laws in the country.

The Rockefeller drug laws are very close in their context to the laws we're considering today. They required that people, including first-time offenders, be given long prison sentences based on the weight of the drugs involved rather than the specific circumstances of the case. It also required that anyone who was convicted of a felony, in this case a drug felony, within 10 years of a previous one had to be put in prison for a specific period of time. In New York, possessing as little as half a gram of cocaine or heroin could trigger a minimum sentence of a year.

This second felony drug law, or second felony offender law, was the one that ultimately led to the massive increase in the prison population that we saw in New York State. There was a steady increase in the number of people who were incarcerated, so much so that the percentage of the state's drug offenders went from 11% in 1980 to more than 44% by 1993. Just like the laws you're looking at today, the Rockefeller drug laws came down hard on people who were not kingpins, even though they were put forth as being directed at kingpins. There was a 1993 case in which an appeals court reviewed the sentence of a man named Jesus Portilla, who was an asbestos remover with a wife and small child. He was a first-time offender and received a sentence of eight and a half to 25 years for a \$30 cocaine sale under the Rockefeller laws.

In 1997, former Governor Pataki felt compelled to grant clemency to Angela Thompson. She was also a first-time offender and had been sentenced to 15 years because she had been coerced by a family member to sell drugs to an undercover cop. In fact, one of the many unintended consequences of the Rockefeller drug laws was that it provided an incentive for people in the drug trade to actively recruit young people as runners and couriers.

As a native New Yorker—I've lived in New York pretty much my whole life—I got to see the impact of the drug laws. While drug problems were endemic in poor communities from the mid-1950s, it wasn't until the Rockefeller laws passed that you had the active involvement of many young people in the drug trade, because they weren't subject to the same length of sentences as their adult counterparts.

• (1540)

Unfortunately, legislators did not learn from New York's policy mistake. Instead, it was emulated on a federal level. In 1986, Congress enacted federal mandatory minimum sentences for drug offences, with offences involving crack cocaine being singled out for the harshest punishment. Under our federal law, the sale or possession of five grams of crack is enough to trigger a five-year mandatory prison sentence.

I think it's important to note that while all studies show that drug use is pretty much endemic across every population and socio-economic group, the history in the U.S. has been that drug law enforcement has disproportionately impacted poor people. In New York, the vast majority of drug offenders sentenced to prison are non-violent minor drug dealers, people only marginally involved in drug transactions. They are people involved in \$20 sales on the streets, one-time couriers buying drugs for a small fee, and addicts who are looking to finance their own habits.

These are the people we've been incarcerating for long periods of time. Even a short sentence of two years can be a disproportionately severe sentence for a person who has committed only a minor offence, and it can have a dramatically desperate impact on their lives.

I think it's also important to point out that mandatory minimums represent a zero-sum expenditure for taxpayers. They substantially increase criminal justice expenditures, particularly with respect to incarceration, without giving any commensurate gain in reducing drug-related crime, drug abuse, or drug availability. According to a 1997 RAND study, mandatory minimums are the least cost-effective means of reducing drug use and sales.

I think it's important to note that one of the effects in New York of enacting the Rockefeller laws is that it forced the state to reallocate money in ways that were really very detrimental. We saw a dollar-for-dollar trade-off in increased expenditures for prisons versus higher education. That sent a message to young people, particularly young people of colour, that the state would actually prefer to invest in their incarceration rather than their education.

At a certain point, two-thirds of the people being incarcerated for drug offences came from seven neighbourhoods in New York City. I don't think it should be surprising for people to hear that those were the neighbourhoods that had the highest level of unemployment and the majority of failing schools, where the people were suffering from poor housing and had poor health outcomes.

So to me, one of the major problems with these kinds of laws is that instead of using the law to provide protection to those people to whom life has already dealt an unfair hand, we're actually using it to punish them more, and to have them become the scapegoats for our desire to pretend that we're being tough on drugs.

There's a final point I want to make, because I read a lot of the transcripts in which people felt that this was something that would be popular with the public and that one of the reasons for supporting these policies was the desire to appear tough on crime. Well, many of the people who were conservative criminologists in the United States, and who originally supported tough approaches, have since come out against mandatory minimums.

People like John J. Dilulio Jr., a noted criminologist who coined the phrase "super-predator", came out in 1999 and said that these laws were totally ineffective and that all we were doing was replacing one drug dealer with another and ruining people's lives for no real reason. Joseph Anthony Califano, president of the Center on Addiction and Substance Abuse, said that "mandatory minimum sentences are a round-trip ticket back to jail and a life of crime".

Even former Attorney General Ed Meese, under Ronald Reagan, said that he thought mandatory minimums for drug offenders needed to be reviewed, that you actually had to look at who was being incarcerated and what gain did and did not come from it.

The final point that I think it's important to make is that the public no longer really supports this. We've done survey after survey in the last few years to show that more than 50% of the public actually believes that locking up people for minor drug offences should be the last thing we do, not the first response.

So from my point of view, I can't understand why Canada, given the wide amount of evidence there is about the failure and the ineffectiveness of mandatory minimum sentences, would even be considering enacting them when there are so many better things you can do by increasing community-based treatment, really using the kinds of things that have been shown to work, having realistic and effective drug education, and developing a system that really focuses on helping people instead of punishing them.

Thank you.

• (1545)

The Chair: Thank you.

We'll move on to Mr. Tousaw.

You have 10 minutes.

Mr. Kirk Tousaw (Beyond Prohibition Foundation): Thank you.

Thank you for the opportunity to discuss Bill C-15, which proposes a radical and deeply harmful change to Canada's sentencing practices.

I have a bit of a correction. Today I'm not here for the civil liberties association. I represent the Beyond Prohibition Foundation, which is a newly forming non-profit society dedicated to moving past the failed paradigm of marijuana prohibition and replacing it with a system of non-criminal-regulated possession, production, and sale of cannabis to adult Canadians. In that respect, my appearance today represents what I hope are the first steps in a shared journey out of the darkness of drug prohibition and into the light of drug policies based on reason, compassion, and justice.

I appeared before this committee just days ago to explain the reasons why drug prohibition contributes to, and indeed guarantees, the economic power and success of organized criminals. Put more bluntly, because I believe this issue leaves no room for mincing words or playing rhetorical games, this government—like every government before it since the inception of drug prohibition 100 years ago—is perpetuating a policy that directly causes death, disease, crime, and social decay. This statement, which perhaps sounds controversial, is actually not. The empirical evidence is both clear and abundant. Every major study of drug policy since the Indian hemp commission report of 1899—every single one—has found that prohibition fails to reduce the demand for drugs and fails to reduce the supply of drugs.

Tragically, drug prohibition also creates negative externalities such as violent crime associated with black markets, increased risk of disease and death from overdose, property crime associated with the artificially inflated cost of drugs in the black market, and the recruitment of young people into gangs.

When I spoke to you last Thursday, I told the tale of three eras. First I told of national alcohol prohibition in the United States and the concomitant rise in violent crime and particularly homicide, which tailed off sharply after the repeal of alcohol prohibition. Second, there was the rise and continued rise of the international drug distribution organizations since U.S. Presidents Nixon and Reagan declared and re-declared the war on drugs approach. The third era in this tale begins now, and the end is not yet written.

There are two paths ahead of Canada. One takes us down roads already travelled by us and by our American neighbours. This road is one of the increasing militarization of police forces, the exponential growth in prison populations, more violence, more death, more social decay. The Americans, as we just heard, began on this path more than 20 years ago, and the results are before our eyes. Tragically, as epitomized by Bill C-15, Canada appears poised to emulate these failed and harmful policies. Ironically, we do so just as the international community begins to move towards a consensus that a criminal law enforcement-based approach to drugs is useless at best. At its worst, it's counterproductive and dangerous.

But we have the power to change our future and to take a different road. Ending drug prohibition is a critical first step. Depriving the gangs of their primary source of revenue will deal a significant blow and reduce their power. It will remove the incentives for much of the associated violence and social disruption. Let me be clear. It is not an easy road and there are no magic solutions. The path before us will require vision, courage, and true leadership in order to admit the failures of the past and implement new approaches. Defeating this bill is a good first step on the road to sensible, evidence-based drug policy.

Defeating this bill is also the right thing to do. It's the right thing to do for a multitude of reasons. Many have been explained to this committee by others more eloquent than I. So I recite, in summary form, a few of those reasons.

First, Bill C-15 will not deter crime, will not reduce drug demand, and will not reduce drug supply. This is not, frankly, a debatable point on the evidence. Craig Jones of the John Howard Society handed out on April 27 some 35 studies that universally condemn

this type of legislation. There are no published, peer-reviewed studies on the other side of the balance.

Second, Bill C-15 will swell prison populations, clog our already clogged criminal courts with unnecessary trials, and serve as a gateway into gangs for first-time offenders, who will now be sentenced to mandatory prison terms.

