



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **Standing Committee on Justice and Human Rights**

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JUST • NUMBER 066 • 1st SESSION • 41st PARLIAMENT

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**EVIDENCE**

**Monday, March 25, 2013**

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**Chair**

**Mr. Mike Wallace**



## Standing Committee on Justice and Human Rights

Monday, March 25, 2013

• (1530)

[English]

**The Chair (Mr. Mike Wallace (Burlington, CPC)):** We'll get started. Thank you very much for coming to meeting number 66 of the Standing Committee on Justice and Human Rights.

Pursuant to the order of reference of Wednesday, June 20, 2012, we are discussing Bill C-394, An Act to amend the Criminal Code and the National Defence Act (criminal organization recruitment).

Ladies and gentlemen, we have an hour's worth of questions and presentations from three different groups, three different witnesses. Then we will suspend for a few minutes while we switch over, and we will do clause-by-clause after that. We have eight amendments. We will talk about those when the time comes.

First of all, we have Minister Andrew Swan, the Minister of Justice and Attorney General for the Government of Manitoba.

Thank you very much for coming.

From the Winnipeg Police Association we have George VanMackelbergh.

Thank you very much.

From the Boys and Girls Clubs we have Rachel Gouin and Marlene Deboisbriand.

We'll start in the order that I've introduced you.

Minister Swan, you are first to speak, for 10 minutes, please.

**Hon. Andrew Swan (Minister of Justice and Attorney General, Government of Manitoba):** Thank you very much, Mr. Chairperson.

On behalf of the people of Manitoba, thank you for the opportunity to present on Bill C-394.

I'm not going to read through my submission word for word. Let me say at the start that we support Bill C-394. I commend MP Parm Gill for bringing this forward. I appreciate Mr. Gill's visit to the Manitoba legislature some time ago to discuss it.

Let me also say at the outset that you're all welcome to come and visit us in Manitoba whenever we're talking about working together to build safer communities.

We do believe that the bill can be made even better and more effective, and this is the time to get it right.

My home province of Manitoba is a great place. It's a place where we celebrate diversity. Also, StatsCan has told us once again that we are the most generous people in all of Canada. Of course, among other things, we're celebrating having NHL hockey back.

But I have to tell the committee that I can't deny the challenges that are posed by crime. Our crime rates and our incarceration rates, like those of other western provinces, are higher than the national average. Along with Saskatchewan, we often experience the highest crime rates of any of the provinces, and it has been that way in Manitoba for many decades.

Our government is meeting those challenges through a balanced approach to building safer communities. In part, of course, that's about making the right laws, both here and in Winnipeg, within our competence as a province. We get there by support for law enforcement, and we get there by preventing crime from happening in the first place. As you'll see from this submission, our government has been very active on all three of these fronts in taking a balanced approach to dealing with public safety issues.

We see every budget that our government brings in as a chance to invest in our young people and a chance to build safer communities. That means greater education, better training, more recreational opportunities, and support for groups such as the Boys and Girls Clubs, which do such good work, and of course it means standing shoulder to shoulder with police and law enforcement in the province of Manitoba.

When it comes to laws, I don't want to brag, but Manitoba has for many years punched above its weight in terms of bringing forward solid proposals, in working with the federal government, whatever political stripe that government may be, and in working with provinces and territories, again without being politically partisan, to try to get better laws to keep our communities safer.

Still, there are challenges in many communities. The area I represent is the west end of Winnipeg. It has always been a place for people to start a new life. It's where my grandfather came to from Scotland almost a century ago. There have been successive waves of immigrants from Iceland, Italy, Portugal, Vietnam, the Philippines, and African countries. It is still a place where people can come as immigrants through our provincial nominee program, sometimes as refugees and sometimes as people moving from northern communities and seeking a better life in Canada.

I prefer to spend all my time talking about the promise and the potential of youth in areas like mine. I spend time at my local high schools, such as Daniel McIntyre and Tec Voc, and I see youth fulfilling their potential in academics, in skilled trades, in sports, and in the arts. But sadly, I have to tell you that in areas like mine there are youth who don't have positive things keeping them on the right side of the law.

There are youth who aren't involved in school, who may not be involved in sports, who may not have a faith community, or who may not have other positive influences to keep them on the right side of the law. These are youth who, let me say very clearly, are at risk of being recruited by gangs and criminal organizations. These are youth who are at risk of being exploited. Certainly, I don't know what's worse: you see youth who may have a developmental delay like FASD or others who are bright with potential who fall under the influence of gangs.

Make no mistake: the gangs know the laws. They recruit those under 18 because they know that the Youth Criminal Justice Act will have a very different set of consequences for youth who are apprehended by the police. Also, tragically, they recruit those under 12, because they know there will be no repercussions if those youth are picked up by the police.

Gang life is dangerous. Gang life closes out family, friends, school, and community. Many young people who get brought into gangs, who are coerced to join gangs, find that there is no financial benefit. There's a cutting off of all the things that the youth have been involved with, and there is no easy way out.

Being involved in a gang increases the risk of violence to an individual and even the risk of death. The criminal organizations and gangs of course advance their own financial goals. Their greed leads them into the drug trade and into prostitution. It leads them into smuggling guns. This provides violence and intimidation and it wreaks havoc on communities just like the one I represent in Winnipeg.

The changes to the Criminal Code that are suggested in Bill C-394 are warranted. They would better define what recruitment is.

• (1535)

This bill would provide guaranteed consequences, which we say are needed in order to take on those who would recruit young people into gangs. It also increases the range of penalties that could be imposed by a court if somebody were found guilty of this provision.

There are existing provisions in the Criminal Code that I'm told by my crown attorneys and that I expect to hear from police are unclear and difficult to prove and that don't adequately reflect the seriousness of the offence, namely recruiting people into a life of crime in a gang or criminal organization.

That being said, we believe the bill can be improved. We have two ideas as to how that can happen.

The first is that the bill should not apply only to criminalized recruitment of youth into gangs. It should also apply to threats and coercion used to keep young people in gangs. I've spoken with many youth and youth providers in Winnipeg and elsewhere in Manitoba, and they tell me that when youth become involved, they discover the

violence, the threats, and the lack of a future, and they even find their gang involvement is limiting where they can safely go and whether they can attend school. These youth tell us they fear reprisals against them, their family, and their friends if they try to leave the gang and put that negative life behind. It is how gangs and criminal organizations operate: by intimidating people and by threatening them and their families to try to keep them involved in the criminal organization.

For that reason we believe Bill C-394 could even be expanded, not just to criminalize recruitment but to criminalize the threats and intimidation used to keep young people involved in gangs.

Secondly, we believe Bill C-394 could be improved by being applied to anyone recruiting in places where youth are expected to gather, the very places I think all of us want to keep safe, such as schools and schoolyards, community centres, friendship centres, and parks—places where we want it to be safe for young people to go.

One example of that in Manitoba is our Lighthouses program. The Department of Justice and the Department of Children and Youth Opportunities provide funding to keep some 70 community centres and similar places open in the evenings and on weekends to be a beacon and a safe place for young people to go. If somebody arrives at one of those facilities with the goal of recruiting somebody into their gang or their criminal organization, we believe whether or not the person recruiting is under 18 it should be a criminal offence.

Our goal obviously is to make Canada a place that's inhospitable territory for gangs and for organized crime. We believe, through the collective efforts of governments, we can do more on the prevention side through education, recreation, and opportunities. We can continue to work together to support police, but certainly we want to have the right laws in place. Bill C-394, in Manitoba's view, is the right step to take.

I would ask the members of the committee to consider amending the bill, as I have suggested, because this is our chance to get it right and to protect our country's most valuable resource, our young people.

I'm certainly open to questions the committee may have.

**The Chair:** Thank you, Minister.

We'll go on to the other two presenters, and then we'll go to questions.

Our next presenter is Mr. VanMackelbergh from the Winnipeg Police Association. He's the vice-president.

**Mr. George VanMackelbergh (Vice-President, Winnipeg Police Association):** Mr. Chair, thank you for the opportunity.

By way of introduction, my name is George VanMackelbergh. I am the vice-president of the Winnipeg Police Association. I represent 1,943 women and men of the association. I have 24 years as an experienced police officer working in downtown Winnipeg as well as in the north end. I spent six and a half years working as an organized crime investigator in the full gamut of investigations—multi-jurisdictional, technical investigations—as well as developing informants and pushing them to agents, so I know a little bit about gang activity.

I work in one of the most challenging jurisdictions in the country when it comes to gang activity. For approximately 30 years Winnipeg has experienced a multi-generational gang membership, and for three decades it's had what is considered the current model of street gangs.

At face value, the WPA supports this legislation particularly, as we would support any legislation by the government of the day that attempts to stymie gang or organized crime activity. Bill C-394 contextually speaks to recruitment but doesn't specifically address it, and along with Minister Swan, I believe this is key legislation.

Gang recruitment is targeting younger and younger persons. In Manitoba, in Winnipeg, we have 10-year-olds being actively recruited into gangs, whether it's "standing six" or holding drugs for the older gang members. We currently have 15-year-olds on charge for murder who were driven to this by older gang members, knowing they would face a lesser penalty.

Again, tackling recruitment and making it illegal is very important, because often when these people are recruited at a young age, they don't understand the life they're getting into. They see it as having rock-star status in the media. Popular culture makes it look like it's something to do. It's not until they're in it and they've been in it for two, three, or four years at age 15 that they realize the road they're going down. There aren't riches, there isn't fame and fortune, and they cannot leave the gang.

They suffer severe beatings at the hands of the older, more experienced gang members, who do this to maintain loyalty. The threats are to their family and to their community.

There are neighbourhoods and communities within Manitoba and within Winnipeg itself in which if you are not a member or an associate of a gang, it's understood that just by living in those neighbourhoods you'll support the gang if they knock on your door.

I liken this to Belfast in the 1970s. Whether you were a Loyalist or a Catholic, many people in Belfast believed that the way to handle those issues was politically. But make no mistake about it, when there was a knock at your door at zero dark thirty, you were expected to support.

I think legislation like this will define what gang recruitment is: it's not complying out of necessity, and I think that's important.

