THE STANDING SENATE COMMITTEE ON LEGAL AND

CONSTITUTIONAL AFFAIRS

EVIDENCE

OTTAWA, Wednesday, November 18, 2009

The Standing Senate Committee on Legal and Constitutional Affairs, to which was referred Bill C-15, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other acts, met this day at 4 p.m. to give consideration to the bill.

**Senator** **Joan Fraser** (*Chair*) in the chair.

**The Chair:** Honourable senators, welcome to this meeting of the Standing Senate Committee on Legal and Constitutional Affairs. We are continuing our study of Bill C-15, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts.

As is often the case, we will have three separate panels this evening. However, I have a little explanation to provide you. You will see on the agenda you have all received, in the first panel, the only name listed is that of Dr. Emerson, who is the Chair of the Psychoactive Substances Committee in B.C. and who is here representing the Health Officers Council of British Columbia. We are delighted to have him. However, also sitting beside him at the table, you will see Mr. Chuck Doucette, who is Vice-President of the Drug Prevention Network of Canada. He was on the agenda to be part of our second panel. However, Mr. Doucette must catch a plane this evening and a slot had opened up. We had originally planned to hear from Ms. Patricia Allard, from the Canadian HIV/AIDS Legal Network, along with Dr. Emerson. She has the flu. She has sent her submission, along with her regrets and all senators have received that submission.

Since we had a little time, we thought it was probably safer to put Mr. Doucette on now, so that we would have ample time for questions for both witnesses before the imperatives of aviation start to do their wicked work. That is why things are being slightly rearranged. This is a long and convoluted preamble.

As Dr. Emerson was the first listed, we will ask him to go first, followed by Mr. Doucette. Then we will get to put questions forward.

**Dr. Brian Emerson, Chair, Psychoactive Substances Committee, Health Officers Council of British Columbia:** Thank you very much for having me today. I appreciate the opportunity to come and talk about this important topic with the committee.

My background is as a public health physician. I have been a public health physician in B.C. for 22 years, most of it as a medical health officer in a variety of health departments in B.C. I am also here on behalf of the Health Officers Council of British Columbia, which is a group of public health physicians in British Columbia, organized to advocate and provide advice on public health issues with regards to improving the health of populations.

The main message of my talk, which I will put on the table now, is that the issue of drugs and drug users is not the major problem. The major problem is how we manage substances. I will get into that in more detail, but the fundamental issue is that the prohibition model, which is how we have managed a large number of these currently illegal substances, is actually causing a lot of harm. The proposal for Bill C-15, which actually increases prohibition approaches, is anticipated to increase harms.

We are quite concerned about this approach. I will focus my talk mostly on the harms of prohibition and be happy to talk about a whole range of other issues related to that. I did provide the committee with a paper prepared by the Health Officers Council of British Columbia, dealing with the issue in general. I will speak, specifically, to the «harms of prohibition» part of that paper.

The problem with prohibition has been recognized for a long time. It is not a new problem. In fact, in 1998, there was a double spread in the *New York Times* signed by 400 leaders around the world which said, «We believe that the global war on drugs is now causing more harm than drug abuse itself.»

This was recognized before then, but that was a very emphatic statement made over 10 years ago.

A number of groups have been working to come up with alternative ways and creative solutions to move away from the drug prohibition model into a more public health-oriented approach. The source of this stems from some of the international conventions that characterize drug use as evil and commit countries to combating and preventing this evil. These are archaic concepts with regard to drug use. Certainly, the perpetuation of this concept through increasing approaches to prohibition is of great concern, both from a public health as well as a human rights perspective.

In Canada, you know this has been codified as the Controlled Drugs and Substances Act. Some of the primary enemies targeted by that act are a group of plants — opium, cannabis, coca plants. Some people have talked about the outcome as partly not a war on drugs but a war on plants, and a war on people who use plants.

As a consequence of war, there is collateral damage. The collateral damage in the war on drugs is something we are well aware of in the public health realm. Bill C-15, which is being discussed now, is an example of ramping up that war.

The concern is that the collateral damage will involve those who are marginalized and those who are addicted, as the ones caught up in some of these proposals for mandatory minimums. What is stated, which is to target high-level producers and traffickers, will actually result in ensnaring many people who are not at that level, people who are low-level producers and dealers.

Part of the issue is that it is very difficult to distinguish dealers, traffickers and producers. It is not black and white. In fact, as I mentioned, many of the low-level dealers are the ones who are addicted and have the greatest difficulties. We know that it is not to their benefit to incarcerate those people. In fact, it is actually a hazard to their health.