• (1550)

Third, Bill C-15 will target primarily street-level dealers, further criminalize the disease of drug addiction, and mandate prison terms for non-violent marijuana sellers and producers.

Fourth, Bill C-15 further exacerbates the existing disparity in government spending, pushing more money into enforcement with a corresponding loss of funds that could be allocated to the vastly more effective and economical options of treatment and prevention.

Defeating Bill C-15 is also the right thing to do, because sentencing in Canada is and should remain offender-specific. I practised before the criminal courts in this country, and before that I practised before the criminal courts of the United States. Here in Canada we focus on the offender, because we realize that not all who come before the courts deserve the same result.

Let me tell just one story as an illustration. I'll preface it by saying that I've conducted many sentencing hearings, and in my experience the judiciary of this country does a very good job, takes many factors into consideration, and, when appropriate on the facts of the case, has no hesitation at all in sentencing offenders to long prison terms. But this bill takes away that historical discretion, with potentially tragic results. I represented a marijuana producer named Mat Beren. Mr. Beren grew marijuana for the 400 members of the Vancouver Island Compassion Society, a medical marijuana dispensary. All of their members had physician support for their medical marijuana use, but very few had been able to access the legal protections of the government's Byzantine and overly restrictive marijuana medical access regulations. After a long trial on charter issues that concluded just months ago in the B.C. Supreme Court, Madam Justice Koenigsberg found some aspects of the MMAR unconstitutional but was forced to find Mr. Beren guilty of both production and possession for the purpose of trafficking cannabis for these medical users. He was growing 936 plants, which equates to about 2 plants for each patient of the Vancouver Island Compassion Society. Mr. Beren was being paid \$30,000 per year, far less than a man with his ability could earn in the black market. He was producing marijuana safely, in an outbuilding of a rented property, with the consent of the homeowner. The police remarked upon executing the search warrant that they knew it wasn't a typical grow-op raid because of the professionalism with which the production facility had been put together.

If Bill C-15 had been law at the time of his sentencing, the trial judge would have been forced to sentence him to three years in prison. Instead, Mr. Beren received an absolute discharge. Indeed, the trial judge called Mr. Beren's fact pattern the clearest case for an absolute discharge she'd seen in her 16 years on the bench. She described Mr. Beren as legally culpable but not morally blameworthy. Yet, if this bill had been law, the facts wouldn't have mattered. Judicial discretion would have been nonexistent. Madam Justice Koenigsberg would not have been able to impose a fair and appropriate sentence on the facts of the case, because she wouldn't have had that option. Mr. Beren would be in jail today and for the next two years and nine months.

Enacting this legislation has often been supported by the idea that it will send a message. And so it will. Unfortunately, the message will be that appearing to take action is more important than finding real solutions, that being perceived as tough on crime is more important to this House than actually reducing crime, and that evidence is less important than ideology. These are the wrong messages. This bill is a step in the wrong direction.

Defeating Bill C-15, on the other hand, represents the first step in a journey away from the failed policies of the past and towards a drug policy paradigm that ultimately will achieve the goals that Bill C-15 simply cannot achieve. Unless we have the courage to take that first step, we will most surely fail, and in doing so we will harm the very people that we hope to protect.

Thank you. I look forward to your questions.

• (1555)

The Chair: Thank you.

Mr. Perks.

Mr. Gord Perks (Councillor, Toronto City Council, and Chair, Toronto Drug Strategy Implementation Plan): Thank you, Mr. Chair and members of the committee.

My name is Gord Perks, and I'm the Toronto city councillor for Parkdale—High Park Ward 14. I'm also the chair of the Toronto Drug Strategy Implementation Panel, which is an intersectoral group that provides oversight and strategic advice to help the City of Toronto implement its council-approved municipal drug strategy.

The Toronto drug strategy panel includes expertise from a broad range of sectors, including health promotion and prevention, education, harm reduction, addiction and mental health treatment, social development, and criminal justice, as well as youth and people who have experience with alcohol and other drugs. I should note that although the Toronto Police Service participates in our committee, they have not endorsed my submission here today.

Toronto is challenged with many issues associated with large urban areas, including drug crime. We know that reducing crime is a priority for the federal government, as it is for Toronto City Council and the Toronto drug strategy. However, the panel is concerned that Bill C-15 will not achieve the goal of reducing crime, and instead will create serious negative consequences for the City of Toronto, its residents, taxpayers, families, and neighbourhoods. We believe that comprehensive strategies are needed, which respond to the complex array of individual and systemic factors that influence an individual's decision to use drugs and their involvement in the drug trade and the communities in which they live.

The context within which people make decisions about using and dealing drugs is complex and directly relates to their experience of poverty, abuse, racism, discrimination, and social and cultural alienation, as well as to the dynamics of their own addiction. The stated objectives of this new legislation are to crack down on crime and to ensure the safety and security of our neighbourhoods and communities. I can tell you that this will not ensure the safety of the community I represent.

It is important to note that national crime rates have been steadily decreasing since the 1980s. Property crime rates have decreased by 46% since peak levels in 1991. Violent crime has decreased overall since 1992. This is a trend we also observe in Toronto. A report reviewing minimum mandatory penalties for Canada's Department of Justice found that mandatory minimums for drug offences are ineffective and costly. The report stated that severe mandatory minimum sentences are the least effective in relation to drug offences. Other jurisdictions, including some American jurisdictions that have minimum mandatory sentences, are now repealing these laws and replacing them with treatment and other initiatives. In a recent state address, New York Governor David Paterson said, "I can't think of a criminal justice strategy that has been more unsuccessful than the Rockefeller Drug Laws." New York has found mandatory minimum sentencing provisions to be expensive and ineffective, dramatically increasing prison populations without reducing crime.

As Governor Paterson notes, other jurisdictions have found that imposing mandatory minimum sentencing dramatically increases the number of people in prison, which in turn increases criminal justice and correction costs, costs borne by the taxpayers you are here to represent.

Canada's prisons and criminal justice system do not have enough capacity at present. Prisons are overcrowded and courts are congested. In reality, it is the provinces and territories that will feel much of the financial impact of this legislation, as many of the mandatory sentence terms will be less than two years. However, there is only one taxpayer, and Canadians will pay the increased prison, court, and police costs resulting from Bill C-15. The average cost of incarcerating someone in Canada's federal system is \$93,000 per year, or \$255 per day. How I wish I had those kinds of resources to help members in my community who are struggling with addiction. It costs substantially less to maintain an offender in the community than in prison: \$23,000 per year versus \$93,000.

Further, research has shown that treatment-oriented approaches are much more cost-effective than lengthy prison terms in addressing crime related to substance use. A key limitation of Bill C-15 is that it doesn't consider a person's individual circumstances with respect to the drug crime with which they are charged. If someone is convicted of one of the designated offences and any of the aggravating factors are present, for example a previous conviction, they will go to prison, regardless of their individual circumstances.

● (1600)

This lack of capacity for judicial discretion as well as a systemic issues bias, a bias that already exists in the criminal justice system, means that the proposed legislation will have a disproportionate effect on several important groups. We are particularly concerned that youth over 18 will spend more time in prison. Even a short period of incarceration at this point in a young person's life will forever alter—forever—the opportunities afforded to that young person later in life. Under the proposed legislation, an 18-year-old caught dealing cocaine or ecstasy to a friend at a school, on a municipal basketball court, or in a recreation centre would be subject to a prison term automatically.

It is more likely that women will be sent to prison under this legislation. Mandatory sentences are linked to the quantity of drugs involved in an offence, not to the individual's involvement. Mandatory sentencing in the United States has resulted in long sentences for women charged as accomplices to crimes committed by their partners, even though they had little direct involvement in these crimes.

In Canada we already have a serious overrepresentation of aboriginal people in our prisons, and we're concerned about the compounding effect of Bill C-15. Aboriginal people represent 4% of our adult population, yet they represent 24% of the adults in provincial-territorial custody and 18% of the persons in federal custody.

Research has also found significant increases in the incarceration of ethnocultural communities when mandatory minimum sentencing is introduced. In the United States, drug arrests for African Americans rose at three times the rate for whites—225% compared to 70%.

The proposed legislation does not differentiate between high- and low-level drug dealing. Many low-level drug dealers are indeed simply supporting their own addiction. Imprisoning people with addictions can lead to even more problematic and dangerous drug use. It is estimated that four out of five offenders in the prison system have serious addictions. A recent review of our federal corrections system acknowledges the rampant presence of illicit drugs in prisons and the lack of treatment and other health services to help reduce the harms of substance use.

People in federal and provincial prisons have a much higher rate of both HIV and hepatitis C, as much as ten times higher than the general population. Some people enter prisons already infected, but the likelihood of the further spread of these diseases is high due to unsafe sex and drug-use practices while incarcerated. Once released from prisons these individuals will return to our communities; therefore, we should be concerned about these health issues generally in our communities.