We foresee difficulty meeting the burden of proof in some gang legislation, so I would ask on behalf of the association that the crafting of this come up with a burden of proof that isn't onerous. As we see with some organized crime, probably when this hits the court you're going to have to deal with the question of whether the gang is organized crime. You'll have to prove that in the burden of proof

before you even get to the recruiting issue. We've seen in jurisdictions in Canada that doing this can be tremendously difficult. Sometimes proving this exceeds the capabilities of some police agencies, so we'd like to see this legislation be a crafted, workable piece of legislation.

A key part of that will be having support for this legislation. To be successful in prosecuting these charges, crown attorneys across the country will probably have to rely in great part on documentation that's been gathered.

The many shareholders in the criminal justice system have individual silos of information. As it stands now, there's no real conduit to allow these stakeholders the ability to share this information, which will be crucial in these prosecutions. It would be good to see the federal government have a standard or provide a conduit so that this standard of collecting information and disseminating it is unified across the country. That would be a great help to this legislation and would support it.

● (1540)

Gangs continue to exist in Canada. We're starting to see a trend where larger criminal organizations recruit from smaller gangs and organizations who want to align themselves with the big fish. The problem this provides for law enforcement across the country is that it creates insulation from law enforcement, but it also allows the big fish to look at a potential member ten years down the road. They can weed out possible informants or agents, which makes undercover work virtually impossible. Again, we believe this legislation would help law enforcement in trying to chip away at that.

In closing, I would agree with Minister Swan that our country's greatest resource is our youth. I wouldn't say adding more laws is the solution to this, but it certainly is part of the equation.

Thank you for your time.

● (1545)

**The Chair:** Thank you, sir. Thank you for your presentation.

Marlene, go ahead with your presentation.

[*Translation*]

**Mrs. Marlene Deboisbriand (Vice-President, Member Services, Boys and Girls Clubs of Canada):** Thank you, Mr. Chair.

[*English*]

Thank you for inviting us to speak to the committee today.

My name is Marlene Deboisbriand. I'm the vice-president of member services for Boys and Girls Clubs of Canada.

Boys and Girls Clubs of Canada is a leading provider of quality programs that support the healthy development of children and youth. Our association of over 100 clubs reaches over 200,000 children, youth, and their families across the country. We are in 500 community locations from coast to coast to coast.

My colleague Rachel will be speaking to our brief.

**Dr. Rachel Gouin (Manager, Research and Public Policy, Boys and Girls Clubs of Canada):** Thank you.

Let me start by saying that we appreciate MP Parm Gill's efforts to keep children and youth safe from gangs and are happy that the Boys and Girls Clubs were included in consultations on this bill.

We are not opposed to Bill C-394. Our concerns are mostly related to the need for enhanced prevention efforts, which we understand the committee and Mr. Gill also support, and rehabilitative programs for youth who want to rebuild their lives outside gangs.

Most young people are not gang involved, but the small number who are have a disproportionate impact on their communities. Some of our clubs are located in neighbourhoods that are affected by the presence of gangs and are familiar with the violence that accompanies this presence.

The situation at the Boys and Girls Clubs of Winnipeg has been cited as an example of recruitment tactics that would be addressed by this bill. One of their club locations is in a community that has a high number of newcomers. Gang members stand in a parking lot a mere 100 feet from the club and wait to recruit youth. This poses a challenge to the safety of youth who attend club activities. The club works with local police to address this issue, but it's a recurring one, and we understand that Bill C-394 is the kind of law that would help. It would provide police officers with tools to deal with such recruitment.

We also have consulted Boys and Girls Clubs in the Toronto, Regina, and Vancouver areas, which have informed us of more subtle recruitment tactics. We know from these clubs that homelessness is a significant factor in young people's involvement in gangs. Youth are more vulnerable to recruitment and sexual exploitation if they have unstable housing situations that include expectations about doing their part.

These clubs also tell us that youth are born into families that are entrenched in gang life, and for them there is no real decision. They are assumed to be part of the gang. The repercussions are very severe should they deviate from that.

Finally, we heard about entrepreneurial youth whose talents are wasted in a lifestyle that has no promising future.

Recruitment is not always clearly identifiable, as in the Winnipeg case, but the repercussions of being disloyal, as we've already heard, are always severe.

How can we protect our youth from being recruited into gangs? The legal system certainly has a role to play in addressing coercive, intimidating, and violent tactics. As well, should Bill C-394 become law, it will also punish those who recruit young people into this lifestyle and who target minors.

Young people don't join gangs out of the blue. The risk factors are well documented. If we can act on these factors early enough, we increase our chances of keeping children and youth safe.

Gangs can become rooted in impoverished communities with inadequate resources for youth. Those who face the greatest social and economic disadvantage are most likely to be targeted by recruiters and lured by the promise of belonging, protection, and money, whether or not that promise is fulfilled. These same youth are most vulnerable to being utilized by those who are higher in the

ranks to take part in criminal activities, as we've already heard, including recruiting other youth.

Once a person is in a gang or is assumed to be part of the gang because of a family member or a friend, the choices they have are more difficult. They have to choose between the risk of being caught and facing criminal charges or the risk of retaliation by the gang, which is a very real risk. I find the proposal by Minister Swan to criminalize threats to keep people in gangs interesting, because certainly we have heard from our clubs that this is also an issue. Walking out is not easy.

But we can offer young people more options before they get to that point. The Boys and Girls Clubs strongly believe that if we provide vulnerable youth with a genuinely safe place to stay, access to programs that support their well-being, education, employment, and life aspirations, we can divert them from gang membership. Legal measures and policing will help. We also need youth programs in communities and sustained, targeted interventions for those who face known risk factors and who are more vulnerable to being recruited. Also, we need to have mental health and employment supports in place for those who want to leave, those who have been gang involved and want to turn their lives around.

We are pleased to hear from your previous meeting that young offenders would be dealt with under the Youth Criminal Justice Act. Providing a restorative justice option for minors who have been charged with recruiting will allow them to see the impact that recruitment has on other youth and on the community and will offer them a way out for themselves. Easily accessible mental health services would also play an important role in these cases, helping youth to heal from the trauma they may have experienced in the gang or at home.

● (1550)

In 2012 reductions were made to the youth justice services funding program, which supports provinces in offering these rehabilitative programs. We hope to see investments in crime prevention to ensure that fewer youth go down that path in the first place.

As was mentioned in our brief, we are pleased to hear the government announce the next phase of the youth gang prevention fund, and feel strongly that, given the seriousness of the situation we're facing, more could be done.

As the committee now considers how Bill C-394 can help protect children and youth from being targeted into gangs, we'd encourage you to also recommend complementary measures to help Canada's youth be more resilient. Enhancing funding for the youth justice fund and the youth gang prevention fund would be a good place to start.

Thank you.

**The Chair:** Thank you very much.

We'll now go to questions. We have exactly 40 minutes. We have five-minute rounds and we have enough questioners to take up all 40 minutes, so I'll try to keep members to their five minutes. It's questions and answers within the five minutes.

Madame Boivin, from the New Democratic Party, will be the first to ask questions.

[*Translation*]

**Ms. Françoise Boivin (Gatineau, NDP):** Thank you, Mr. Chair.

Thank you to our witnesses for being with us. Welcome to the committee, minister.

I'm glad to see that the Boys and Girls Clubs of Canada support Bill C-394. I think it's important to stress the need for a balanced approach. I'm equally glad that Manitoba's justice minister also favours a multi-faceted strategy, one that isn't based solely on suppression. Unfortunately, however, this bill seems to focus strictly on suppression. But the two are not mutually exclusive. I think we really need to establish clarity around this, because it would be wrong to think that Bill C-394 is going to completely solve the whole problem of street gangs. This issue affects us, the members of Parliament, as well as our communities. Clearly, a balanced approach incorporates prevention, intervention and suppression.

I was pleasantly surprised, minister, at the number of organizations you had consulted with as part of your very extensive reform process in Manitoba. You also have some recommendations. You aren't necessarily of the opinion that Bill C-394 goes far enough. You also talked about gang-free zones such as schools and community centres. I'd like to hear more about that element.

Do you not think that the bill's comprehensive coverage applies, by extension, to specific elements? In other words, since the bill applies to all areas, it also applies to school zones. That means it could be an aggravating circumstance, as per the interpretation it already has if we look at the case law. Do you think sentences longer than five years are necessary? I didn't understand everything in your brief, and I didn't quite understand your reason for wanting to target schools and other recruitment zones.

**Hon. Andrew Swan:** I will answer in English because we don't have enough time.

[*English*]

Certainly the Province of Manitoba does believe that building safer communities requires a balanced approach.

Today we're talking about a bill that is based on suppression and a change to the Criminal Code. We don't take our eye off the ball in terms of what we need to do in terms of supporting police and other organizations—the safer communities act in Manitoba, for example—as well as dealing with the root causes of crime and trying to find positive places for young people to go.

The Boys and Girls Club in Winnipeg gave the example of the positive things happening at the Boys and Girls Clubs, and the fact that young people are coming to the Boys and Girls Clubs for positive programming as then being a beacon, if you will, for gangs to try to find youth at risk and to try to indoctrinate them into a gang.

The idea of considering an amendment to Bill C-394 to include the place where something happens means that if somebody shows up at a place like that, it doesn't matter whether they're recruiting a youth or an adult; if they're on or near those places and are carrying on those activities, that in and of itself should be enough to be a criminal act.

We want those places to be safe. Whether it's the Boys and Girls Clubs, whether it's the Spence Neighbourhood Association, or whether it's Magnus Eliason community centre in my end of Winnipeg, we really think those places should be gang-free zones. Young people should be able to be kids, and not be indoctrinated into illegal activities.

We don't think we need to increase the maximum penalty that's set out in the bill, but we do think it could be recrafted to include the places where we think our young people should be safe to go.

• (1555)

**Ms. Françoise Boivin:** Just to be clear, would it be in the sentencing process that it should be seen as an aggravating factor? What's your analysis on that basis?

**Hon. Andrew Swan:** Our suggestion is that it could be written right into the main language in Bill C-394, but if an alternative is to make the activity at a place such as a community centre or school an aggravating factor, that would be a reasonable step for Parliament to take as well.

**The Chair:** Thank you very much.

Thank you for the question and the intervention.

We'll hear from Monsieur Goguen from the Conservative Party.

**Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC):** Thank you, Mr. Chair.

Thank you to all the witnesses for coming today and casting light on this important bill. Certainly, all of your suggestions and amendments are appreciated. We certainly hope that the Boys and Girls Clubs recruit many people into their gang, because we know what great work you do.

**Voices:** Oh, oh!

**Mr. Robert Goguen:** My question is for Minister Swan.

The Toronto City Council passed a motion to unanimously support the passage of Bill C-394.

Before I go any further, Mr. Chair, this will be a short question, and I'd like to share my time with Mr. Seeback.

**The Chair:** Okay.

**Mr. Robert Goguen:** Thank you.

Has the bill been received very well by stakeholders and victims of crime in your province? Does the Province of Manitoba support a swift passage of this private member's bill?

**Hon. Andrew Swan:** Yes, for... Well, let me put it another way. I can tell you that from the meetings I've had with various groups working with youth, and in speaking with youth directly, the problem that Bill C-394 is attempting to deal with is a real one, and it's a serious one. For a young person getting involved in a gang, it's a life sentence. Even worse, it can be a death sentence, both in Winnipeg and in other cities across the country.

I haven't really gone out on tour in Manitoba to ask whether the particulars of Bill C-394 are exactly what those groups would want. I think it is a legitimate effort to try to deal with a serious problem, and I think progress on this front is welcomed.

Again, while this bill is before the committee, we think there are some additional things that could be added to it. I would point out that the criminalization of recruiting gang members is something Manitoba has been asking for since 2006, as Madame Boivin indicated. We had a very complete process called the OCI, the organized crime initiative, whereby officials from our government went out and met with stakeholders, police forces, and others from across Canada and North America.

In the ministers meeting in 2006, Manitoba put forward 14 proposals for things that we felt we could do to make Canada hostile turf for organized crime. Many of those measures have been acted upon by the government, and we're thankful for that. This is one of the 14 that hasn't yet come to fruition. We think Bill C-394, perhaps with some work on the things we've suggested, would be a good step towards keeping our young people safe.

**The Chair:** Thank you, Monsieur.

Mr. Seeback, you have two and a half minutes.

**Mr. Kyle Seeback (Brampton West, CPC):** Andrew, I know that one of the things you've raised in your brief is "must address the use of coercion". I don't know if you have seen any of the proposed amendments for the bill today, but one of the amendments being put forward, and by me, coincidentally, is to add coercion in the paragraph that mentions "recruits, solicits, encourages or invites". I add "coerces". Would you be supportive of that amendment? I think I know the answer.

• (1600)

**Hon. Andrew Swan:** Well, yes. I just want to make sure whatever language becomes part of Bill C-394 and then part of the Criminal Code is clear—that it's not just coercion to get someone to join a gang, but coercion to keep somebody in a gang or a criminal organization. That's really the nuance.

We know all the tricks gangs employ to try to get young people involved. They may tell them a very different story from what happens when they're in the gang. We want to make sure, while we have this opportunity, to also address the actions of gang members to intimidate, to threaten, and to scare gang members, as well as their families, their friends, and their associates, with a goal of keeping the young person in the gang.

I haven't seen the particular section, but I hope you understand: it's dealing with getting members into the gangs, but it's also dealing with activities that are used to try to hold people in gangs.

**The Chair:** Thank you, Mr. Seeback.

Thank you for the answer.

We'll hear from Mr. Casey, from the Liberal Party.

**Mr. Sean Casey (Charlottetown, Lib.):** Thank you, Mr. Chair.

Ms. Gouin, I want to ask you a few questions about your brief, particularly your reference on page 4 to the fact that funding opportunities don't take timeframes into account and that they are undermined by unreasonable timelines or the elimination of funds following the pilot phase.

Are there any specific pilot projects you can point to that haven't been afforded a chance to work? I guess my concern here is that we're going to be moving resources into longer jail terms, more difficult prosecutions, and mandatory minimum sentences, presumably at the cost of other choices, such as those that you put in your brief. I'm specifically wondering what you're talking about there in terms of programs that you haven't been given a real chance to assess.

**Dr. Rachel Gouin:** The gang prevention fund, from what I understand, is allocated to a group for three to five years. Regardless of it achieving wonderful results, the funding after that time is switched to another group. To me that's a barrier to effective programs, which could be changed if a program could demonstrate its success. In order to help youth transition out of gangs and to stop them from getting into gangs, you need to have strong relationships, and those take time. So having that changed would be helpful to groups that have effective programming in place. I know the fact that there is a limited amount of money is a barrier to our club applying for that funding in the first place, because they're concerned about building expectations.

**Mrs. Marlene Deboisbriand:** Maybe I can just add a quick something. There are a couple of programs like the one the Police Athletic League here in Ottawa has—it got a prize yesterday, actually—that received funding from the crime prevention fund for several years. It has clearly demonstrated the outcomes we want. Once the funding ends, the club then has to look for alternate funding sources. Often we turn to the corporate sector. Unfortunately, it's not always easy to get corporate sector support for the kinds of programs we're talking about and the kind of youth we're targeting with these programs. Just from a marketing point of view, for example, it's easier to support an education program.

I just want to add that this in effect is a barrier to maintaining and sustaining the program in the long term, as is transferring, if you wish, the funding from the federal government to an alternate funder.



**Mr. Sean Casey:** While we're on the subject of funding, further down in the brief—and you referred to it in your answer—you talk about the youth gang prevention fund and the youth justice fund. You indicated that the amount of annual funding under these two programs is insufficient to address the growing problem of gangs. I presume this isn't a new cause you're advancing. Can you tell me what the results of your representations have been on these issues? Also, when you say that \$12 million in annual funding is insufficient, can you give us some sense of what amount would provide a noticeable impact?

•(1605)

**Dr. Rachel Gouin:** This is something Boys and Girls Clubs of Canada has been advocating for several years, since before my time there. We would be looking for the federal and provincial governments to invest 5% of the amount they invest in the criminal justice system. From the reports that have been made over the years, I think that would be the amount we'd be looking for.

**The Chair:** You have one minute, Mr. Casey.

**Mr. Sean Casey:** That brings me right to Minister Swan on investments in the criminal justice system. Any time you have mandatory minimum sentences and reverse-onus provisions with respect to persons seeking bail, you're looking at more complicated prosecutions, greater terms of incarceration, fewer plea bargains, all of these things, to the extent that the sentences involved within provincial jurisdiction are going to affect your coffers, sir. Have you costed the likely impacts of these changes? If so, what do they look like?

**Hon. Andrew Swan:** I can tell you that public safety does come at a cost. In Manitoba, just like in other provinces that have higher-than-average crime rates, we know that our costs are higher.

But you know, when it comes to providing guaranteed consequences for somebody who chooses to endanger my community, and to put young people at risk, we believe that having appropriate measures in place—as I said, guaranteed consequences—is worth the cost.

Mr. Casey, gangs know the law. They know that if they get young people involved, if they have an 11-year-old running drugs for them, there won't be a consequence.

I'm not suggesting in any way that there should be a consequence for an 11-year-old, but those who bring people into gangs know that if individuals are under 18, there will be a very different regime if the youth is caught.

Again, I'm not suggesting that's incorrect, but gangs know the law. We want gangs to know that this provision exists, that if they're caught recruiting, trying to get youth in, there will be a consequence. I think there's a real value to that in terms of protecting young people and giving the police the tools they need to work with gangs.

Just this morning, Devon Clunis, the new chief of the Winnipeg Police Service, was on the radio in Winnipeg talking about intentions to try to meet with gang leaders, to actually sit down and lay down the law, if you will.

I'd sure like Chief Clunis to have Bill C-394 on the books and be able to explain to gang members that if they go out into our

communities and try to pursue young people, the police will have the tools they need to deal with them.

**The Chair:** Thank you, Minister.

Thank you, Mr. Casey.

Our next questioner, from the Conservative Party, is Mr. Albas.

**Mr. Dan Albas (Okanagan—Coquihalla, CPC):** Thank you, Mr. Chair.

I want to thank all of our witnesses today for coming and sharing your expertise with this august body.

I want to focus on a few things, particularly Minister Swan's comments.

Minister, obviously this bill relates to creating new indictable Criminal Code offences that prohibit the recruitment, solicitation, encouragement, or invitation of another person to join a criminal organization for the purpose of enhancing that criminal organization to facilitate or commit indictable offences.

My colleague Mr. Seeback has also included an amendment for consideration in terms of coercion. This offence would then be punishable by a maximum of five years' imprisonment, with a mandatory minimum penalty of imprisonment of six months if the individual who's recruited is under the age of 18.

How do you think this mandatory minimum penalty will help deter gangs that prey on the most vulnerable in our society?

**Hon. Andrew Swan:** Becoming involved in a gang is a long-term commitment, unfortunately. I don't want to overplay the hand, but it can be a life sentence for young people who live out the rest of their days in a gang.

We believe that guaranteed consequences for gang members who pursue this kind of activity are appropriate. There needs to be a message sent.

We know that gang members individually may not always act in a rational way, but we know that gang leaders know the law. We think having Bill C-394 in place will be something else for them to think about before they go out into our communities.

**Mr. Dan Albas:** I appreciate hearing that, Minister.

Minister, you've addressed the concept of adding locations, of including them in the bill. That's something you've encouraged. The question that brings to my mind is this. In your response to Madame Boivin's questioning, you mentioned that you weren't in support of having an extra penalty above the mandatory minimum if it were at a location like a Boys and Girls Club, or a park, or a playground. How would that work? Wouldn't it be more of an advantage to someone like Mr. VanMackelbergh to be able to say that anywhere someone tries to recruit a child under the age of 18, we will have the tool to immediately charge them with a mandatory minimum sentence of six months?

I just don't understand how adding locations without adding a commensurate increase in the mandatory minimum would help the situation at all.

•(1610)

**Hon. Andrew Swan:** No, I think the question and response had to do with the five-year maximums set out in proposed Bill C-394. We would agree with expanding the circumstances under Bill C-394 to take into account where the recruitment is taking place.

**Mr. Dan Albas:** Don't you think judges would be able to do that as well, though? Wouldn't they be able to look at a situation and say, "This was done right outside a Boys and Girls Club, and I need to send a very strong signal that justice is being served here"?

I'm just asking that question.