I thought I would mention a booklet that you may not be aware of called *Jailed for Possession*. This is a Canadian study on the effects of prohibition in Canada, written by Catherine Carstairs. She looks at the regulation of users and the impact of this not only on users but on police officers, doctors and social workers. For those not guided by statistics to support decision-making but are rather guided by conversations and discussions, this is an excellent compilation of first-hand accounts of the harmful outcomes of implementing the prohibition drug policy. If you have the time, I would encourage you to look at that.

**The Chair:** Afterwards, would you give the clerk reference to the book so we can provide it to all senators?

**Dr. Emerson:** I can provide my speaking notes, which has the reference as well.

In terms of getting more specific about some of the harms of prohibition, there was a particular table in the paper that I provided that categorized the harms of prohibition. Perhaps I could point to table 7 on page 8 of the Health Officers Council report. One of the major categories is the effect on substances. Prohibition produces a higher concentration of substances because they are easier to transport; there are more dangerous modes of consumption, and many impurities, because they are not produced in a proper manner.

There is impact on individuals. I will not go through the whole list, but certainly there are health risks of HIV, hepatitis B and hepatitis C. People get caught up in violence. There are problems with stigma and discrimination, and the whole vicious cycle of being imprisoned and getting caught up in the drug culture is one of the serious consequences.

Criminal justice personnel are also adversely affected by this, with the violence and stress that police officers have to face. The risks of bribery and corruption are a key concern as well for the criminal justice people.

Families are affected. This is not just an impact on individuals who are subject to the penalties of the prohibition laws. Their families are also affected, and they have long-term consequences.

Communities are affected because the prohibition results in the production of substances in clandestine laboratories and houses. The neighbourhoods get affected by these sorts of operations. This is certainly a direct consequence of driving production underground.

Society is affected as a whole. As I mentioned, the prohibition automatically produces the illegal market. One of the biggest challenges that we hear about is dealing with the organized crime and illegal market that is a direct consequence of the prohibition.

We have concerns about effects on the perception of the justice system as well. The lack of general public support for many of the measures calls into question in some people's minds the whole operation of the justice system in terms of dealing with this.

At this point I will turn specifically to the bill and then we could go into the discussion phase. I have outlined a number of concerns about prohibition and the framework. My overall understanding of how this bill will operate is that it will result in more people being caught up in the criminal justice system, more people being incarcerated, and magnify many of the problems I already mentioned.

A number of other presenters before this committee have also talked about the lack of effectiveness of mandatory minimums, so I will not go into that, but to underscore that the Health Officers Council's view is that evidence should guide decision-making in terms of what is effective and what is not. That is a critical factor for deciding what to implement and what to leave aside.

One specific issue that I did raise was a potential amendment to one of the sections. Before I comment on that amendment, I would like to ensure that you understand that by mentioning this amendment, it does not mean that we are in support of this moving forward. In fact, I think the whole thing, if possible, should be set aside. Recognizing that the Senate will decide what happens with this, I thought it was important to recognize the one particular section that refers to a requirement to do a review. I do not know if you have that in your package, but it was a proposed amendment to do with section 8.1, which requires a comprehensive review.

The proposal that I put before is that in section 8.1, which talks about requiring a review, I suggest that it incorporate the concept of doing a comprehensive evaluation of the Controlled Drugs and Substances Act. It is my understanding that this section is designed to require that a review of the entire act be done after two years, not just the mandatory minimums. I could stand to be corrected if I have misinterpreted that.

In terms of that section, I am suggesting an evaluation rather than a review and that it be clear that it is an evaluation of the entire act, not just the mandatory minimums, and that the evaluation looks at the impacts of the act. The way section 8.1 is written talks about a review of the provisions and operations which is more of a process review of how it is working as opposed to the actual impact of the act, so I have suggested some orientation towards outcomes and impacts.

The evaluation should include not only the act but the regulations because the regulations, of course, are an integral part of the act and they work together. If you do an evaluation of the outcomes and impacts of the act, you should look at the regulations as well.

I realize my suggestion also left in the cost-benefit analysis of mandatory minimums, but if those are not included in the act going forward, that would come out at well.

That is sort of an overview. I know it is better to have lots of discussion rather than talk on for a long time, so I would like to just close my comments there and look forward to the discussion.

**The Chair:** Thank you very much, Dr. Emerson.

Mr. Doucette.