The incarceration of one family member can have a tremendous detrimental social and economic consequence for the whole community and for the entire family, especially if that person is the parent or primary income earner in that family. Laura Sager, of Families Against Mandatory Minimums, says of Michigan's approach, "...the state's 'mass incarceration experiment' has achieved none of its stated objectives. The dividends were broken families and broken communities, not less crime."

We do have some interest in drug treatment courts that are proposed in the legislation as a sentencing option. However, we must be very careful. Currently in Canada drug courts are not available in very many communities, nor do they have the capacity to meet the increased demand that will result from this legislation. Under Bill C-15, drug treatment courts are an option only for people not convicted with aggravating factors. That's a very important distinction to bear in mind. As a result, drug courts will be accessible to only a limited number of people. In addition it is important to recognize that drug courts do not work for everyone. They are a part of the solution, but not the whole answer.

The Toronto Drug Strategy Implementation Panel urges the federal government to abandon Bill C-15 and adopt a comprehensive, evidence-based approach to addressing drug crime. An alternative worth considering is justice reinvestment, whereby the funds are used to rebuild human resources and physical infrastructure—schools, health care facilities, and parks and public spaces in communities devastated by high levels of incarceration. This approach is being used in U.S. states, and it would be frustrated by the implementation of Bill C-15 here.

• (1605)

I want to speak for a moment about the community I represent. The community I represent, for a variety of historical reasons, between 1977 and—

The Chair: Mr. Perks.

Mr. Gord Perks: Sorry, am I out of time?

The Chair: Yes, you are. You'll have a chance to expand on that when you receive questions.

Mr. Paradis, you have 10 minutes.

Mr. Jerome Paradis (Member, Board of Directors, Law Enforcement Against Prohibition (LEAP)): Mr. Chair, members of the committee, thank you.

It gets to the point where everything that needs to be said has been said.

I come here as a retired provincial court judge from British Columbia. I was appointed in 1975 and I retired in 2003, and over those 28 years I heard over a thousand cases dealing with the possession, the use, the selling, the production, the growing, and the importation of all drugs. I saw nothing change except drugs being more potent, cheaper, and more available.

Those who have spoken before me this afternoon—and some will speak after—and others you've heard from, as I've said, have made all the very important points. They have a great deal more expertise in the specific area of penal policy, either from personal experience or as a result of their own research, than I could ever bring to bear on this subject.

I, however, am able to say that the numerous pitfalls they point out must be supported by me—that is, the fact that they've been pointed out. Mandatory minimums, in particular those dealing with what I and the organization I represent, Law Enforcement Against Prohibition, would call drug prohibition crimes, as a result of the evidence available—that they are related to drug prohibition rather than to drugs themselves—for such crimes leave only this to contend

with: first, they don't deter; secondly, especially in the case of drugs, they do not overcome the law of supply and demand and therefore they're doomed to fail. Inevitably it will be usually addicted and marginalized little fish who will be caught in the net and the king fish will swim away. We have the benefit of the American experience, which we are at this point seeming to ignore.

I propose to use the brief time allotted to me to concentrate on the impact of mandatory minimums on the courts. That's my small area of expertise, such as it may be.

You've heard before reference to the 1987 Canadian Sentencing Commission when it said, "Mandatory Sentencing guidelines meet with extreme resistance from judges as well as most professionals involved in the administration of justice." I note the reference to "guidelines".

Having been involved with continuing judicial education throughout most of the eighties, and therefore having been in contact with my colleagues on a regular basis, I can vouch for the almost unanimous opposition of B.C. provincial court judges to all-encompassing guidelines for sentencing at large. My personal view, as a criminal court trial judge, was that sentencing was the most difficult and challenging aspect of the job. It also was and is the most common exercise of the judicial function. Guilty pleas far outnumber trials, and of course a large percentage of trials result in convictions.

To substitute guidelines for the judicial exercise of discretion under broad principles and objectives of sentencing would have so gutted the work of the judge that a number—myself included—would almost certainly have returned to private practice rather than perform the robotic function of a guideline-restrained judge.

That has never been the judicial reaction to mandatory minimums. Judges readily accept, and not grudgingly, that Parliament is where the law of the land is formulated, and it is for the judge to implement that law. So, for example, when Parliament attempted to deter drinking drivers with minimum fines or mandatory jail terms for repeat offenders, there was hardly a peep from judges. As it turned out, that didn't work. Forget the minimums; the incidence of drinking and driving didn't wane until it became socially unacceptable, much like smoking.

Similarly with gun crimes, when those minimums became law, there was little comment either from judges. On the other hand, judging from recent experience on my home turf, they don't appear to have had much of a deterrent effect either, and there's no good evidence that increasing them will have any greater impact.

•(1610)

[Translation]

But the volume of drug crimes that make it to court far exceeds that of crimes involving firearms and even drunk driving. This time, the judicial branch of government could very well react negatively, if this bill is passed.

This is what all courts in the country will have to face if this happens.

[English]

First and foremost, the sentencing function will become the prerogative of crown counsel, not the courts. The decision on the charge rests with the crown, and for reasons known only to that lawyer, he will decide what sentence the accused must face by deciding what charge to lay. Some, having been so thoroughly conditioned to be suspicious of the courts, may suggest that is a good thing. But they should think long and hard on this question: would you prefer that the most crucial decision in a criminal matter be made in a back room by an often inexperienced person beholden for his job to an attorney general, or that it be made and explained by an independent judge in an open court?

The public at large may be unaware of the gravity of that question, but parliamentarians cannot afford to be. Your very existence is the result of the decision made centuries ago that it is far healthier for the common good that the conduct of the state's affairs, including how it deals with its criminals, be open and accountable.

Second, should charges be laid for offences set out in the bill, guilty pleas will evaporate. They are the grease of criminal courts everywhere, and without them there can be little expeditious disposition of cases.

Between 2000 and 2005, the Provincial Court of British Columbia dealt with just over 50,000 cases involving the use, sale, distribution, manufacture, and production of illicit drugs. The vast majority of those were dealt with by way of guilty pleas. It's true that possession—and mainly possession of marijuana—dominates those statistics, but not too far behind are the low- and mid-level trafficking charges that will draw the penalties set out in this bill.

A number were the subject of a sort of ritual trial: trying to get a charter argument, usually related to search and seizure, accepted by the court. If that failed, the towel was thrown in and the process was really quite brief. Many others were disposed of by way of a guilty plea, and very occasionally all issues were on the table and the trial was protracted.

If the experience south of the border and in my own province over those same years is any guide, we are in for some big-time court clogging. A minimum sentence of even six months will be enough to trigger a shotgun defence and a fight to the bitter end. Let me illustrate that point and refer to my own province over these past few years.

Driving while under suspension in British Columbia once carried a minimum seven days in jail, and even that measly seven days led to the development of an arcane area of law that has never been explored before: the accuracy and sufficiency of certificates issued by the Superintendent of Motor Vehicles. There is no need to explain

what that means. Suffice it to say that it's the jurisprudential equivalent of determining the number of angels that can dance on the head of a pin.

Hundreds of court hours were wasted annually with lengthy trials conducted simply because the defendant wanted to avoid those seven days in the clink at all cost. The incidence of driving under suspension, it should be added, did not change under the threat of that minimum. In any event, the minimum was removed a few years ago, and the number of trials has withered away. Many more are now pleading guilty. Some are still being sentenced to short jail terms, but they're willing to take their chances with the judge.

Last year I spent several weeks in New Zealand spreading the gospel according to LEAP—Law Enforcement Against Prohibition. In my research for that trip I came across the section of their Sale of Liquor Act that sets out its object, and I quote:

to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse, so far as that can be achieved by legislative means.

I invite you to substitute the word “drugs” for the word “liquor”, and it is hard to come up with a more rational and achievable plan for addressing the harms that drugs cause. I urge this committee to look at the issue through that prism, rather than continue with the disastrously dysfunctional and manifestly failed “get tough” approach that got us into this godawful mess in the first place.

I thank you.

•(1615)

The Chair: Thank you.

I will move on to Mr. Lucas. You have 10 minutes.

Mr. Philippe Lucas (Executive Director, Vancouver Island Compassion Society and Canadians for Safe Access): Honourable Chair and committee members, my name is Philippe Lucas, the founder of the Vancouver Island Compassion Society, a graduate research fellow with the Centre for Addictions Research of British Columbia, and a Victoria city councillor. I'm also one of about 3,000 Canadians authorized by the federal government to use medical cannabis for therapeutic purposes.

My use of medical cannabis began in 1995 while I was studying to become a high school teacher at the University of Victoria. After a routine medical examination suggested high liver functions, my physician conducted a test for hepatitis C that came back positive. It turns out that as a result of an operation in Ontario thirteen years earlier, I had become a victim of Canada's tainted blood supply.

Medical cannabis alleviates the nausea, loss of appetite, and localized pain that often accompanies hepatitis C. However, finding a safe and consistent supply has been a challenge for many Canadians, so in 1999 I left a career in education to open the Vancouver Island Compassion Society, or VICS, a non-profit medical cannabis research, distribution, and advocacy centre located in Victoria, B.C.