**Hon. Andrew Swan:** If I were satisfied that this would happen, I wouldn't have made the request.

**Mr. Dan Albas:** Okay. That's fair enough.

Moving on to your other request to include coercion if someone were to leave a gang, I'm just...and again, George spoke about the burden of proof.

To my mind, the idea is that we're trying to put up a barrier to even going to someone at that age. If someone were to leave a gang, and they were then threatened or intimidated with violence or threats—graffiti, or a brick through their window—aren't there other provisions under the Criminal Code that could be added? You would have the initial coercion with the mandatory minimum sentence, and then another charge to add onto that.

**Hon. Andrew Swan:** Well, if there is an actual act of violence committed against somebody who's attempting to leave a gang, of course that would be a Criminal Code offence and it would allow the police to become involved. But where the gang uses their force to intimidate somebody, to threaten somebody—not just the gang member, but potentially their family, their friends, their associates—we think that is serious enough that it should be included in Bill C-394.

**Mr. Dan Albas:** Okay. Thank you. I certainly appreciate that.

I also want to thank the other witnesses. I'm sorry that we don't have a chance to speak to each one of you.

Well—pardon me—I bypassed you because I was very interested in Minister Swan's proposal, but I thank you for all the good work you do.

**The Chair:** Thank you, Mr. Albas.

Thank you for those answers.

Next, from the New Democratic Party, it's Mr. Jacob.

[*Translation*]

**Mr. Pierre Jacob (Brome—Missisquoi, NDP):** Thank you, Mr. Chair.

I want to thank our witnesses for being here.

My first question is for you, Mr. Swan.

If I've understood correctly, you see this bill as a step in the right direction. It will start to tackle the growing scourge of street gang recruitment. You also spoke about a balanced approach, which, of course, places importance on suppression. I would like you to tell us about the necessary and appropriate measures and resources you

have put in place. I am referring to the police officers, prosecutors and newly created special integrated units that enable you to adequately meet your suppression objectives.

And on the topic of prevention, intervention and social reintegration, I'd like you to tell us more about programs such as Lighthouses, Neighbourhoods Alive!, Project Gang-Proof, Turn-about, the Spotlight Unit, Ototema mentoring, the Ogijiita Pimatiswin Kinamatwin training program, and so forth.

[*English*]

**Hon. Andrew Swan:** How many hours do we have?

**Voices:** Oh, oh!

**Hon. Andrew Swan:** Look, I thank the member for the question, because it does highlight that although today we're talking about changes to the Criminal Code, we know there's more that all levels of government need to do. Certainly we think there are more partnerships we can strike to try to get at the heart of the problems plaguing perhaps your community, as they are mine.

We know that one of the best antidotes we have to young people being involved in gangs is for them to have a strong connection. If people remain in school, if they see that there is a positive outcome, whether it's being involved in a trade or going on to university or college or straight into the workforce, they are far more likely to remain out of criminal activity. Youth who have the opportunity to play sports or to be involved in a cultural or arts organization are far more likely to avoid criminal activity. Youth who have some other positive pull in their lives, positive influence in their lives, are far less likely to be engaged.

Our government has worked with our civic governments, Winnipeg as well as other municipal governments, to try to keep recreation centres open longer, to have things like Lighthouses to provide safe places for people to go. We're partnering a new after-school program, called After School Matters, to try to keep young people engaged after school closes at three or four o'clock until the early evening hours, partnering with local businesses to try to give them mentorships and positive things that they can take with them. We see investment in that front by governments as being a crime prevention strategy.

In terms of additional police officers and additional crown attorneys, we have taken on most of that responsibility ourselves, as a province.

There is the police officers recruitment fund, which was greatly appreciated, although I would note that the money has pretty much run out for that. Municipalities across Canada will now be facing the loss of officers unless either a provincial or municipal government steps up to meet that.

We've also embarked on hiring more crown attorneys. I know that other provinces have made some different decisions.

Again, public safety has a cost. We've been prepared to continue investing in police, in crown attorneys, in our court clerks, and in our legal aid system to continue to help to build stronger communities.

•(1615)

[Translation]

**Mr. Pierre Jacob:** Thank you, Mr. Swan.

My second question is for the Boys and Girls Clubs of Canada representatives.

In your brief, which I found very informative, you said the government should address youth homelessness, invest in young people's development, offer them viable and rewarding alternatives to gang life, and provide restorative justice programs, as well as mental health services for youth who want to exit gangs. I also gathered that prevention was beneficial for society and that long-term investment in reliable programs was key. Could you please comment on that and talk about the work you do with these young people on a daily basis?

[English]

**The Chair:** In less than a minute, please.

**Voices:** Oh, oh!

**Dr. Rachel Gouin:** Sure, Mr. Chair.

[Translation]

I don't have the privilege of working directly with young people, myself, but the clubs do a tremendous amount of work, as you mentioned. They really consider all the programs and the support that young people need to succeed, take advantage of more opportunities and contribute to their country in a positive way.

There's a story that came out of the Winnipeg club. Given the amount of money needed to run the club, if it was to close down as a cost-saving measure, around 50 or so youth could be in trouble. That's a real possibility. Then, think about the cost savings in relation to what it would cost to put 50 young people in jail. It's equivalent to running the program for the entire year. It serves hundreds of youth. That's just to give you a small idea of the value of the work being done.

[English]

**The Chair:** Thank you very much.

Thank you, Mr. Jacob.

Our next questioner from the Conservative Party is Mr. Armstrong.

**Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC):** Thank you, Mr. Chair.

Thanks to all of you for being here.

I'm going to start with Officer VanMackelbergh. What is your rank, sir?

**Mr. George VanMackelbergh:** Right now, I'm the vice-president of the Winnipeg Police Association. I'm seconded there full-time.

**Mr. Scott Armstrong:** Okay, Mr. Vice-President. Thank you for being here.

The minister mentioned the recruitment of young people with FASD. I don't have much experience with gangs, but I do have some experience in working with young people with FASD. Can you tell

me how the gangs would use a young person who is affected with that particular disability? What would they use them for?

**Mr. George VanMackelbergh:** Again, they're recruiting so young now.... This is a predatory crime as much as it is anything else. Let's be clear about that. They're not just picking anybody off the street. There's a profile they're looking for, and often, as we all know, youth who suffer from some of these syndromes already feel like outsiders. The gang plays to that, and it develops a loyalty that's almost impossible to break. Again, they'll spend the next four or five years in that culture, feeling that they belong and feeling that the only people helping them are the gangs themselves, when in fact it's sheer manipulation at every level.

The importance of a law like this—and we've heard it all, as we've heard it in the questions—is that dealing with gangs is a multi-pronged attack. Enforcement is one end of it. Tackling recruitment will protect society's investment in these other projects, because that's what they're coming to: gangs are coming to the places that we're trying to provide for youths so they don't fall into gang life.

It is truly an investment. Again, if I can go further on that, they will drag the youth through layers of gangs in Manitoba so that, as I said earlier, the big fish know what they're getting. It's programming. If you can't break that programming, if you can't intervene in this young person's life, they're never really going to stand a chance of being a functioning or contributing member of society. By the time that switch might go on or they might have that traumatic incident that changes the way they think, they'll have had a decade of garbage coming with them that they'll never overcome. That's why it's important.

•(1620)

**Mr. Scott Armstrong:** A suggestion has been made about having a gang-free zone, of doing a protective circle around schools, recreation centres, and Boys and Girls Clubs. If this legislation is passed and something like that is included in it, how would the gangs react to that? Would they find a way around that? They're going to find a place to try to attract students and young people—

**Mr. George VanMackelbergh:** As long as there have been laws, there have been criminals trying to find their way around them, but we as a society have to say that this isn't good. Again, at the Winnipeg Police Association we've put our money where our mouth is. We have a program whereby we go out to schools dealing with kindergarten and up, to preach to them. We have officers volunteering their time and going into these schools to show them another side of society, to speak to them about kindness and treating each other with respect, and to provide an opportunity.

It's like any other law. If we're going to say that it's a crime-free zone, that organized crime is not going to come there, and that they are not going to prey on our most vulnerable, whether that be in terms of age or mental capacity, we've stood for something. I think that's important. Does that answer your question?

**Mr. Scott Armstrong:** Absolutely.

I'm still in the same area, and maybe I'll ask the minister this question. You've talked to your police forces across Manitoba, I'm sure. If this legislation is passed, what other tools are they asking for? What would happen next to support the elimination of the gangs' ability to recruit? What other tools do the police officers need?

**Hon. Andrew Swan:** In terms of other changes to the Criminal Code, there are a couple of outstanding items we can talk about another day.

Certainly I think the police are looking for us to continue to work on those individuals at the top of the pyramid, those who control criminal organizations and gangs, the ones who really decide to have members follow the things that George was talking about, in terms of which youth to prey on and to pursue.

I think if this bill goes through it will provide assistance to the police. If the amendments are in there as well, police will have some satisfaction. They can at least enforce a protective area around places where we want young people to feel safe.

**The Chair:** Thank you, Mr. Armstrong. That's your five minutes.

Thank you very much for the questions and answers.

Next, from the New Democratic Party, is Mr. Mai.

[Translation]

**Mr. Hoang Mai (Brossard—La Prairie, NDP):** Thank you, Mr. Chair.

[English]

Thank you all very much for being here today.

Obviously we understand, and we find that we need to tackle gang recruitment, but we also need to have the resources to do that. Here in Ottawa we're working with the laws and everything. That's why it's great for us to have all of you here, because you're on the ground.

The Parliamentary Budget Officer recently published a report called "Expenditure Analysis of Criminal Justice in Canada". His report mentions that 73% of the total expenditures for the Canadian criminal justice system are assumed by provinces and territories. In the latest budget from just last week, we know the federal government has failed to renew the police officer recruitment fund.

I'd like to know what impact that might have in your respective jurisdictions, either provincially or with respect to police officers.

Maybe Mr. Swan could go first.

• (1625)

**Mr. Robert Goguen:** On a point of order, Mr. Chair, does that relate to this bill? Are you talking about enforcement of this provision?

**Mr. Hoang Mai:** I am.

**The Chair:** I think it relates. I'll let them answer. There was a question before about the cost of this to the provinces, which was allowed, so I'll allow this one, too.