**Chuck Doucette, Vice-President, Drug Prevention Network of Canada:** Thank you. I also appreciate the opportunity to be invited here and speak to you. I have submitted a written brief that I will read from; hopefully you have copies.

I am here representing the Drug Prevention Network of Canada. I am currently the vice-president of that organization and a member of the International Task Force on Strategic Drug Policy. The Drug Prevention Network of Canada was formed in 2005 to serve the Canadian population on a national level. We are dedicated to working with like-minded organizations and individuals to advance abstinence-based drug and alcohol treatment and recovery programs, to promote a healthy lifestyle free of drugs and to opposing legalization of drugs in Canada.

The International Task Force is a network of professionals and community leaders from across the globe who support and promote effective drug demand reduction principles and strive to advance communication and cooperation among non-government organizations who are working to stem illicit drug use and promote sound drug policy around the world. Both of these organizations believe in the need for a comprehensive drug policy which includes prevention, treatment and enforcement.

I retired from the Royal Canadian Mounted Police in 2007 after serving for a little more than 35 years. For over 30 of those years, I worked in various sections within the drug enforcement branch in the Vancouver area. My experience includes working in an undercover capacity, conducting long-term conspiracy investigations, analyzing drug intelligence and coordinating drug prevention initiatives. The last 12 years were spent in charge of the drug awareness program in British Columbia. As such, I was very involved in discussions about the impact of drug abuse in society and the strategies to reduce both the demand for and supply of drugs. I represented the RCMP on a number of committees at the community, provincial and national levels. I do not profess to be an expert on the effectiveness of mandatory minimum sentences to reduce drug abuse; however, I can tell you what I learned from my experience in the RCMP.

Things have changed over the 30 years from when I first started in drug enforcement in 1977. Over those 30 years I saw the sentences for drug offences progressively weaken. At the same time, I saw the problems related to drug abuse progressively increase. I also saw the drug scene in downtown Vancouver increase as the enforcement efforts in that area decreased. From my perspective, I do not see how anyone could possibly examine the past and make a case that weaker sentences lead to lower consequences to society. My experience is that the more lenient we got, the more problems we had.

My perception about the increase in drug crimes because of lenient court sentences is reflected in a 2007 National Justice Survey which indicates that Canadians perceive the sentences imposed in Canada on drug violations are too lenient. Further, according to a study by the Canadian Centre on Substance Abuse published in 2002, the social costs of illegal drug use is deeply troubling. Measured in terms of the burden on services, such as health care and law enforcement, and the loss of productivity in the workplace or at home resulting from premature death and disability, the overall cost of substance abuse in Canada in 2002 was estimated to be $39.8 billion.

I also believe that other countries have experienced the same thing and I would like to make a comparison. I have travelled to the Netherlands, Germany and Sweden to observe the drug situations in those countries. Of those, it seems to me that we should be looking at Sweden as the model for successful drug policy. The problems related to drug abuse are lower in Sweden than they are in the Netherlands, Germany or Canada. Yet, we have been encouraged by some to follow the policy in the Netherlands and Germany.

In Sweden, after a period of less restricted policy and increased drug use, they achieved their success of lowering drug use by getting more restrictive with their policy. At the same time, they increased their efforts in prevention and treatment. The key to their success was this balance of prevention and treatment to go along with enforcement. In Sweden, when they arrest someone for a drug offence, they introduce them to a drug treatment worker before they are released. Although not common, when it is deemed necessary for the health of the person, they can be forced into drug treatment.

Getting those addicted to drugs into treatment is essential in order to reduce the related problems to society. This can be done in a number of ways. One way is through the drug treatment courts. While it is important to put drug traffickers in prison for an appropriate amount of time, it is also important to get those addicted to drugs into treatment. One of the main goals of the drug treatment court program is to facilitate the treatment of drug offenders by providing an intensive, court-monitored alternative to incarceration.

The studies on the drug treatment courts indicate that participants in the drug treatment programs demonstrate an improvement in their physical and mental health. In August 2006, a meta-analytical examination of drug treatment courts was done by the Department of Justice Canada in order to determine whether or not the drug treatment courts reduce recidivism. It was determined that the results provide clear support for the use of drug treatment courts as a method of reducing crime among offenders with substance abuse problems.

I have spoken to addicts who have graduated drug treatment courts. Their opinion of why they were successful in reaching abstinence through the drug treatment court system when they had failed before was because of the continuous monitoring of their case worker. The case worker follows them, picks them up and puts them back on track when they have fallen off. This does not happen through the regular health care system.