In late 2000, about 14 months after VICS first opened its doors, we had a break-in that led to my arrest and prosecution. I was charged with three counts of trafficking for the distribution of cannabis, and although the VICS re-opened within ten days, I spent the next two years in court fighting for the rights of sick and suffering Canadians. After hearing how the VICS had positively impacted the lives of its members, provincial Judge Higginbotham granted me an absolute discharge, praising the work being done at the organization:

Mr. Lucas enhanced other peoples' lives at minimal or no risk to society, although he did it outside any legal framework. He provided that which the government was unable to provide, a safe and high quality supply of marijuana to those needing it for medicinal purposes.

Since that happy day in the summer of 2002, I've begun a master's degree at the University of Victoria, I've married and started a family, and last November I was elected to the Victoria city council and as a director to the capital regional district as well. Additionally, the VICS has gone from a small dispensary on the western edge of Canada to an internationally recognized research centre that has become a template for responsible and effective patient-centred medical cannabis access around the world.

Ladies and gentlemen, I share this story with you today to reflect that had the bill you're currently considering been in effect at the time of my arrest, all of the wisdom and deliberation of Judge Higginbotham would have been for naught and his words of praise would ultimately have meant very little, for he would have had no choice but to sentence me to a mandatory two-year prison term.

This would have affected my life and the lives of the VICS' 900 members in innumerable ways. It would have robbed my wife and I of our wedding in the summer of 2002 and of the subsequent birth of my daughter Sophie, it would have negatively impacted my ability to continue my studies and research, and it would have prevented my candidacy and election to Victoria city council, where my focus has been on ending homelessness in our region, promoting public health approaches to substance use, and increasing food security for Vancouver Island.

Additionally, a lengthy prison term would have led to the end of the good work being done by the VICS, which includes supplying organic cannabis and cannabis-based therapies to over 900 critically and chronically ill Canadians, and participating in and publishing more medical cannabis research than any other organization in Canada, including Health Canada.

This experience has given me the opportunity to consult with a number of U.S. states in the creation of their own patient-centred medical cannabis policies and to assist the Israeli Ministry of Health with their nascent federal medical cannabis access program.

None of this would have been possible under Bill C-15.

According to the Canadian addiction survey, conducted by the Canadian Centre for Substance Abuse in 2004, currently over one million Canadians are using cannabis for medical purposes, yet less than 3,000 are currently protected from arrest and prosecution through Health Canada's marijuana medical access regulations, a federal program that has been found unconstitutional five times in as many years for overly restricting legal access to medical cannabis. When coupled with an ever-increasing national arrest rate for cannabis-related crime and the mandatory minimums proposed in Bill C-15, we have a recipe for disaster that could impact tens of thousands of Canadian patients.

In an effort to save on costs and control the quality of their medicine, many of Canada's medical cannabis users currently produce their own cannabis, at times sharing it with fellow patients. Cannabis enforcement in Canada casts a very wide net, and it will inevitably ensnare cancer patients, people living with HIV/AIDS, hepatitis C sufferers, and those affected by MS, epilepsy, and chronic pain who currently benefit from the use of cannabis.

• (1620)

As a result of mandatory minimum sentences, judges will be powerless to stop this unjust application of criminal law to Canada's critically and chronically ill or to prevent the unnecessary suffering that is sure to follow.

Despite incredibly strong evidence from federal studies, from independent academic research, and from the experience of our American neighbours that mandatory minimums are ineffective at reducing substance use or addiction, the justice minister has defended this bill by suggesting that Canadians are generally supportive of such laws. Although I have no doubt that Canadians wish to see a reduction in problematic substance use and associated crime, they deserve policies that will actually achieve this goal and not ill-considered responses that have been proven to actually increase judicial and incarceration costs, as well as the transmission of HIV/AIDS and hepatitis C with no positive effect or impact on drug-related crime, violence, and addiction.

Additionally, the drug court exemption provided in Bill C-15 will only be applicable in the few Canadian jurisdictions that host these courts. The evidence from both Canada and the U.S. shows that despite the best of intentions, drug courts have a very poor success rate and are of questionable efficacy at reducing substance use, addiction, and crime.

I ask this committee to consider how a person suffering from cancer or HIV/AIDS, who uses medical cannabis to relieve the symptoms of their condition or the side effects of treatment, could possibly benefit by being diverted into a drug court program that prohibits and subsequently punishes the very use of this medicine through incarceration. Perhaps more pressingly, how does our society as a whole benefit from the perhaps unanticipated but unavoidable persecution of critically and chronically ill Canadians?

As a fellow elected official, I often seek the public's opinion on major matters under consideration, and I can understand the desire to have our federal drug policy reflect the thoughts, values, and beliefs of most Canadians. However, the members of this committee would do well to remember that for the last 10 years, every national poll conducted on medical cannabis shows that over 80% of Canadians support medical access to cannabis. This is true across all provinces and across all party lines. Additionally, over 50% of Canadians now support an end to cannabis prohibition, which is a far larger mandate than any of the national parties received during the last federal election.

However, in matters of such huge importance to both public health and public safety, we need to allow evidence to trump both ideology and public opinion. With regard to mandatory minimums, the evidence is abundantly clear: they simply don't work. Extensive studies conducted on mandatory minimum sentences throughout the world show that C-15 won't reduce substance use, won't reduce crime and violence, and simply won't make Canadians any safer; in fact, quite the contrary. Bill C-15 will further entrench a failed criminal justice approach to substance use and will inevitably add to the suffering of some of our sickest citizens.

Bill C-15 will debase every segment of society it touches, from the police officers saddled with the difficult job of enforcing these ineffective laws, to the judges forced to incarcerate otherwise law-abiding citizens and to imprison critically and chronically ill Canadians and those working so hard to help them.

Canadians want and deserve laws based on science, reason, and compassion, not fear, prejudice, and misinformation. Ladies and gentlemen of this committee, I assure you there is no single bill that you'll consider during your term in office that has a greater potential to needlessly squander taxpayers' funds, to lead to violations of both human rights and civil liberties, and to increase unnecessary suffering and spread disease than the bill before us today.

As elected officials, we have a clear moral, ethical, and legal responsibility to review the available evidence while considering the potential impact of new legislation on the electorate. With regard to Bill C-15, that can only lead us to a single logical conclusion. For the sake of every Canadian, Parliament must defeat Bill C-15.

Thank you for your time and attention and for the good work of this committee on this important matter. I look forward to your questions.

•(1625)

The Chair: Thank you so much.

And thank you to all of you for staying within the allotted time. That is very much appreciated.

We'll move on to Mr. Oscapella. You have 10 minutes.

Professor Eugene Oscapella (Barrister and Solicitor, Lecturer in Criminology, University of Ottawa, As an Individual): Thank you, Mr. Chair.

I've taught drug policy at the University of Ottawa for almost a decade. I've worked in the field for over 20 years. I was the first chair of the Law Reform Commission of Canada's drug policy group. I'm one of the founders of the Canadian Foundation for Drug Policy. I've worked in this field for a while.

I want to start with a quote from a 35-year-old African American man talking about his drug use as a younger man. He said:

You might just be bored, or alone. Everybody was welcome into the club of disaffection. If the high didn't solve whatever it was that was getting you down, it could at least help you laugh at the world's ongoing folly and see through all the hypocrisy and bullshit and cheap moralism.

That man called himself a junkie and a pothead. He said he was a confused teenager. He also went on to become the President of the United States, Barack Obama. It's ironic to see so many of the politicians on Parliament Hill salivating at the prospect of being seen in the presence of this man when under this law he would in all likelihood have been condemned to a two-year mandatory minimum prison sentence because he used cocaine. As you know, under the current drug law, even just passing a joint or passing a powder to a friend, not selling it, is considered trafficking. That can also probably be said of Bill Clinton and George W. Bush, both of whom have admitted their past drug use. Is this not a bit hypocritical?

Eighty percent of the students in the last course I taught last fall had used illegal drugs. Are they honestly criminals? Probably about 10% of my class have committed an offence that would get them a mandatory two-year minimum sentence under this proposed bill. Is that really what we want for our society? This makes no sense whatsoever to me.

We have had 100 years of failed drug policy in this country, and I'm non-partisan in my remarks. The two governments that have presided over drug policy happen to have been the Liberal and Conservative governments in this country, so my criticisms are directed at them. We've had 100 years of a policy that hasn't worked.

Let's remember that every drug harm that we see in this country today occurred under a system of prohibition. The problems with heroin, cocaine, methamphetamine, and LSD occurred under a system of prohibition. I ask myself why we are taking a policy that has clearly not worked. We've seen the example of the United States where they have used the policy of prohibition to an even greater extent. Why are we taking a policy that hasn't worked and profess to want to do more of it?