**Hon. Andrew Swan:** Again, public safety has a cost. We know in Manitoba that we are shouldering more of that responsibility as the years go by. I'll have a chance to meet with Minister Nicholson later

on today, and I'll be repeating some of the things we've raised, both publicly and privately, on Manitoba's behalf.

There's no question that funding for legal aid is a major concern for Manitoba and other provinces. The provinces have been bearing all the increased costs with respect to legal aid. Manitoba was in support of many of the provisions of Bill C-10, primarily because we're the ones who had asked for them to begin with. We think many of the provisions in Bill C-10 were the right thing to do. We know they are going to have an additional cost, and we're hoping to refresh the partnership we have with the federal government.

Drug treatment court is another area. We think the federal government made some very wise investments in allowing drug treatment courts to get going. We would love to be able to expand those to try to get people off the criminal track if the reason for their law-breaking is their addiction. We certainly hope to continue enhancing that partnership.

I think I did gently mention the police officer recruitment fund. The funding for that is running out. Unless the province backfills that, there's going to be a reduction in police forces for a number of municipalities.

We've worked well with the federal government. We believe in providing support when we think the federal government of any stripe is moving in the right direction. We will also criticize the federal government when we think they're not going in the right direction.

This bill today is a positive step. As I say, we'll have some other things to say in different places about how we can best work together to keep improving the partnership for the safety of our communities.

**Mr. George VanMackelbergh:** It's really not my purview.

**Mr. Hoang Mai:** Mr. VanMackelbergh, in terms of police recruitment, we know, for instance, if we have a bill here, you need to have the necessary resources in order to tackle the problem. We talk about the fact that we need to have police officers on the ground in order to really tackle gang-related issues. The police officer recruitment fund was made to make sure we had the necessary people on the front line.

Would it not help to have the necessary funds in order to hire more police officers to tackle this issue?

**Mr. George VanMackelbergh:** Suffice to say, the more feet on the ground, the more territory you own. Any general from the start of time will tell you that. The more officers you have on the ground, the more crime they see, the more they detect, the more solutions, hopefully, they can find.

I can only speak for our jurisdiction. Our complement has grown over the years. We have a dedicated organized crime unit. We have a dedicated street crime unit. General patrol officers working in these communities deal with this all the time.

Certainly it would be easy to say more officers would help, and it certainly would, make no mistake. But I think solving the gang unit is more about making the most of the resources you have now. Anything you can do to augment them certainly would help, and that fund certainly has helped lots of jurisdictions, there's no doubt about it.

Our relationship with our provincial government has been good. Minister Swan has spearheaded lots of initiatives to help give us the tools, but I think that in itself, for clarity.... In all honesty, is it a big help? Yes, but it's not the answer.

**The Chair:** Thank you, Mr. Mai.

The agenda says 4:30, but with the indulgence of the committee I have two more speakers on my list. If you don't mind, I'll have the two questioners finish. If our guests can stay an extra six minutes, that would be great. Thank you very much.

Next for the Conservative Party, Mr. Menegakis.

• (1630)

**Mr. Costas Menegakis (Richmond Hill, CPC):** Thank you, Mr. Chair, and I want to thank our witnesses for appearing before us today.

You mentioned on several occasions today, Minister, that gangs, and in particular gang leaders, know the law. Clearly there are laws today that are rather punitive for those participating in criminal acts, and the kinds of acts you would expect the gangs would participate in.

I know during the second reading of this debate the sponsor of this bill, MP Parm Gill, indicated the purpose of his bill is to address specifically the issue of young people being targeted and recruited by gangs, and criminal gangs obviously. When you speak of gangs in this context, it's criminal gangs we're talking about, as we can well appreciate. He noted youth are being recruited by some of Canada's most notorious and violent criminal organizations because of their age and vulnerability.

From the discussion we've heard today, and from some of the questions and answers going back and forth in your presentations, we're really talking about an extra tool in the tool chest for law enforcement here.

Do you think the proposed offences focused on the recruitment of young people, particularly through the imposition of the mandatory minimum penalty, would clearly denounce such conduct? I'm interested to see if you feel this would reflect Parliament's intent to protect children and other vulnerable persons from the threats imposed by organized crime.

**Hon. Andrew Swan:** Yes, I believe it would. It's another step in the right direction. If we can describe it as denunciation or... What I prefer to call it is a guaranteed consequence. If a gang member is caught recruiting a young person into a gang, they know there will be a consequence.

I know we've had some discussion of "Wouldn't they get around it?" If we make playgrounds and schools gang-free zones, won't they try somewhere else? They will, but anything we do to make it more difficult for gangs to carry out their activities, for gangs to recruit people, for gangs to inflict harm on our communities, is a positive step.

An example of that would be criminal property forfeiture laws that Manitoba and other provinces are bringing in. People will say, "Is it solving the problem?" No, but it's one step along the way. If we hit gangs and organized crime in the pocketbook by seizing their property using civil law, it becomes that much more difficult for

gangs and criminal organizations to carry out their activities. We make it a more and more hostile place for gangs to carry on business. We disrupt their activities. We make it more difficult, and by doing that we get the dividend of safer communities.

**Mr. Costas Menegakis:** Thank you.

Mr. VanMackelbergh, you're in a unique position in that you are the voice of thousands of police officers who are part of your association. Could you give us a sense of how the rank and file, for lack of a better term, are perceiving this bill?

**Mr. George VanMackelbergh:** I think you said it best through the opening of your question. In fact, truly what this represents to us is another tool in the chest. If it goes through as it stands, it will be something else we know will affect parole, because there will be consequences for the hardened gang member. It's not for the first-timer, someone who's new, and the like. But for the hardened gang member, that is the consequence. Somebody can go to jail and do five years at 18 or 19 and it's no big deal. They come out bigger and stronger. But when these same gang members are having their parole adjusted when they're 45 or 50, believe me, they start to think about that.

The rank and file welcome any tool that can be given to them. Again, as I said earlier, we hope it's not a cumbersome tool and it's something that can be applied. That would be the rank and file's opinion on this, sir.

**Mr. Costas Menegakis:** Thank you very much for that.

**The Chair:** Thank you for that intervention.

Our final questioner is Mr. Marston from the New Democratic Party.

**Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP):** Thank you, Mr. Chair, and thank you for holding this over. I really appreciate that.

Minister Swan, we appreciate you being here and travelling a long way.

I just want to say very clearly that all members of this committee, and Parliament itself, realize the scourge that youth gangs are. This issue is not something that's partisan, as far as I can see. My remarks are going to sound somewhat partisan, and that's why I'm approaching them this way. Truthfully, I and some others were quite surprised that a single MP undertook something of this nature. Considering the seriousness of the situation, our belief was that a comprehensive approach to this would be more valuable.

I'm just going to ask you a quick question.

Are you familiar with the Vibrant Communities initiative? Calgary has one under way. They've come out of the United States. Hamilton has a poverty round table that is looking at the negative aspects of poverty. I was a school board trustee in Hamilton and I saw first-hand that our poorest areas were the ones in which the gangs were most successful. So there is that rounded approach.

If you'd like to respond, that would be great, but please raise this with the ministers when you're talking to them, because you were talking about 14 points initially, and perhaps this would be a helpful addition.

•(1635)

**Hon. Andrew Swan:** I know many communities have different approaches to try to deal with crime and justice issues. In Winnipeg, the civic government has set up a program called LiveSAFE, which I think would be very similar.

We know that Prince Albert, Saskatchewan, has pioneered in Canada what we think is the cutting-edge approach to dealing with violence. It's actually based on the Glasgow violence reduction initiative, which has won awards across the world for what it does. It really gets at assisting the police. In Winnipeg at three in the morning on a Saturday, the police are not just the police. They're also mental health workers. They're counsellors, and in many cases they're also providing first aid. The police are the thin edge of the wedge. In Prince Albert the police have really been incorporated into a broader community initiative to deal with violence reduction, but that project has also produced improvements in a number of different outcomes, for example, fewer referrals to child and family services, better school attendance, and fewer visits to health services.

I think there is an understanding that we have to do a better job of supporting our police, and we do that by getting all of the other people in our communities, who understand the needs, aligned with the police. The Prince Albert model is very exciting. A fellow named Dale McFee, who is the former police chief of Prince Albert, is the champion. The Saskatchewan government has been smart enough to grab him. He's now, I believe, the deputy minister to Minister Tell, who is the minister responsible for corrections in Saskatchewan. Chief McFee, or now DM McFee, is quite prepared to talk about the experience in Prince Albert, and it is something that I think all Canadians should be looking to.

**Mr. Wayne Marston:** Mr. VanMackelbergh, I think it's always great when we have an officer with us here who has front-line experience. The background you gave us in the beginning brought to mind a question. We know that jails and prisons are among the best recruiting areas for gangs, because they have them confined where they can't get away and they can learn about them and work on them over a period of time. I'm interested in your experience: when young people have come out of prison, what changes have you seen? Does it take them to that different level, as many people say? Perhaps, if there's time, the Boys and Girls Clubs folks may wish to respond.

Thank you.

**Mr. George VanMackelbergh:** There are probably, in all honesty, a couple of answers to that, sir.

What you see—at least it's what my experience has been—when you have young adult males coming out of...it's a gladiator school. It truly is. When they're committed to the lifestyle, do they come out bigger, stronger, and smarter? They certainly do.

It's interesting. One of the other members spoke earlier about restorative justice. You can also say, arguably, that the first-time offender, the young person on the bubble.... Sometimes it has the adverse effect of the hard-core criminal; they come out and want nothing to do with it.

Going into the prison as a young member, even though you have more status over other inmates who aren't part of the gang, you're

still at the bottom of that pecking order. And we won't get into the things that occur there.

In fairness and honesty, those would be the two biggest experiences that come out of that. Quite frankly, I'd rather see gangs do their recruiting in a prison than on a school ground.

**The Chair:** Would the Boys and Girls Clubs like to comment? I'll give you a minute to comment, if you'd like to.

**Dr. Rachel Gouin:** I don't have anything to add to that.

**The Chair:** Thank you very much.

Thank you, witnesses. These were excellent presentations. They gave us lots to think about in terms of amendments.

We are going to suspend for three or four minutes to switch the room around. Then we will go clause-by-clause on this particular item.

With that, I'll suspend for four minutes.