I believe the drug treatment court system is a good way to get drug addicts who break the law into treatment. We have to ensure that we have drug treatment courts where necessary and that there are enough facilities available for all of them. It is also very important that those addicts not in the court system also have ready access to treatment as we would not want to create a situation where an addict is tempted to commit an offence just to get access to treatment.

In Canada we have been influenced by the international harm reduction movement that would have us believe that the drug laws cause more harm than the drugs do. This influence seems to have reached the judges who have gotten progressively more lenient with their sentences. One gets the impression that they are more concerned about the individual drug user than they are about the harm caused by drug abuse to society or to specific family members.

The harms to drug-endangered children are a real concern that we are only starting to address in this country. While taking an addicted parent away from a child may seem tragic, one must compare this to the harm caused by leaving a child in a situation where they are being neglected or harmed by the environment of severe drug abuse.

While I agree with the needs of the individual addict to receive treatment, I believe that that treatment may have to come along with incarceration where appropriate. I agree that it is a mistake to put an addict into prison without providing treatment; however, it is also a mistake not to have meaningful sentences for those higher-level traffickers who make their living while contributing to the misery of others. This is especially true when dealing with members of organized criminal gangs. These gang members not addicted to drugs are very aware of the risks and consequences involved in trafficking drugs in different places. Just as they know the sentences are lower in Canada than they are in the United States, they also know the sentences are weaker in Vancouver than elsewhere in Canada. The provisions in Bill C-15 to impose mandatory minimum sentences are very helpful in this regard.

One of the main reasons that so many gangs got involved in cannabis grow operations in the Vancouver area is the weaker sentences for trafficking in cannabis compared to sentences for trafficking in cocaine or heroin. The risk-to-wealth ratio is much better. The small fines they were receiving were just considered the cost of doing business.

It is also not hard for the leaders to convince underlings to help in the process if the risk of going to prison is low. Although recent laws have helped to make it easier to take back some of the proceeds of crime, we still need a stronger deterrent. We need them to fear the chance of going to prison for a significant time. This bill helps make sure that message is heard loud and clear.

The same has to be said for the use of weapons during the commission of a crime. Regardless of the original intention of the offender, once a weapon is presented, the chance of serious injury or loss of life from that action is huge. Those offenders who resort to the use of weapons are clearly more of a threat to society and should pay a proportionally higher consequence for their actions. The best way to lower that risk to society is to remove the offender. The longer the offender is removed from society, the longer society is free from that threat. When we see the vast majority of offences are committed by a small number of offenders, it stands to reason that longer sentences should result in less crime.

Regardless of why the sentences have gotten weaker over the last 30 years, the fact is, they have. In my opinion, we need to do something to change that trend. I believe this bill has the potential to do that; therefore, I support it.

**The Chair:** Thank you very much. Between the two of you, we have a lovely, broad perspective on this bill. It is terrific.

We have, of course, senators wishing to put questions.

**Senator Wallace:** Thank you very much for the presentations.

Dr. Emerson, I want to ensure that I understand the basis of your position and your recommendations to make sure I am not confused on this. In your report and in your verbal presentation, you spoke about failure of the prohibition approach. Are you basically saying that drugs should be legalized? Are you saying that we should not be dealing with it through legal enforcement and incarceration but, rather, we should be treating all drugs in a regulatory manner, similar to the way that we deal with tobacco? Is that the essence of what you are saying?

**Dr. Emerson:** The Health Officers Council of British Columbia's perspective is that it is not a black-and-white issue, as we currently seem to have where the drugs are completely illegal. The Health Officers Council talks about moving towards a regulated model for all psychoactive substances. I know you are dealing with illegal ones here, but we are also interested in the impacts of alcohol and tobacco. We are saying many lessons could be learned from how we have regulated and also failed in our regulation around alcohol and tobacco that could also be applied to all of these other substances.

The categorization of legal and illegal has nothing to do with a health dichotomy. It is strictly historical, political and social. The Health Officers Council is saying that by taking a public health approach, one could construct methods to regulate the full range of psychoactive substances based on public health principles and goals to maximize the protection of the health of the public. It is a long way to say what we are saying, but basically we are saying that the prohibition approach does not work. It creates harms. There are other ways of approaching this. In fact, the special Senate committee provided an excellent starting point in terms of how you would move away from a prohibition model into a regulated approach. One hundred years of prohibition has not achieved much in terms of benefits and has created a huge amount of harms, as I outlined before.