I recall from reading the transcript of a previous hearing with the Minister of Justice when Ms. Davies asked the Minister of Justice whether there was any evidence to support mandatory minimums. Ms. Davies asked if he had evidence. The honourable minister replied they had the evidence that Canadians had told them that.

We need better evidence to support policies than the passive views of the Canadian public, which has often, unfortunately, been misinformed by politicians, governments, and groups in this country.

This government pretends to be concerned about violence, drugs, and organized crime, but it has studiously ignored how drug prohibition—not drugs alone, but drugs that have been prohibited—has increased and promoted gun and gang violence in this country. They have enriched and empowered organized crime in this country. The RCMP has consistently reported in recent years that the principal source of income for most criminal organizations in Canada is the drug trade—that is, the drug trade fostered by prohibition, and that is the only reason.

I brought some diagrams. I'm the last speaker, so I thought I'd give you pictures rather than notes.

If you look at this last slide you'll see a very simple explanation of the economics of prohibition. These are figures from the United Nations in the mid-1990s published in *The Economist* magazine in 2001. They show how a farmer in Pakistan was getting about \$90 per kilo of opium at that time, and the price has gone down now as there's such a glut of opium on the market. It takes 10 kilos of opium to make a kilo of heroin. The farm-gate price, what it costs to pay a Pakistani farmer to provide enough opium to make a kilo of heroin, was about \$900. By the time that kilo was sold at the retail level in the United States it was worth \$290,000. That is a 32,000% increase in profit.

•(1630)

I'm getting about 0.4% on my bank account right now, on my GIC. This 32,000% profit looks pretty good.

This is purely the product of our decision to criminalize these drugs. Prohibition creates a fantastically lucrative black market. The laws of economics are far more powerful than any law this Parliament can enact. These are the same laws of economics that applied during the prohibition of alcohol. Those laws have not changed, even though our criminal laws have.

I also wanted to point out, going through the same images, that I became involved in drug policy work just after this editorial from *The Economist* magazine came out. *The Economist* is one of the most respected and conservative current affairs publications in the English-speaking world. In April 1988 they published a lead editorial called "Getting gangsters out of drugs". Their solution?

Legalize, control, discourage. In other words, regulate and discourage.

In 2000 they came out with an article asking if this was really the way to win the war on drugs. Are military efforts in other countries a way to win the war on drugs? The answer was no. I'll just give you a little hint there.

In 1993 they came out with this lead editorial called "Bring drugs within the law".

In 2001 they did a major survey on drugs called "The case for legalizing drugs". Again, their position: legalize, control, discourage.

Less than two months ago they came out again. *The Economist* magazine, again, one of the most respected and conservative publications in the English-speaking world, came out calling for an end to criminal prohibition of drugs. Exactly the opposite of what this bill is doing.

The *National Review* in 1996—a very conservative, Republican publication—came out calling for an end to prohibition.

In 2002 the Senate Special Committee on Illegal Drugs, chaired by Senator Pierre Claude Nolin, a Conservative senator, came out with a report calling for the legalization and regulation of cannabis. This report, you will remember, was adopted unanimously by the Senate of Canada.

There we go.

We have a lot of opinions. You may not believe me. You may not want to listen to me, but I think there are other organizations you could listen to.

It's hard to imagine drug policies that could be worse than the policies we have enacted in this country over the past century. I thought it was hard to imagine that until, of course, this bill came along. We took a bad situation and made it even worse. Mandatory minimum penalties will not work. Drugs are a health issue. They are a social issue. Throwing people in jail is a failure to think about how to deal with drugs. There's not really much point in dealing with the niceties of this bill. I didn't come here to talk about the specifics of the provisions of this bill because I think the bill is so fundamentally flawed, because of its prohibitionist foundation. There's no point in really talking about it. It's a bit like talking about the merits of Aspirin for somebody who has multiple organ failure. Prohibition of drugs is that multiple organ failure. This bill is Aspirin. This is not going to work.

I urge you to reconsider this bill. I urge you to drop this bill and have an honest look at drug policy in this country. Many of the people at this table have worked for decades to try to get a more rational discussion of drug policy in this country. We realize the problems that politicians have in discussing drug policy openly. We're trying to make it safer for you to talk about those things. We're trying to go ahead and help the public understand the reality of drug policy so that politicians can afford to dip their toes in the water and talk about alternatives to this currently failed system of prohibition. We'll continue to do that, but it's very difficult to work with something like this.

Thank you.

• (1635)

The Chair: Thank you.

We're now going to go to questions. We're going to move to the Liberal side. First, Mr. LeBlanc.

Hon. Dominic LeBlanc (Beauséjour, Lib.): Thank you, Mr. Chair, and thank you to all of you for your presentations.

A number of you referred to the drug courts. I come from New Brunswick, and my understanding is that the New Brunswick government is looking to set up a drug court. We don't have a drug court there at all. I have heard some positive stuff about drug courts in some jurisdictions. Some of you seem to think it's a model that may not be working very well. I'd be curious to hear your comments on why the drug courts haven't succeeded, and perhaps, Judge Paradis, from your experience in British Columbia.

I had a chance, perhaps a year ago, to have a conversation with Chief Judge Stansfield of your former court, the B.C. provincial court. We talked about the drug courts a bit, but I was also very curious when he described the community court, which I think is operating in Vancouver. I'm not sure if it's in other jurisdictions in B. C. In your view, is that an interesting model, and how would that compare to a drug court, if you're familiar? I'd also be curious, Judge Paradis, to know if you sat in a drug court or about your colleagues who did then.

Anyway, the drug court interests me, because my own province is looking at setting one up as a pilot project. In New Brunswick there are none. Anecdotally, in my province there seems to be some support, because in the absence of anything else, it's thought to be an innovative model. But I'm becoming discouraged hearing some of what you have to say.

Mr. Chair, would the witnesses comment on that?

The Chair: Go ahead, please.

Mr. Jerome Paradis: Well, I first have to say that the drug treatment court is what you're referring to, as opposed to a drug court, which we had—a separate court dealing with drug issues in Vancouver. That was put in place in 2001. I retired part-time, if I can put it that way, in 2001, and I retired full-time in 2003.

I have been doing some research on the community court. I haven't completed that research yet, and I want to compare it to the drug treatment court. But I think based on the little I've seen so far of both, they are an attempt at a band-aid solution that will relieve the court of the burden, not the drug-affected community it's supposed to

be dealing with. The idea is to try to reduce the number of recidivists coming back before the court over and over and over again, taking up court time and wasting judge time, all because the drugs that are being used are prohibited, carry the stigma that they do, and so on. They are prohibition crimes.

I don't have a great deal of faith in drug treatment courts, and as for the community court, to be clichéd about it, the jury is out. I'll wait on that. But I'll let anyone else here—

Hon. Dominic LeBlanc: Actually, there would be no jury in a community court. It's judge alone. You can't blame it on the jury.

But in all seriousness, Judge Paradis, I want to make sure. Your thesis is that this is in fact an instrument the judiciary uses to deal with what is across the country for a bunch of reasons—a lot of them being drug legislation, but not uniquely—a backlog in the courts, unacceptable delays. So is the court trying to find instruments to deal with its own—

Mr. Jerome Paradis: Yes, with its own problems, and not really effectively dealing with the problems that got the people before the court in the first place. That's my view.

Hon. Dominic LeBlanc: Thank you.

Mr. Philippe Lucas: Thank you very much, Mr. Chair, and to the honourable member.

Addiction has been found by our courts and certainly by our medical system to be primarily a disability. In fact, in Ontario, there was a decision last week that found it could be a cause of one's primary disability in terms of applications for disability funding. Drug courts entrench a criminal justice approach that suggests addiction or substance use is a moral choice or a moral failure rather than a symptom of a disease or a condition that can be best treated through other means, other than incarceration, of course.

Drug courts inherently have a problem in that to get into the drug court program you lose rights. You have to plead guilty and therefore you lose the right to appeal. So there's a loss of human rights and civil liberties inherent in the drug court system. The real problem, however, is that when you fail in the drug court program, when you fail a urine test or you're caught using drugs again, you serve the original full term of your sentence. It is literally the equivalent, if we accept addiction as a medical condition—

•(1640)

Hon. Dominic LeBlanc: Without going back to court?

Mr. Philippe Lucas: Without going back to court. Or you may go back to court, but the full term of the sentence is imposed at that point, through the failure, which triggers the full term of the sentence. And having lost the right to appeal, you will serve the full term.

Only 14% of people who go through the drug court system successfully go through the entire system. So 85% of people go back into the prison system due to failure or dropout.

Now, it's the equivalent, absolutely the moral and ethical equivalent, of punishing a cancer patient for failing their chemotherapy. Addiction, by its very nature, is going to be a waxing and waning of substance use. Many people will fall off or try to quit a few times. I don't know if you've ever tried to quit cigarette smoking. We'll quit a few times before getting successful treatment or before getting out of substance use. So the system itself just entrenches our current prohibitionist approach.