•(1640) \_\_\_\_\_ (Pause) \_\_\_\_\_

•(1640)

**The Chair:** Welcome back, ladies and gentlemen. We're into the second half of our meeting. We're going to do the clause-by-clause on Bill C-394.

When we do clause-by-clause, if there's a question you'd like to ask our official, Mr. Taylor, about an addition or an amendment that's in front of us, that's when we'll do it. We'll do it as we go through clause-by-clause.

We have eight amendments that were previously submitted to us. I think we have a ninth amendment from the NDP. We have one that I'll have to rule out of order, so we'll end up with eight in total at this point.

Let's start with clause-by-clause consideration.

(Clause 1 agreed to)

(On clause 2)

**The Chair:** It has an amendment. It's amendment G-1, which stands for government-1.

Mr. Goguen, do you wish to speak to it?

•(1645)

**Mr. Robert Goguen:** Absolutely.

As you know, Bill C-394 proposes to amend the Criminal Code. It would create an indictable Criminal Code offence of recruiting somebody to join a criminal organization. The offence would be punishable by a five-year maximum of imprisonment. And where the person recruited is a minor, there would be a mandatory minimum penalty of imprisonment of six months.

The act of recruitment would have to be shown to be done for the purpose of enhancing the ability of the criminal organization to facilitate or commit indictable offences. The bill sends a clear message that this behaviour will not be tolerated and will help the government advance its effort to protect youth from the threats proposed by organized crime.

While the government supports the bill and the creation of a new indictable offence, it recognizes there is a need for some technical amendments. These would not impact the substance of the proposed offence but would be required to ensure legal accuracy and a consistency between the English and the French versions of the bill, and a consistency with the language used elsewhere in the Criminal Code.

A number of the amendments I'm going to discuss, Mr. Chair, deal exactly with that, perhaps with the exception of the one proposed by Mr. Seeback, which is more substantial.

With regard to the first amendment, this deals with clause 13 as well as with clause 2. The first motion would amend the long title of the French version on page 1 of the bill. This motion should be considered together with the motions that propose to amend the French and English versions of clause 2 and the French and English versions of clause 13.

**Ms. Françoise Boivin:** You're losing me totally.

**The Chair:** That's not correct, Mr. Goguen. What we've been presented with is that amendment G-7 is the one that changes the title, not amendment G-1.

Let me just tell you what I've been told. If amendment G-1 passes with changes, then amendment G-5 will automatically apply and so will amendment G-7. Those two automatically apply. Just so the committee isn't confused, the Conservatives want all three as a package.

**Mr. Robert Goguen:** Am I correct that it affects clauses 12 and 13?

**The Chair:** I have amendment G-7, which is the title. Amendment G-5 is clause 13.

**Ms. Françoise Boivin:** Clause 13 and G-7.

**The Chair:** Clause 2—

**Mr. Robert Goguen:** I'm talking about clauses 2 and 13 of the bill, but it has a bearing on amendments G-1 and G-5.

[*Translation*]

**Ms. Françoise Boivin:** Amendment G5. Yes.

[*English*]

**Mr. Robert Goguen:** The clauses and the motions are separate.

**The Chair:** I know, but you started speaking—

**Ms. Françoise Boivin:** We're talking about the title, and that is amendment G-7.

**Mr. Robert Goguen:** I apologize.

Are we back on track, Mr. Chair?

**The Chair:** Yes, we understand what you're talking about.

**Mr. Robert Goguen:** Okay. According to what I have here, the bill proposes to add the new recruitment offence to the wiretap provisions of the Criminal Code, section 183. Clause 13 would add the new offences to those offences that are “primary designated offences” for the purpose of the DNA provisions, which are covered in section 487.04. Both of these clauses and the French long title describe the new offence as “recruitment...by a criminal organization”. A technical amendment is required to clarify for accuracy that

the person doing the recruiting need not be a member of the criminal organization.

**The Chair:** Could you slow down a little bit? They are having a little difficulty.

**Mr. Robert Goguen:** I'm sorry, this is being translated.

**The Chair:** You're done now.

**Mr. Robert Goguen:** I'm done. Sold.

● (1650)

**The Chair:** Thank you, Monsieur Goguen.

The amendment that has been moved is technically amendment G-1 in the sheets that have been handed out, and if amendment G-1 is passed, it will automatically apply to amendments G-5 and G-7.

Are there any further questions on that amendment?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 2 as amended agreed to)

(Clauses 3 to 8 inclusive agreed to)

(On clause 9)

**The Chair:** There are a number of amendments on clause 9. The first one will be amendment G-2, which was moved by Mr. Seeback.

I will give the floor to Mr. Seeback to explain his amendment.

**Mr. Kyle Seeback:** Thank you, Mr. Chair.

During testimony, we heard from both Mr. Gill and today from our witnesses. It struck me that we are missing something when we are defining what activity a person should or should not do. My amendment proposes to add “coerces”, because it seemed clear from the evidence that in a number of circumstances a person can be coerced into joining a criminal organization through threat or some other means, and this amendment would seek to address that concern.

**The Chair:** Are there any questions?

Madame Boivin.

**Ms. Françoise Boivin:** We will not have a problem with that amendment. It's not the first time we've seen it.

[*Translation*]

We saw it in the case of human trafficking. In fact, I'm glad the amendment was introduced. What's more, we're aware of what Minister Swan told us.

I think he opened up a window in terms of also considering the coercion used to keep young people in the gang. The matter of coercion is not included in the bill. But it's a private member's bill that pertains to a very specific situation. So let's start by dealing with that. It makes a lot of sense to me, under the circumstances.

[*English*]

**The Chair:** Okay. Is there anything further on that amendment?

(Amendment agreed to [*See Minutes of Proceedings*])

**The Chair:** The next amendment on clause 9 is amendment G-3, which changes the word “a” to “the”.

**Mr. Robert Goguen:** This is a consequential amendment. It proposes a technical amendment to the English version of clause 9. The proposed amendment would address a discrepancy between the English and French versions of the proposed offence. The amendment would make clear in both languages that the requirement to join a criminal organization must be for the criminal organization that will be enhanced. It would do so by amending the English to read, “to join the criminal organization”. This is the intent of the provision. It is captured by the French version, but not by the English version. The intent is also consistent with the provision of section 467.11, the organized crime participation offence. It is a consequential amendment.

**The Chair:** Thank you, Mr. Goguen.

Any questions on that amendment?

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** Now we're on LIB-1, which is votable. It was introduced by Mr. Cotler, but Mr. Casey is here.

Mr. Casey, I'll turn the floor over to you, if you'd like to talk to this amendment.

**Mr. Sean Casey:** Thank you, Mr. Chairman.

The proposal here, of course, is to remove the mandatory minimum penalty from Bill C-394, as the Liberal Party is opposed to mandatory minimum penalties. We trust our judges and we trust that judges will use their discretion.

I was quite interested to hear the preamble to a question from Mr. Albas earlier today that showed me some glimmer of hope that maybe judges are from time to time required to be trusted as well. I live in hope that we might have a convert to our philosophy on this.

We trust judges to provide sentences that are appropriate in the circumstances and to reflect the gravity of the offence, as well as the conduct of the offender. Mandatory minimum penalties may, in some instances, lead to charter rights infringement, and we have seen courts in Ontario and B.C. strike these types of provisions down in recent cases.

Lastly, all the available evidence, including that from our own Department of Justice, concludes that mandatory minimum penalties do not serve as a deterrent. You will recall that I asked a direct question of Mr. Gill, who couldn't point to a single piece of evidence contrary. Mandatory minimums cause more crime, both in prison and out of prison, contribute to prison overcrowding, which may itself lead to charter violations, all the while in no way contributing to the rehabilitation or reintegration of the offender into society, a reality ignored by a focus on incarceration alone.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Casey.

We have a speakers' list. We'll start with Mr. Albas and work our way down.

**Mr. Dan Albas:** I just want to reiterate, Mr. Chair, what I said the last time we discussed this bill, that is, my spirited defence of

mandatory minimum sentencing, which has a long history in Canada. Since 1903 we've had mandatory minimum sentences as part of our justice system, and I abide by that. Unfortunately, there was some reinterpretation or misunderstanding. Maybe Mr. Casey and I can chat about it after. I'd like to hear where he got that from.

Thank you.

• (1655)

**The Chair:** There are always the blues, Mr. Albas.

Mr. Seeback.

**Mr. Kyle Seeback:** I would just add to what Mr. Albas had to say, my colleague. There have been mandatory minimums in the Criminal Code for over 100 years. My colleague from the Liberal Party seems to take great umbrage at mandatory minimums, but I would note that not once during their time in government did they remove mandatory minimum penalties. In fact, in certain circumstances some of the Criminal Code amendments they brought forward had mandatory minimum sentences.

I just thought that would be important to have on the record.

**The Chair:** Thank you very much.

Mr. Goguen.

**Mr. Robert Goguen:** While we may not be that far from the river, Mr. Chair, I believe we're quite some distance away from a conversion.

**Voices:** Oh, oh!

**Mr. Robert Goguen:** In any event, in an organized criminal context, we know that the sentencing courts are often guided by principles of denunciation and separation from society. I think some of the testimony backed the fact that you need a mandatory minimum when you're recruiting someone who is a minor. The six-month proposed mandatory minimum penalty advances the objectives and sends the right message when it comes to denunciation and to separation from society. We feel it's a fundamental part of this bill, and of course we'll be voting against the amendment.

**The Chair:** Thank you.

[*Translation*]

Ms. Boivin, you have the floor.

**Ms. Françoise Boivin:** On the topic of mandatory minimum sentencing, various witnesses have appeared on a number of bills and told us that it isn't the most effective approach. They also mentioned the fact that it could lead to court challenges in certain cases.

The committee members no doubt recall what former Supreme Court Justice John Major told us. He said that mandatory minimum sentencing did not necessarily violate the charter. Provided it isn't unreasonable, the sentence can be analyzed and viewed on the basis of its objective. So it will always be subject to that sort of analysis. The Criminal Code already contains various provisions that include minimum sentences.



As a rule, the NDP is generally opposed to the idea of determining the sentences that the courts should impose. We still believe, and always will, that the courts are the best authorities to make those decisions. Sometimes minimum sentences constitute the shortest periods that can be imposed. That being said, however, that is our position on Bill C-394. It is sometimes necessary to choose the lesser of two evils. Everyone is familiar with what the committee has heard. The Boys and Girls Clubs of Canada and all the witnesses we heard agree that, while Bill C-394 is an essential element, a well-balanced policy is also necessary. It can be useful under the circumstances.