**Senator Wallace:** Your position would be that there should be no criminal sanctions for the production or trafficking of drugs. Rather, they should be dealt with as a health issue, which would be regulated in the way we regulate tobacco. Is that right?

**Dr. Emerson:** The full range of tools available in the law would be brought to bear. Criminal sanctions do have a role when it comes to harming other people. The drinking driving laws are excellent examples. You get substantial criminal sanctions for drinking and driving. There is a role for criminal sanctions, no question, and we are not saying there is no role. We are saying you use the criminal sanctions judicially for those activities that are harming other people.

**Senator Wallace:** Would production and trafficking of drugs be some of the ways in which drugs would be harmful? I am trying to understand if that is what you are saying.

**Dr. Emerson:** No. We have methods of regulating production quite well in terms of prescription substances, tobacco and alcohol. We have a full range of regulatory methods for production. Trafficking is not an issue when you have a regulated market. What you are talking about then is sales, marketing and distribution. You can construct a whole regulated system to govern the sales, marketing and distribution so you do not have a concept of trafficking when you move away from a prohibition model.

**Senator Wallace:** Inasmuch as most of your comments are directed to those who are suffering from drug problems today, the other aspect of it, of course, is to prevent others, in particular our youth, from being drawn into the use of drugs. What about a combined effort of sanctions to discourage and penalize those who will be involved in drug trafficking and production, together with proper health-oriented approaches to aid those who are suffering from addiction and to discourage youth from becoming involved in drug usage? Do you feel that type of balanced approach makes sense or could make sense?

**Dr. Emerson:** Of course it does make sense. I did not talk about what the whole comprehensive approach would be. I was focusing my comments specifically on the regulation because we are talking about laws. In the Health Officers Council's paper, we talk about this as part of a comprehensive approach, and prevention, education, support to families who need support, dealing with the social determinants of health, early childhood are all critical.

In terms of the youth particularly, one would have specific laws around provision of substances to youth, just as we have with tobacco. It is illegal to provide tobacco to youth. There would be laws with regard to age of consumption to prevent youth from taking up substances. You would have taxation laws that would ensure that prices were set in such a way that it was a deterrent for youth to use substances.

The full comprehensive range is critical. I hope I did not give the impression that changing the drug laws would answer everything. I was talking within the scope of this particular bill. However, in the broad scope of things, a public health approach includes the full range of measures that can be brought to bear. One of the important tools is regulation, but it is not the only tool. I am sorry if I gave any impression those were not considered because they are part of a comprehensive approach.

**Senator Wallace:** I was interested to see where the focus of your recommendations are directed. I think I have that message loud and clear.

I have a question for Mr. Doucette, if possible.

**The Chair:** Do you think it is one he could answer expeditiously?

**Senator Wallace:** I think it is. The question will be short, anyway.

Mr. Doucette, your presentation differs quite significantly from Dr. Emerson's. Therefore, my question is straightforward and simple. You have heard what Dr. Emerson has had to say. I am interested in your comments on what he has said and, particularly, what we are all focusing on here: Preventing the continued proliferation of drugs in our society.

How would you respond?

**Mr. Doucette:** I could go on at length about this, but I will try to keep it short.

The main thing I think people, as well intended as they are, who put forward that argument do not explain is why it is that all of the people currently trafficking in illicit drugs would suddenly stop just because we have a legal market. You could talk about how we will close those illicit markets down. On one hand, they say we could regulate and have lower prices, which would cut them out of business, if we undercut their prices. On the other hand, we say we will tax it, so we have money for prevention and treatment programs. However, if you add taxes to it, how will you undercut them and compete for the market?

Second, they talk about regulating the potency. It is well known that, over the years, people using drugs have become used to higher and higher potencies. All of a sudden, you introduce a lesser potency at your local drug or liquor store. Why would I stop buying from the person down the street, who is selling the higher potency I have been used to for the past five years? Why would I not continue to pay them that price? Why would I suddenly switch and buy the less potent stuff that does not give me the high I am used to?

Their argument is full of unexplained things like that. When we look at the two drugs currently regulated — tobacco and alcohol — and we see all of the problems as significantly higher than the illicit drugs, I fail to see that such a model is the way we want to go and I fail to see how that will lead to fewer problems. We still have a significant black market in both alcohol and tobacco, even though they are regulated. Organized crime did not go away when we legalized alcohol. It is still there. They will not simply fold up their tents and go away if we start regulating currently illicit drugs. They will find ways to stay in business.