There is some great research on the Canadian drug court model system. I'm happy to make it available to this panel. I recommend Benedikt Fischer's examination from 2003 and John Anderson's study from, I think, 2004. They both looked at international drug courts and the lack of evidence to support their efficacy, both in Canada and internationally.

Thank you.

Hon. Dominic LeBlanc: Mr. Chair, if there's any time, could Mr. Perks...?

The Chair: You have half a minute.

Mr. Gord Perks: Very quickly, without being facetious, what I need is not necessarily more drug treatment courts but more basketball courts.

It's very important that we begin to invest in communities where drug use and a variety of concurrent disorders are serious problems. Drug treatment courts do not do the prevention work that is necessary. They don't build the resilience and social skills necessary to say no.

I urge you, as I said at the end of my presentation, to think about reinvesting the money that would be spent on the incarceration system into other social goods that help to prevent drug use in the first place.

The Chair: Thank you.

We'll move on to Monsieur Ménard, for seven minutes.

[*Translation*]

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

I have a question for Mr. Paradis and another one for Mr. Oscapella.

The Bloc Québécois is totally against this bill. We will vote against it. For the last few years, we have maintained that it's illogical to demand minimum sentences. I wouldn't have hoped, even in my wildest dreams, to hear evidence as convincing as yours, Mr. Paradis. I hope that you will leave a written submission with us

and that the clerk will have it quickly translated. We will circulate it widely.

I would like to hear some more from you. You have been a judge. You are not a member of the Parti québécois and you are not a great supporter of the Bloc either: you are a magistrate and you have practised law. I would very much like you to enlighten some of our friends here, in this room, who stick to a somewhat dogmatic logic and refuse to acknowledge reality.

You have told us that minimum sentences don't discourage people. Please expand on this idea and the fact that the volume of drug offences exceeds the volume of firearm offences, and so on.

I would then ask you to leave me some time to put a question to Mr. Oscapella.

Mr. Jerome Paradis: Mr. Ménard, if you don't mind, I'll keep answering in English. I have lived 45 years in Vancouver, and I am afraid I'd waste time trying to find the right words in French.

Mr. Réal Ménard: We have a translation service. Don't worry.

[*English*]

Mr. Jerome Paradis: Thank you.

I made the point that courts will be more clogged. We're not dealing with the occasional gun crimes—really, they are occasional, believe it or not—or crimes associated with the use of firearms. Even impaired driving cases have gone down quite steadily in the last 10 years because of the social disapproval that's been attached. But the Provincial Court of British Columbia dealt with 50,000 cases between 2000 and 2005.

With that kind of volume, if we take away the guilty pleas...and that's what I'm saying will happen. People will be less likely to plead guilty because they want to avoid that minimum six months, one year, two years, or three years. They will plead not guilty. They will put everything on the table, what I might call a shotgun defence, and it will take a huge amount of court time to go through all of those cases while everything else waits—and all for no good reason, as everyone here has pointed out.

I have to add this: it occurs to me, after listening to everything I've listened to here this afternoon—I haven't heard these individuals speak before—that it's dispiriting that you're even considering this law.

Thank you.

•(1645)

[*Translation*]

Mr. Réal Ménard: We will circulate your brief in all regions, including in Quebec, of course.

You say that if this bill were to pass, the President of the United States would get two years, since he has admitted to having used cocaine in the past. Could you please expand on this example, in order to demonstrate the excessive nature of this bill.

Prof. Eugene Oscapella: Thank you, Mr. Ménard.

Like my colleague, Mr. Paradis, I feel more comfortable in English. So, if you don't mind, I'll also continue in English. Thank you.

[*English*]

The example I was giving with Mr. Obama—and this could have applied to George Bush as well—is that under our current law—

Mr. Réal Ménard: I wouldn't be sad if Mr. Bush went to jail, but I wouldn't want to see Mr. Obama there.

Prof. Eugene Oscapella: I don't think it's likely that they would be imprisoned.

Under our current law, merely giving somebody a drug—you don't need to sell it to him—constitutes the offence of trafficking. Mr. Obama admitted that at one point he used cocaine. If he had been in Canada and he had been 18 and shared some cocaine with a friend who was 17, a minor, or if he had done this near a school, that would be a mandatory minimum sentence of two years' incarceration. That means federal penitentiary. That does not make sense to me. Look at the tremendous potential that we would have lost with this man. He has gone on to offer tremendous promise to the United States and many other countries as well. That could have been the consequence of his being subjected to a law like this. He wouldn't even properly be allowed into the country. He's a head of state so we allow him into the country, but because he admitted drug use in the past, we could turn him away at the border. This makes no sense whatsoever. This is a problem that could also have applied to Mr. Clinton or Mr. Bush.

This is how absurd our laws are. I look at my own class of capable, intelligent students. Of course, there are good and bad ones, but by and large I am pleased with them. Some of them could get caught up with this law.

[*Translation*]

Mr. Réal Ménard: I think that Mr. Lucas wanted to add something.

Mr. Philippe Lucas: It's just a brief anecdote.

Our previous Prime minister, Paul Martin, used to tell how his wife had baked marijuana brownies for a party. Sadly, according to Bill C-15, this would have been considered a form of distribution. If she had been arrested and tried, she would have been given at least two years in prison for this crime. This shows that, sometimes, even the slightest of crime can...

Mr. Réal Ménard: Do you know if Paul Martin ate a piece of these brownies?

[*English*]

Mr. Philippe Lucas: He claims that was his only drug experience. His wife had made brownies and passed them around at a party. Under the Canadian definition, that is trafficking of marijuana. And that would have kicked in Bill C-15 and a mandatory two-year minimum imprisonment.

Prof. Eugene Oscapella: He was given one but he didn't inhale it.

Mr. Jerome Paradis: Exactly.

Prof. Eugene Oscapella: Would you like to take a brownie, Mr. Chair?

The Chair: I'll take it under advisement.

Ms. Davies.

Ms. Libby Davies (Vancouver East, NDP): Thank you very much.

First of all, I really want to thank the witnesses who came today. You have all been quite amazing, just your knowledge about this issue, and particularly to Ms. Small, who's come to tell us about the experience in the United States. I think it's so important that we understand what this bill is about, and that there has been a whole lot of experience. We should be learning from that and not repeating it.

You heard from Mr. Ménard that the Bloc doesn't support this bill, and it won't be any surprise to you to learn that the NDP does not support this bill for all of the reasons that you've given. In fact, we voted against it at second reading. So I feel we're at this very critical point. We can all do the math in this room. If there were three parties opposed to this bill, we could defeat it.

I've been listening very carefully to the questioning. I am very concerned, just hearing the questioning about the drug courts and that somehow this is the saving grace of this bill and that maybe we should be supporting it. I'm really actually speaking to my colleagues here in the Liberal Party. This bill is about mandatory minimums; it's actually not about drug treatment courts. That's been thrown in as a little caveat that maybe will make it slightly more humane. If we want more drug treatment courts, if that's the course of action that the government wants to take—and I don't happen to support them for the reasons that are being given—we could easily do that. It doesn't have to be through this bill. So I want to put that point out there.

The question that I really want to bring out, and maybe ask people to elaborate on, is who this bill is intended for. I think we'll hear from the Conservative members that this is about getting tough on these gangsters and the big dealers. It's about going after those guys, and it's not intended to go after you or you. But the reality is so much different in terms of who it really is directed to.

So to hear from VANDU, in terms of who you think this bill will really target, is very important. If you would like, say some more about that, and the same with anybody else who has anything they would like to say—Deborah as well. Maybe I'll just put my question to Ms. Livingston or Mr. Lampkin and Ms. Small. If this bill passes—I was going to ask who are the victims of it—who is it targeted to? Is it the kingpins—are those the people who are going to get caught—or is it the person on the street?

•(1650)

Ms. Ann Livingston (Executive Director, Vancouver Area Network of Drug Users): There's a term that's used for arresting people who use drugs in our neighbourhood and it's the low-hanging fruit. So there's a sense of shooting fish in a barrel. There's a contained number of people who are severely addicted who obviously possess drugs. With the gang violence that has occurred in Vancouver recently, and the headlines, and the constant calling for more policing, I question who's a gang member. At what point is someone so small a dealer that they're not considered a gang member? No one ever says who that is. That's what we see in our neighbourhood, a sort of pyramid scheme of drug dealing where many, many people who are addicted to drugs are paid solely in drugs to sell drugs that they don't own and that they don't get the profits of. They're simply like a clerk. They sell drugs; the money has to be given to someone else. These are people who are easily arrested. We see this currently. This is who gets arrested. These are the massive numbers of arrests.