I think it's important that we look closely and not reject mandatory minimum sentencing simply on principle. We examine each and every bill individually, with a view to determining whether what it seeks to achieve is necessary under the circumstances. I hope that, if judges read what the politicians and lawmakers have said while studying a bill, they will understand the key message that the members of this committee are trying to send. Criminal organization recruitment is not something we will tolerate.

In that sense, a six-month sentence seems very light to me, but I am not encouraging the Conservatives to lengthen it. We will leave that to the courts. Between six months and five years, there is ample leeway for the courts to decide on a reasonable sentence under the circumstances.

Another important consideration is this. There is no question that the same system will not apply to young offenders under 18 years of age—I believe our Library of Parliament analyst made that point clear. In any case, given everything our witnesses today have told us, I'm not sure I want to see young people being sent off to prison for six months. They turn into hardened criminals schooled in the ways of criminal life. So that's really the borderline.

However, like the Liberal member, we are somewhat allergic to the notion of telling the courts what to do. But, at the same time, I think there is sufficient leeway for the courts to exercise discretion on a case-by-case basis.

• (1700)

[English]

**The Chair:** Thank you.

Is there any further discussion of this amendment?

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** LIB-2 is an amendment to clause 9 also, and I am ruling based on this:

An amendment to a bill that was referred to a committee *after* second reading is out of order if it is beyond the scope and principle of the bill.

That's out of the *House of Commons Procedure and Practice*, page 766.

In the opinion of the chair, the creation of an exemption for a certain class of persons, where one does not currently exist, is contrary to the principle of Bill C-394. The new provision should apply to all equally, and this is therefore inadmissible.

Are there any questions? Amendment LIB-2 is removed. Thank you very much.

Now we have amendment NDP-1. Are you moving that, Madame Boivin?

**Ms. Françoise Boivin:** Yes, I am.

**The Chair:** It wasn't in our original package; it was circulated today.

The floor is yours, if you are speaking to it.

[Translation]

**Ms. Françoise Boivin:** Thank you, Mr. Chair.

First of all, as I told the parliamentary secretary a moment ago, I'm not in the habit of introducing amendments at the last minute, and I apologize. It's important to understand, however, the context in which we study certain bills here, in committee. In light of that, this shouldn't be that surprising. Much of the time, we are asked to submit any amendments we may have by such and such a date and time, even though we still have witnesses to hear from. It troubles me every time that happens.

I think it's important to make that point clear to the committee. It complicates things. Seriously, sometimes I have amendment ideas, but they aren't enough to mobilize a number of people to draw them up and so forth. They may be just ideas, and I may have more questions once I've heard the other witnesses.

Sometimes, we have to suffer through an amendment such as this one, a bit on the fly, as you will say. You all have the amendment in front of you. The amendment had actually been drafted initially. I held it back, however, for the simple reason that we had come to the conclusion that subparagraph 718.2(a)(ii.1) of the Criminal Code already provided for an additional penalty or an aggravating element when a crime was committed against a minor. So, then, we could assume it would involve the type of file we have before us, specifically Bill C-394.

That said, I think Minister Swan's comments were quite clear. His brief contains many other elements he would like to see implemented. We will study that carefully and, then, see whether the government decides to introduce other bills or whether other members decide to introduce private member's bills in response to some of his recommendations. Time will tell.

There is an amendment we can definitely make as we speak. We must send a clear message about the arena in which recruitment takes place. The minister put it quite well, for that matter. One of his recommendations was to make recruitment near a school or community centre an aggravating circumstance. He didn't propose making it a separate offence but, rather, an aggravating circumstance that the court would have to consider with respect to sentencing.

I think that fits very nicely into what our colleague Parm Gill was trying to achieve by introducing Bill C-394. It sends an additional message to the courts, which must examine the circumstances and establish the length of the sentence somewhere between six months and five years.

If the evidence shows that the person was indeed caught recruiting near a school or community centre, this sends a clear message that doing so is categorically unacceptable and represents the worst case scenario. As I see it, recruitment of any kind is despicable, but doing it in vulnerable areas where kids hang out, schools and community centres, is even worse.

So that's the gist of the amendment proposed. To my mind, it fits into Bill C-394 quite nicely.

[English]

**The Chair:** Thank you, Madam.

This amendment is in order, just so the committee knows that.

Our next speaker to this amendment is Mr. Goguen.

**Mr. Robert Goguen:** It's pretty easy to grasp where Madame Boivin wants to go, and generally speaking she is not tardy in presenting these motions to us.

Schools and community centres certainly are part of the problem. But it seems to me that it's somewhat limited, and there could perhaps be more. Should it also be a church, or should it be a playground, or should it be a friendship drop-in centre? I get the sense of where it should be going, but it's pretty late in the game and I think it needs more research.

• (1705)

**The Chair:** Mr. Mai.

**Mr. Hoang Mai:** Are you done, Mr. Goguen?

**Mr. Robert Goguen:** I'll share my time with Mr. Mai.

**Some hon. members:** Oh, oh!

**Mr. Hoang Mai:** I didn't mean it that way, but anyway....

Madame Boivin did mention the fact that we are being asked to present amendments before we actually listen to all the witnesses, but in this case, it was really specific. If you remember what the vice-president of the Winnipeg Police Association said, he said that if we start somewhere, at least it's a start, in the sense that if we don't go forward with this amendment because we say that there are other places we should put in here.... Again, he has mentioned that the criminals will go elsewhere, but I think this is a clear indication that it's where we should start.

I think Mr. Goguen did mention that he wants to have more research. If you look at the brief that the justice minister from Manitoba presented to the committee, you'll see that it is a very extensive brief. There's a lot of information, and there has been a lot of consultation, and that is specifically a requirement. It mentions schools, community centres, or clubs. That is one of the recommendations. I think a lot of work has been done by our witnesses. From what we've heard from people on the ground, I think this is the type of amendment that we should definitely support, because it would help on the ground.

I agree with Mr. Goguen in terms of timing and in terms of needing to do more research, but if you look at our schedule, having to vote on clause-by-clause right after listening to witnesses on a specific bill, I think that's where we have to react.

**The Chair:** Thank you.

Madame Boivin, and then Mr. Seeback.

[Translation]

**Ms. Françoise Boivin:** Thank you, Mr. Chair.

I understand what Mr. Goguen is saying. But one does not preclude the other. It doesn't remove anything from the bill. It adds something. I think it sends a message about the severity of the offences, which the bill's sponsor wants to do. In fact, all the witnesses we heard from are unanimous in that respect. Even those who favour prevention and education measures support this bill.

I would say this to him. You are right to question why it wouldn't include churches or other places, but all of that is provided for under subparagraph 718.2(a)(ii.1). The amendment wouldn't prevent that activity from being viewed as an aggravating circumstance, but it would certainly draw the judge's attention to the fact that it was done on the grounds of a school or community centre. I don't think you would want a six-month sentence. When it comes to recruiting gang members, everyone agrees that it's not so much a minimum penalty we're targeting as a severe one to eradicate this scourge.

Even if, today, we don't provide for all the places in which young people could be recruited in their natural surroundings, I don't want to get into using expressions such as "natural places where people congregate", because that would be ridiculous. We know that subparagraph 718.2(a)(ii.1) exists. If it's obviously a school or a community centre, judges probably already take that into account. I even think judges do that now and take recruitment into account. All we would be doing is spelling it out more explicitly. That's perfectly in line with this whole approach. In other words, we're introducing some clarity around an existing Criminal Code provision and adding more severe elements.

[English]

**The Chair:** Mr. Seeback.

**Mr. Kyle Seeback:** As Mr. Goguen said, I'm certainly sympathetic to the amendment. I wish I could have seen it before now. I understand the challenge. I know that when amendments are proposed I like to try to take the time to go through the Criminal Code to see what other implications there may be. All of us on this committee work very hard, but none of us are experts in the Criminal Code and how changes in one section can impact on other sections. That's my challenge.

Then, in terms of adding a new definition and at the last minute writing it by hand, as well-intentioned as it may be, I certainly don't know what the consequences of that will be or how it's going to be interpreted. I don't necessarily think we should be rewriting the Criminal Code at the last minute. That's my concern, but we have the benefit of Mr. Taylor being here.

I thought perhaps you could weigh in, Mr. Taylor, on what you think about both. There are almost two amendments: the original one and the handwritten add-in.

• (1710)

**Mr. Matthew Taylor (Counsel, Criminal Law Policy Section, Department of Justice):** Well, I guess I can provide you some context to help you in your decision-making process.

As you know, the courts will be able to take into consideration whatever factor they think is appropriate in terms of their jurisdiction to decide that something is aggravating in a particular circumstance, so there is that broad discretion on the part of the courts to begin with.

There are some questions that were raised in terms of scope, but you could ask those other questions in terms of whether it would apply in another context. This provision brings to my mind similar provisions in the Controlled Drugs and Substances Act, which previously dealt with making it an aggravating factor to sell drugs in or near a school—not only near a school, but in a school. Then it used a bit of a basket clause of any place where young persons are known to frequent—I don't have the precise language—and that was subsequently amended in Bill C-10 to turn that aggravating factor into a mandatory jail sentence. So that is an example in criminal law that is comparable to what's being proposed here, although it would be broader.

The other related point I'd say is that there is a provision, section 810.01 of the Criminal Code, which we call the peace bond, that deals with organized crime behaviour. Where it is believed that somebody is going to commit an organized crime offence, a peace bond can be ordered, including conditions to not frequent places where children may congregate. For example, if a police officer knows that a gang member or someone working on behalf of a gang is targeting young people, that type of tool can be used by the justice system to target the practice and prevent the individual from recruiting new individuals to join a criminal organization.

Those would be my general context comments.

**The Chair:** The time is still yours.

**Mr. Kyle Seeback:** What you're saying, and this was precisely my concern, is that there are other sections in the Criminal Code—and I recall when we looked at some of those at this committee before—where the language is different. It has a similar idea, but the language is substantially different from what we're putting in place here. To me, it seems, therefore, that we're going to be leading to inconsistency in the Criminal Code when you're looking at aggravating factors for crimes against young people. Often judges will look and try to explain why there is inconsistency, which can lead, in certain circumstances, to what I believe could be bad law.