Therefore, a lot more work must be done to make it as simple as they make it sound.

**Senator Campbell:** Thank you for your presentations.

In the interests of full disclosure, I have to advise you that Mr. Doucette and I have not only worked together, but we have been friends for longer than we would want to admit. We agreed to disagree many years ago.

There is something I am concerned about, Mr. Doucette, when I read this. First, I want to make it clear that I do not have any argument with your idea that there are meaningful sentences for high-level traffickers, although I would, as you know, like to get to the point where we do not have that.

How do you square meaningful sentences for high-level traffickers and six months in jail for five plants, which you and I know is garbage?

**Mr. Doucette:** My experience is that people do not receive that for that amount of plants. I think it is important that we do have a way of distinguishing the difference between a higher-level trafficker and someone producing for their own use.

**Senator Campbell:** Do you think five plants is a suitable level?

**Mr. Doucette:** I think five plants is more than a person needs for their own personal use, particularly with the high-grade plants we have today compared to when you were in the force working with me.

**Senator Campbell:** I will not argue. We have done that before, too.

One of the things I always find in these presentations is the simplistic thought of it. Your perception about the increase in drug crimes because of lenient court sentences is reflected in a National Justice Survey, which indicates that Canadians perceived the sentences imposed in Canada on drug sentences are too lenient.

Is perception necessarily reality?

**Mr. Doucette:** I do not know if I am qualified to answer that.

**Senator Campbell:** It says your perception. My difficulty, again, is that none of this is evidence based. The perception exists; we go out there and say the majority of Canadians say this is reality. However, there is nothing within that which is evidence based. There is nothing there that measures how we come about that.

We go into the big bugaboo of your organization, the International Harm Reduction Movement.

Do you know the definition of «harm reduction»?

**Mr. Doucette:** There has been more than one definition over the years, but the International Harm Reduction Movement just published one recently. I cannot state it verbatim, but I can tell you my understanding of it, if that is what you would like.

**Senator Campbell:** I can give it to you verbatim and you can tell me if you agree with it. «Harm reduction refers to a range of pragmatic and evidence-based public health policies designed to reduce the harmful consequences associated with drug use and other high-risk activities.»

**Mr. Doucette:** Yes.

**Senator Campbell:** Where is the evidence base here, if we send someone to jail, let us say for six months for 30 plants, that we will see a difference in their behaviour? Where is this evidence-based portion where you say the wealth ratio is much better and, so, because of weaker sentences for trafficking in cannabis, we have seen an increase in grow ops?

I would suggest to you that it is simply the money; that it is much more productive. Rather than having to import heroin and cocaine, it is much easier for me to just grow it within my own borders and get away with it.

**Mr. Doucette:** Wealth-to-risk is a combination of the money — they were making good money — and the risk. The sentences that were being handed down in the Vancouver area were monetary based; they did not deal with incarceration. They were certainly lower than they were with heroin or cocaine.

Again, when you look back when we were investigating organizations trafficking, most organizations trafficked only in one drug. That is not the case anymore. Most organizations now traffic in numerous drugs and a lot of other things besides drugs. That is one of the reasons why organized crime would not simply disappear by changing something to do with drugs.

Certainly, you do not have to be overly bright to look at the markets and the money to be made and look at the risks of going to jail and decide which commodity you will get into business with and avoid going to jail. That certainly is my opinion of what happened in Vancouver, in my experience, having worked in that area.

**Senator Campbell:** One of these days, we will agree on something.

**The Chair:** I have a supplementary, Mr. Doucette.

I am not challenging the veracity of what you say; I am just trying to pin it down.

You have told us that, in your experience, sentences became weaker and weaker. I believe you, but do you have statistical evidence of that? Apart from what you have seen with your own eyes, do you have any statistical surveys? We are familiar with the work of Dr. Plecas. Is there any other work you are familiar with?

**Mr. Doucette:** That is where I would have gone to try to find that because he has done significant work in that area. No, I am not familiar with any public paper or anything that has been published that supports it any more clearly than his does.

**Senator Angus:** Mr. Doucette, you retired in 2007. Are you still active in this area or have you totally retired?

**Mr. Doucette:** I retired from the RCMP, but currently I am on four different organizations involved in this area — one at the community level, one at the provincial level, one at the national level and one at the international level.