I brought this along. I don't know if it's of any use. It's the *Vancouver Drug Use Epidemiology*. Jane Buxton has done a fabulous job of putting all of the heroin and cocaine busts.... We actually have one from 2005, one from 2007, and there's one coming again in 2009. What it does is it ties the arrests to the.... The other thing that's in here, obviously, is epidemiology, the number of HIV cases, hepatitis C. And there's a very intelligent overview. So should you ask yourself the kind of question you're asking, it's in there, along with the data from drug courts. She calls them expensive, ineffective, and continuing. They've decided, of course, that doesn't matter; we're going to do drug treatment courts.

So that's what I would encourage. I can leave these for people.

Ms. Libby Davies: Ms. Small.

Ms. Deborah Small: Thank you.

I want to respond quickly to three points that have been made in discussion here.

First of all, I have to disabuse people of the idea that Obama would ever have been arrested and subject to mandatory minimums. He used drugs in the U.S. during the period of mandatory minimums, but the truth of the matter is that drug law enforcement is not equally targeted at people who use drugs. It's targeted at the poorest people, at the most vulnerable people. The fact that he was affluent, from an affluent background, going to an Ivy League school, ensured that he was not very likely to be targeted. Police don't do drug raids at Harvard. I know, because I went there, and I had lots of friends who used drugs, and the cops did not come looking for us. Okay? But where they will do drug raids is in public housing and low-income communities.

One of the things I didn't have time to make a point of is that the history of drug law enforcement in New York is that while drug use is pervasive among every socio-economic group, 95% of all the people incarcerated for drugs in New York have been poor African Americans and Latinos—95% of them. No one has ever argued to me, not a police person, not a prosecutor, or anyone else, that 95% of the people who bought, used, or sold drugs in New York were poor African American and Latinos, but that's who ended up behind bars.

I used to head a drug treatment program that served women in Harlem. The majority of the women who came to us—some 70% of them—particularly the ones who came to us through the criminal justice system, had histories of sexual or physical abuse; two-thirds of them were mothers; and most of them had been living on public assistance or were marginally employed. I think one of the most pernicious things about our drug laws is that the people who are targeted, the people who are affected, are always the people who are already at the short end of the stick of everything. So instead of using the laws to help people who need our help, we actually use them to punish the most vulnerable people. More than 150,000 children in New York State have been deprived of their parents for at least some part of their lives because of drug law convictions. Because of our laws now, if you're a woman who gets a sentence of two years or more, you run the risk of losing your parental rights forever, because one of the consequences of going to prison is that your kids can be put up for adoption.

So we need to actually look at who we're targeting and what the cumulative effect is of having.... We've had 36 years of this law, and the point I wanted to make about it is that the worst part about mandatory minimums is they pervert the very system of justice we're supposed to be protecting. They give people an incentive not only to go after the low-hanging fruit, but also to disproportionately target drug crimes, as if they were the most important area of law breaking. We went from having only 10% or 15%—

•(1655)

The Chair: Ms. Small, I'm going to have to ask you to end there.

Ms. Deborah Small: —of the people in prison there for drugs to almost half of all prisoners. If you ask the public what they think is the most important crime, rarely will they put drugs in the top five.

So I don't understand how, in the effort to reduce violence and criminality, you would follow the example of the United States to show you everything that's wrong.

The Chair: We're going to have to move on to the next questioner. Thank you.

We're going to move on to Mr. Rathgeber for seven minutes.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair, and thank you to all of the witnesses for your testimony here this afternoon.

Mr. Tousaw, it's nice to see you again. I had the opportunity to ask you some questions on Thursday, as you will recall, in Vancouver.

Mr. Kirk Tousaw: Yes.

Mr. Brent Rathgeber: That day you were representing the British Columbia Civil Liberties Association.

Mr. Kirk Tousaw: I was, though I think I made it clear that some of the views expressed were my own.

Mr. Brent Rathgeber: You did, and today you are representing Beyond Prohibition?

Mr. Kirk Tousaw: The Beyond Prohibition Foundation, that's right.

Mr. Brent Rathgeber: I guess, without going into too much detail, are the goals and objectives of those associations largely similar?

Mr. Kirk Tousaw: Well, no. The British Columbia Civil Liberties Association is a civil liberties organization that shares some similar attributes with the Beyond Prohibition Foundation, but I would say the foundation is more directly targeted to the issue before this panel today.

Mr. Brent Rathgeber: Very good.

Now, Mr. Oscapella indicated in his opening remarks that in his view a sensible drug policy would have three constituent elements: legalize, control, and discourage. Do you agree with those three tenets?

Mr. Kirk Tousaw: I think I largely do, yes.

Mr. Brent Rathgeber: Including discouraging it?

Mr. Kirk Tousaw: Oh, absolutely. I think the only success in drug policy we've seen in this country over the last 20 years has been the reduction in youth smoking of tobacco. We achieved that without arresting anybody. We achieved it primarily through moral suasion and education.

Mr. Brent Rathgeber: But you do actually promote the use of currently illegal substances.

Mr. Kirk Tousaw: No.

Mr. Brent Rathgeber: You do not?

Mr. Kirk Tousaw: No.

Mr. Brent Rathgeber: Were you not a candidate in the 40th general election?

Mr. Kirk Tousaw: I was. I don't recall promoting illegal drug use during that brief and shining moment.

Mr. Brent Rathgeber: Refresh my memory. Were you a candidate for the Marijuana Party or for the New Democratic Party?

Mr. Kirk Tousaw: I was a candidate for the New Democratic Party.

Mr. Brent Rathgeber: And on about September 19, were you not asked to resign as a candidate for the New Democratic Party?

Mr. Kirk Tousaw: No, I was not asked to resign.

Mr. Brent Rathgeber: Well, were you a candidate in the election on October 15?

Mr. Kirk Tousaw: I was a candidate in the election, who did resign.

Mr. Brent Rathgeber: So you did resign, but you were not asked to resign.

Mr. Kirk Tousaw: That's correct.

Mr. Brent Rathgeber: So why did you resign as a candidate for the New Democratic Party?

Mr. Kirk Tousaw: As I explained at the time, I didn't want to be a distraction for the party in an election campaign that I thought was focused on more serious issues than whether or not, as the campaign manager for the B.C. Marijuana Party some years earlier, I had engaged in marijuana use.

● (1700)

Mr. Brent Rathgeber: Ah, but that was some years ago.

Mr. Kirk Tousaw: Yes, indeed.

Mr. Brent Rathgeber: Now, if you do in fact support the three tenets of legalize, control, and discourage—and you and I talked in Vancouver about the 1920s when alcohol was subject to prohibition in the United States—

Mr. Kirk Tousaw: Yes.

Mr. Brent Rathgeber: —you'll agree with me that the legalization of alcohol has done nothing to discourage the use and in fact abuse of alcohol in the United States of America.

Mr. Kirk Tousaw: I will agree that the criminal justice policies of the United States and this country have had very little effect on the use of drugs or alcohol, either in this country or the United States, historically. That's correct.

Mr. Brent Rathgeber: So you'll agree that cessation of prohibition with respect to alcohol did not result in discouragement.

Mr. Kirk Tousaw: I agree that the criminal justice policies of the United States and Canada with respect to drugs and alcohol use have very little to do with whether or not people actually use drugs or alcohol. The good news is that the ending of alcohol prohibition dropped the homicide and violent crime rates substantially, and it also reduced the power and influence of organized crime, goals I hope we share.

Mr. Brent Rathgeber: We do.

And beyond prohibition and/or your own personal use, the elimination of prohibition of currently banned substances is not, in your view, limited to cannabis—marijuana.

Mr. Kirk Tousaw: No. It's a good first step, because we arrest, currently, some 50,000 people a year for simple possession of cannabis. I think that's a tragic waste of resources and a tragic visitation of consequences upon those people. It's a good first step, but if you want to get serious about ending the power and influence of organized crime, you're going to have to end the drug trade, and the only way to do that is to end prohibition.

Mr. Brent Rathgeber: So you would support the end of prohibition for methamphetamine.

Mr. Kirk Tousaw: I would support a system of non-criminal regulated access and control. That doesn't mean that you're going to be able to buy it at the corner store; it means that the government is finally going to take control of this substance instead of ceding its responsibility to gangsters.

Mr. Brent Rathgeber: Legalize, control, and discourage.

Mr. Kirk Tousaw: That's correct.

Mr. Brent Rathgeber: And that applies to crack, LSD, and heroin.

Mr. Kirk Tousaw: Absolutely.

Mr. Brent Rathgeber: So in fact you're not here simply to speak out against Bill C-15. You would support the repeal of the Controlled Drugs and Substances Act.

Mr. Kirk Tousaw: I would support the repeal of the Controlled Drugs and Substances Act and its replacement with a system of regulated control of production, sale, and access, rather than our current system, which leaves those in the hands of the black market.

Mr. Brent Rathgeber: Thank you.

Judge Paradis, I do have a question, but you can add your comments to that.

You talked about the robotic function of mandatory minimum sentences. But this is not, as my friend Ms. Davies suggested last week, a radical approach. Minimum mandatory sentences have existed since the inception of the Criminal Code, with respect, for example, to first-degree murder.