I think you're saying that this is similar, but not the same as what we've done before.

**Mr. Matthew Taylor:** Certainly, it's similar to other provisions. I wouldn't go as far as calling it inconsistent. I would say it's different in the sense that, for example, the reference to the Controlled Drugs and Substances Act is broader in application. So if this committee and Parliament were to adopt the language as proposed here, it would be taking a deliberate policy choice to limit this aggravating factor to these circumstances. That may have implications in terms of what a court might do in the future. They may, for example, say, "While Parliament has chosen to make this circumstance an

aggravating factor, the fact that the recruitment took place at a shopping mall, for example, or inside a school, is not included; therefore, I won't take that into consideration as an aggravating factor."

It's not inconsistent. It's hard to predict what the courts might do, but those are the implications of taking that decision, as I understand it.

**The Chair:** Thank you, sir.

Mr. Albas.

**Mr. Dan Albas:** Thank you, Mr. Chair.

After hearing what Mr. Taylor had to say, I'm especially leery about throwing this in. A judge may look at this and say, "Well, Parliament has weighed in, and it's specific to this." A defence lawyer could easily argue that because Parliament did not include a Boys and Girls Club, because that would not be involved in here.... It doesn't say "club", from my understanding of reading this—near a school or community centre. We heard from both Mr. Gill as well as from the Boys and Girls Clubs that this could be a potential tool they could use, but we may be limiting it needlessly.

Given the fact that we have to report back, I believe by mid-April, Mr. Chair—and this is an interesting conversation—I'm against putting these things in and creating inconsistency within the Criminal Code. We had a private member's bill previous to that where the NDP agreed with us that the inconsistencies were an issue. I just don't want to see those kinds of things go in.

That being said, Mr. Chair, I'd much rather see our amendments as presented go back to the House, rather than holding this bill up and then seeing all of our good work today go to waste. If it goes past that time, we don't have any recourse other than to submit them independently.

So, Mr. Chair, I will not be supporting the amendment.

• (1715)

**The Chair:** Thank you.

Mr. Goguen.

**Mr. Robert Goguen:** I think it's all been captured. The idea is sound; it's just that there is discretion of the judge to probably take these factors into consideration. As it stands, it potentially narrows the scope of the judge's discretion to use an aggravating factor.

For that reason, I'll be voting against it as well.

**The Chair:** Mr. Marston.

**Mr. Wayne Marston:** This isn't preventing them from doing further consideration of aggravating.... This is being specific to.... It says, "the court shall consider as an aggravating circumstance", not "the only aggravating circumstance". I don't see the concern for the limitation that I'm hearing.

I understand that people want to be very cautious, and I think we all should be. If it said, "the aggravating", I would agree with you 100% on the spot, but it says "an aggravating circumstance any evidence establishing...committed against a person". I don't see that as being quite as restrictive as you're seeing it. I just want to make that point.

**The Chair:** Thank you.

Madame Boivin.

[*Translation*]

**Ms. Françoise Boivin:** Thank you, Mr. Chair.

Mr. Taylor, if we said, “shall consider as an aggravating circumstance, among other factors, any evidence establishing that the offence was committed against a person under the age of eighteen years near a school or a community centre”, it wouldn't be limited, but would still serve as an indication.

I would hope that those across the way agree that engaging in criminal organization recruitment near a school or community centre constitutes an aggravating circumstance. I gather that people don't want to limit it and give courts the impression that it wouldn't apply to a Boys and Girls Club, for example. I think people should avoid the temptation to reject the amendment simply because it comes from us. As I see it, the person who introduced the bill did so specifically to set out recruitment as an offence. We're adding a minimum sentence to send a pretty important message in cases where minors are being targeted.

But I think we also need to send a message—and one does not preclude the other—that this form of recruitment constitutes an aggravating factor. That is strictly in response to what the committee was told. Manitoba's justice minister, for one, supports Bill C-394, which was sponsored by a government member, and we respect his opinion. In his view, recruitment is a problem. And the police have said so as well.

Does the expression “among other factors” remove the limiting aspect? From your comments, my understanding is that it isn't inconsistent with what the Criminal Code already says. And, for our colleagues across the way, that's the only thing being considered. We still have time, since it's likely the only amendment left in our study of this bill, which is otherwise moving along swiftly.

In light of that, I don't think we can be opposed to the principle. It would address their concerns.

[*English*]

**Mr. Matthew Taylor:** Just to pick up on a few things, certainly it wouldn't be inconsistent. It would provide greater clarity to the courts if you had that type of language; this is one factor among any number of factors that a court can take into consideration.

I think that kind of language would anticipate some of the concerns that might be raised in court by a defence lawyer, that because Parliament has not specifically enumerated these types of factors, by consequence they don't want that to be taken into consideration. That type of language provides that kind of a signal to the court that this is one of any number of factors.

• (1720)

[*Translation*]

**Ms. Françoise Boivin:** I would like to move a subamendment, adding the words “among other factors”.

[*English*]

**The Chair:** And where are you putting “among other factors”?

[*Translation*]

**Ms. Françoise Boivin:** I will read it in French: When a court imposes a sentence for an offence under section 467.111, the court shall consider as an aggravating circumstance, among other factors, any evidence establishing that the offence was committed against a person under the age of eighteen years near a school or a community centre.

What's the equivalent expression in English?

[*English*]

**The Chair:** Among other factors.

[*Translation*]

**Ms. Françoise Boivin:** Or the English expression that would apply

[*English*]

“as an aggravating circumstance”.

[*Translation*]

I didn't hear any of my colleagues across the way object to making these factors aggravating circumstances.

[*English*]

**The Chair:** Mr. Seeback, you wanted to speak to the subamendment about adding “among other factors”.

**Mr. Kyle Seeback:** Here's my problem. I like the subamendment. It's helpful. But I think a clever defence lawyer is going to look at this and see “near a school or a community centre” as an aggravating circumstance, but *in* a school or *in* a community centre is not, and therefore they will argue to a judge that this should not be an aggravating factor.

I have lots of respect for criminal defence lawyers. They are a smart bunch. This is why.... I live with a crown prosecutor, so that's different.

My point is, if we're going to do it, it should mirror language that's very broad and encompassing that we already have in the Criminal Code, and this doesn't do that.

The subamendment, in my estimation, doesn't help enough.

**The Chair:** Is there anything else to add to the subamendment?

(Subamendment negated)

(Amendment negated)

(Clause 9 as amended agreed to)

(Clauses 10 and 11 agreed to)

(On clause 12)

**The Chair:** Now we're on to clause 12, which does have G-4, an amendment. It adds “alleged to have”, making the assumption that you're not guilty until you're proven guilty, I guess.

Is that the difference, Mr. Goguen?

**Mr. Robert Goguen:** This is another consequential amendment that deals with French and English versions. It's proposed that the English version of clause 12 would be amended to fix an existing discrepancy between the English and French versions of the Criminal Code.

This would involve adding the words “alleged to have been committed” to reflect the current wording of the French version of the Criminal Code. It's further proposed that the French version of clause 12 of the bill be amended to ensure consistency with the existing language of the Criminal Code. Specifically, clause 12 of the bill proposes to amend paragraph 486.2(5)(a) of the Criminal Code, testimonial aids, and it proposes to amend existing Criminal Code language in the French by changing *préssumé avoir été commise* with *consément*.

There's more. Clause 14 proposes, and this also affects....

**The Chair:** No. That's all for this amendment.

Are there any questions on the amendment to that wording change to have French/English say the same thing?

(Amendment agreed to)

(Clause 12 as amended agreed to)

**The Chair:** We've already amended clause 13.

(Clause 13 as amended agreed to)

(On clause 14)

**The Chair:** Clause 14 is G-6.

Mr. Goguen, do you have any comments?

•(1725)

**Mr. Robert Goguen:** It's the same change as in clause 12, but it's a change to subparagraph 515(6)(a)(ii) of the Criminal Code.

The term proposed by the bill, *consément*, is not an appropriate concept of the criminal law, and therefore we proposed the phrase *présument avoir été commise* be retained in both sections. This would ensure that consistency between the French and English languages be maintained.

**The Chair:** Very good.

Are there any other comments on that amendment?

(Amendment agreed to)

(Clause 14 as amended agreed to)

(Clauses 15 to 17 inclusive agreed to)

**The Chair:** Shall the title, which has been amended by G-7, carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill as amended carry?

**Some hon. members:** Agreed.

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

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

**Some hon. members:** Agreed.

**The Chair:** Thank you very much. That is the bill for today.

I just want to comment before we break. On Wednesday we're dealing with another private member's bill. We have witnesses. On Bill S-209, we have the mover from the Senate, and he can only be here for half an hour. The mover or supporter from the House is coming for the first half hour. So try to be focused on that. Then we have a witness—and we only have one witness—for a maximum of an hour. Then there's only one clause. It's a long one, but there's only one, so I left a half an hour to deal with that.

Then we're on a two-week break from here, back to our ridings, which I know we will enjoy. Happy Easter to everybody who celebrates Easter.

This is what we will do when we get back. In the first week back we will deal with Bill C-444, which is the impersonating a police officer private member's bill. We'll have the mover, then we'll do witnesses, and then we'll try to do clause-by-clause, if we can, that week.

In the second week I'm hoping we will do the Criminal Code official languages three-year review of section 533.1, which deals with being able to have your court case in both official languages. It's a requirement of this committee to look at how it's gone for the last three years. It's a three-year review. We will be inviting, obviously, the minister's officials to come and talk to us about how it's going. If you have any witnesses for that, it would be great.

If you have any witnesses for next week's bill on impersonating police officers, please give it to the clerk as soon as possible, because it's going to be hard to chase you down when we're back in the ridings. It's much easier when you're here.

Then, for the last two weeks of the four-week section that we're in, I'm hoping we will see whether Bill C-54 gets referred to the committee from the House, and we'll deal with that legislation for at least those two weeks is my guess. We have a large witness list already started for Bill C-54, so we'll see what the committee decides in terms of length for that.

At this point, those are the next two weeks when we come back, and you know what's happening on Wednesday.

With that, thank you very much.

The meeting is adjourned.





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