**Senator Angus:** Could you outline the international and the national levels?

**Mr. Doucette:** The national is the Drug Prevention Network of Canada, which I introduced; and the international is the International Task Force on Strategic Drug Policy. It meets once a year at a conference-type setting to try to prepare documents that will help governments decide on sound drug policy.

**Senator Angus:** Based on your 30 years in the force, plus the various committees you were involved in during those 30 years, plus subsequently, is it fair to conclude that you consider yourself an expert in these matters you are talking about tonight?

**Mr. Doucette:** Being used to having to be qualified as an expert by a judge, I would gladly take the challenge and say that the average judge might consider that I have some expertise.

**Senator Angus:** You made a comment toward the end of your presentation that might be misleading, that these bad guys, gang members, are doing what they are doing, and they are doing it, in your experience, because they know that sentences are weaker in Vancouver than elsewhere in Canada.

Is that a fact, to your knowledge?

**Mr. Doucette:** Yes, although we have had recent success in Vancouver at having increased sentencing as well by getting into community impact statements so that the judge is more aware of the need for that. There has been some success. I want to give them credit for that.

**Senator Angus:** I come from Montreal. Our sense, at least in the bar — I am a member of the bar of Quebec — is that we have a serious problem there. There are efforts to deal with it. Would you say that the sentences in Quebec or Ontario or elsewhere in Canada are tougher than in Vancouver?

**Mr. Doucette:** My experience in Ontario is that they definitely are. I am not as familiar with the sentences in Quebec. I would not want to give an opinion about that.

**Senator Angus:** As we all have noted, even though there is quite a difference between the conclusions that you and Dr. Emerson have reached, you do acknowledge that it is a mistake to put an addict into prison without providing adequate treatment. You then make what I consider to be the key distinction. You say: As well, it is also a mistake not to have meaningful sentences for those trafficking higher-level drugs.

I would like to have a sense from you of what you mean by «meaningful.» We have been hearing experts from the United States; we have been hearing about the Canadian scene; we have been hearing people who have views such as Dr. Emerson's, who do not want any prison sentences; and others views about mandatory minimums. In the American experience, they talk about huge compulsory minimums of 20, 30, 40, 50 years.

Madam Chair, I have just been down in the United States and I found a fascinating article that I will have sent to you. You might consider it worthy for the committee on this subject.

When you talk about meaningful sentences, what do you mean?

**Mr. Doucette:** I am talking about several years, not necessarily 20 years.

**Senator Angus:** Would you consider the sentences that are prescribed in Bill C-15 to be meaningful?

**Mr. Doucette:** Yes.

**Senator Angus:** May I tread a little further and ask: Do you think they are meaningful enough?

**Mr. Doucette:** I would like to think that «minimum» does not mean that is all they will get. It is a minimum sentence. I would like to think that judges will use discretion and, where appropriate, give more than that as well. In that light, I think so.

**Senator Angus:** You have noted, in looking at the legislation, that indeed the judges do have discretion, do they not?

**Mr. Doucette:** Yes.

**Senator Angus:** My colleague Senator Campbell talked about high level. What do you mean by «higher level»? To me, there are drug traffickers that may be small fry. Could you give us the distinction between the low, the medium and the higher level?

**Mr. Doucette:** Yes. There is generally considered to be three levels. The lower level is a person on the street who quite often is addicted himself or herself. If you are dealing with heroin and cocaine, you could probably say they are just about always addicted themselves.

**Senator Angus:** When you talk about drug offences of the type that the good doctor is saying we have to take a different view on, those are people who have a problem. They are addicts and they might be the pushers in the schools or in the area around schools that we have been talking about.

**Mr. Doucette:** That is possible, but not necessarily that likely. Most of those addicts are not that concerned with trying to deal with someone in schools. More of them would be interested in just trying to support their habit. I doubt whether Dr. Emerson and I would have any disagreement on how to handle those people. Treatment is the answer for them.

**Senator Angus:** I would have thought that, too. I am glad to see Dr. Emerson nodding his head in agreement.

Please continue with the three levels.

**Mr. Doucette:** Above that, there is the level that is usually dealing a slightly larger quantity to those people. That level may be addicted or may not be addicted themselves. You have to have a little bit more business sense to survive at that level. If they are addicted, they certainly are not to the same level as those people on the street. Circumstances would dictate the appropriate sentence for that level.

The higher level is the ones who are either importing themselves or directly in contact with the importation or manufacture, depending which drug you are talking about. They are seldom addicted themselves, because they have to be able to operate on a much higher level than someone who is severely addicted to drugs usually can operate.