Mr. Jerome Paradis: Yes. I'm sorry to interrupt, Mr. Rathgeber.

In that context, I didn't refer to the robotic exercise of mandatory minimum sentencing. I talked about 1987 and the potential for the robotic exercise of the sentencing function of a judge under a complete mandatory guideline system. Judges were opposed to that.

Judges are not opposed to specific, well-placed mandatory minimums. They have no reason to be. They are not a legislative arm of government, and they know that, and that was my point.

Mr. Brent Rathgeber: In fact, it doesn't result in robotic sentencing because—

Mr. Jerome Paradis: I didn't say it did. I was talking about mandatory sentencing guidelines when I talked about robots. All right?

Mr. Brent Rathgeber: Thank you, but you'll agree with me that the judiciary still has the discretion to impose an appropriate sentence; it just has a floor that it has to respect. It has a floor and a ceiling.

Mr. Jerome Paradis: Oh, you're speaking of guidelines?

Mr. Brent Rathgeber: Yes.

Mr. Jerome Paradis: I see. Yes, that's true.

Mr. Brent Rathgeber: Thank you.

Those are my questions.

Mr. Jerome Paradis: I will add to something Mr. Tousaw said.

I want to make it clear that Law Enforcement Against Prohibition, an American organization that was founded by five police officers who spent their lives and careers involved in enforcement of drug laws there, an organization to which I belong, agrees exactly with everything Mr. Tousaw has said about ending prohibition in the way he has suggested.

I want to endorse what he said.

Mr. Brent Rathgeber: I think that's clear.

The Chair: Thank you.

We'll move on to Mr. Bagnell.

Mr. Bagnell, you have five minutes.

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

Thank you all for being here. Witnesses always give us an insight that we don't otherwise have.

I want to ask all of you about the solutions on prevention, and I'm going to also get into probation if I have enough time left.

But just before I do, Mr. Perks, I was very enticed by your last words, which said you were going to tell us about your community. I want to know what you were going to say.

• (1705)

Mr. Gord Perks: Quickly, the community I represent has a number of very interesting dynamics. First, for a variety of reasons, through the late 1970s to the mid-1980s, a tremendous number of people who had been forcibly confined for mental illness were released into my community. Second, we have a high proportion of people who are newcomers to Canada in my community. Third, we have one of the last places near the downtown where there is still a large amount of affordable, private rental stock. We also have in my community a fairly high degree of drug use.

I'm actually probably the only person who represents a ward in the City of Toronto that has people from all five income quintiles in it, from the very top to the very bottom. The thing that's quite remarkable about my community is that people from all five of those quintiles advocate for more affordable housing. They advocate for more investment in community resources like parks, swing sets, allotment gardens. They advocate for harm reduction programs. They advocate, essentially, for social inclusion of people who have addiction, and sometimes concurrent disorders with addiction, because they recognize that someone who is recently on the streets after having served a jail term is a much more difficult person to house, a much more difficult person to integrate into the community, a much more difficult person to provide supports to, than someone who is in a treatment program, than someone who may be using a harm reduction strategy to try to manage an addiction problem they have, than someone who is treated as a member of the community rather than whisked off under some arbitrary sentencing scheme to become a non-member of the community and then return back to Parkdale with their lives broken.

Hon. Larry Bagnell: A majority of crimes are done under the influence of alcohol or drugs, or are to get the sources to buy these products. This question is for everyone. Basically, I've been arguing at this committee that we lack resources in prisons, that we lack rehabilitation resources, etc., and that's where we're failing. Obviously, prohibition is not working, and in fact non-prohibition doesn't work either, because alcohol is legal. We haven't solved the problem in either case. So what types of steps can we take? You mentioned a few, the swing sets, etc., but I just want to hear from everyone, a couple of the leading things.

Ms. Ann Livingston: I just want to quickly say, as a mother of young teens, that the difference between my children.... It is Vancouver, after all; someone is going to offer them marijuana. They're going to offer them marijuana at school, as they did when they were in junior high school. When they wanted to drink, they were able to come to me and ask me if I would buy them alcohol. I think you need to understand that alcohol is regulated and much more difficult for children to buy. Children buy drugs from other children, and it creates a problem, I find, in parenting. I would much rather have had the ability to have a discussion with my children before they used marijuana. I don't know if they've used other drugs.

I just want to make that comment, because Canada was much admired internationally for many years when alcohol.... In our province anyway, you had to go in and write what you wanted on a piece of paper; they didn't have advertising for liquor and you didn't wander the aisles and look for nice bottles. Liquor in British Columbia was very controlled. We had a very low consumption rate, as a result. I think that needs to be perhaps examined. There are two things that add tremendously to an increased amount of drug use or alcohol use: a completely free and open market where there is a lot of advertising; and prohibition, which seems to increase the availability because of the profit—and the drug cartels really want a lot of people to use a lot of drugs. It seems odd to us, but they have their ways of increasing drug use, the black market I mean. What is it? Regulate, control, discourage. That really does work.

The Chair: You can make one quick response, Deborah.

Ms. Deborah Small: I think some of the things that are solutions, Canada is already doing, such as having a safe injection site and experimenting with heroin maintenance, which has worked successfully in different parts of Europe. I think that is one way of reducing the black market demand for drugs.

I also think that the Dutch have shown us something about the value of separating the markets for soft drugs and hard drugs. They have much lower consumption of cannabis among young people, in spite of the coffee shops. And they've been able to reduce the level of young people moving into hard drugs because of the fact that they've made it easier to regulate access to cannabis.

• (1710)

The Chair: Thank you.

We'll go over to Monsieur Lemay. You have five minutes.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): I don't have that many questions, as I agree with everything you have said. However, there is one issue that I would like to revisit.

Mr. Paradis, wouldn't you say that the problem is the getting out of prison, rather than the getting in?

Mr. Jerome Paradis: Definitely, yes.

Mr. Marc Lemay: Minimum sentences don't solve anything. The problem is that the men are released much too soon. In our lingo, we say that they don't do their time. I don't want to discriminate, but it's mostly men who do prison time. The minimum sentences that the bill would create won't solve a thing.

What do you think?

Mr. Jerome Paradis: I'll answer in English, if you don't mind?

Mr. Marc Lemay: Please, go ahead.

[*English*]

Mr. Jerome Paradis: I think the important point about the idea that this solves anything—that is, sending people to jail—is that it is manifestly not so. It does not work; that's true. But I think Mr. Bagnell's question about the problem and how we solve the problem.... What do we do to solve the problem? The fact is, we're trying to solve a problem that isn't, in the terms put by both of you, solvable. The fact is, human beings have been using psychoactive substances since the beginning of time, and they will continue to. Some will use them responsibly and others will not. It doesn't matter what the substance is.

The advent of the chemistry and other things over the last hundred years has certainly made this huge cornucopia, if you put it that way, of drugs available. By putting people in jail, you're simply inviting them to spend time in a hothouse where they can come out fully prepared to lead a much more efficient life of crime. And you only put them in there because they happened to have been caught up in this artificial net you've created.

That's my answer to that.

Mr. Philippe Lucas: *Merci beaucoup.*

If I could add to that, substance use is really a symptom of the problems we're trying to tackle here. The evidence is very clear that if you want to end half the substance use in Canada, we need to house the people who are currently homeless in Canada. That would cut, literally, substance use problems by half. This is a poverty problem, largely. As Madam Small so ably explained, our poorest and most visible minorities are the ones who are the targets of our current drug use. They're the ones who are living on our streets and who of course come into contact with the criminal justice system at a much higher rate than those of us who are in homes dealing with our addictions within the privacy of our own quarters, within the social support of our families, in many ways.

So obviously dealing with drug addiction through housing and poverty reduction is going to be the best thing we can do, not spending more money on a criminal justice approach.

I just want to differentiate between drug-related crime, which Mr. Bagnell mentioned, and prohibition-related crime. When we talk about shootings in Toronto, when we talk about shootings in Vancouver, these are not people on drugs shooting each other. These are people shooting each other for drug profits. Nothing to do with the actual substances themselves has caused this violence. This violence is caused by the profitability of these drugs. So obviously addressing the difference between drug-related crime, which is typically petty crime that feeds someone's substance abuse and dependence on substances, is very different from prohibition-related crime, which is the high violence we're seeing and the gun violence we're seeing in our major cities in Canada.

[*Translation*]

Mr. Marc Lemay: Thank you.

[*English*]

The Chair: Well, thank you so much.

Mr. Lucas, you're going to have to show me how you flip that pen like that. We've been mesmerized by that. You're very good.

Ladies and gentlemen, thank you for appearing before us. Your testimony has been helpful and certainly will form part of the public record. We'll move forward and prepare a report in the coming weeks, I'm sure.

Again, thank you.

Members of the committee, if you could stay behind, we have about 15 minutes worth of workplan work to do.

We'll suspend for five minutes.

[*Proceedings continue in camera*]

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