**Senator Angus:** Those are the higher-level traffickers.

I believe you make a further distinction and talk about members of organized criminal gangs, but I was not sure whether they would be included in higher-level trafficking.

**Mr. Doucette:** They would be higher-level traffickers as well.

**Senator Angus:** Would they be the ones the minister is talking about, in drive-by shootings and inter-gang fighting over territories?

**Mr. Doucette:** Yes. There is a lot of crime associated with being in a gang that goes along with that that would not necessarily go along with someone at a higher level who is not part of a gang.

**Senator Baker:** I, too, would like to welcome the witnesses and congratulate them on their excellent presentations.

I have a particular problem with the bill. Perhaps one of the witnesses can assist me with the problem that I have. If you do not wish to comment on it, fine.

We are talking about Vancouver. In the process of investigating this matter of trafficking, I have found that the passing of an ecstasy pill to someone is trafficking. The passing of a joint or a roach of marijuana to another person is trafficking, under the act.

Now that we have ecstasy with this bill brought up to schedule 1, life imprisonment is your maximum sentence after this bill passes, which does not mean life imprisonment, but it means many things under the Criminal Code that do not have anything to do with sentencing.

I was concerned, and I examined the case law. There is a case this year, just released five months ago, called *R. v. Chu*. This is a case of a young man, 18 years of age, who was convicted of trafficking in ecstasy with the exchange of a pill that he gave to an undercover officer in a rave. The judge reviewed the previous years' convictions on one pill. It happened in the Pacific Coliseum, Senator Campbell, where raves take place every year around Halloween. They make 10 and 13 arrests by an undercover officer asking for a pill.

We have had Project Tiara, Project Temporal and Project Thirst in each of the past three years. There have been a multitude of convictions from one pill. If I go to other cases, it is the same thing. The person says how much and the officer says, «Just one.» Then the pill is exchanged and the undercover police officer signals the back-up team and the arrest is made. The other one here — where the fellow gave it to her — she gave him a hug and a kiss and then signaled the arrest team.

The point is around this kind of “one-pill trafficking” offence, which is so prevalent at these raves in terms of the police in Vancouver is a problem. I have not looked at the other cities, though I imagine it is in every other city in Canada. I have a problem because, now, this is life imprisonment as your maximum and a minimum of one year, in the previous 10 years, if you exchanged a joint. It triggers all kinds of things like reverse onus. You do not get bail anymore unless you prove you should be released and so on.

I am wondering whether we have gone too far in this bill and whether something should be done to correct it, unless the police will not be making any more arrests, which is something I have not heard, Madam Chair; they were here and said they did not intend to change their practices.

I am wondering if either one of the witnesses would care to comment on this.

**Dr. Emerson:** I would completely agree. That is what I was talking about when I spoke about the breadth of this bill reaching in and ensnaring people who are not supposed to be covered by what I understand the intention of the bill was. I understood it to be a higher level approach.

When you actually read the bill, though, of course, I am not a lawyer, so that must qualify everything —

**Senator Baker:** They all are.

**Dr. Emerson:** In terms of trafficking, there is no black and white distinction between possession, trafficking and producing. They are not separate worlds unto themselves; you cannot zero-in on one and not affect the others. It is a spectrum of activity that happens and you described it very well.

The bluntness of the instrument will tend to capture those who are engaged in those low-level activities, as Mr. Doucette described: The addicts or people at raves. They will be subject to these mandatory minimum sentences. I was disappointed that representatives from the HIV/AIDS Legal Network were not here because their description about the harms of incarceration and what happens if you start to put more people in jail is very eloquent and clear.

I would agree completely about the breadth and the potential to over-reach and actually draw in many people. They may end up in jail or even with criminal records or sanctions for these things. These are the harms I mentioned which are created by this approach. I agree completely with that analysis.

**Mr. Doucette:** My experience is that someone arrested for trafficking in one pill does not necessarily mean that person is not a bigger trafficker than that. It is common for an undercover operator to only buy one pill at the lower-level undercover operations.

In most cases, the person has been targeted because there is substantial evidence to show they are trafficking in more than just one pill. The operator only has to buy one pill in order to support that trafficking charge. The circumstances are extremely important. I would like to think the judges will take those circumstances into consideration at sentencing.

**Senator Angus:** Yes, if there is a minimum.

**Senator Joyal:** That is the point.

**Senator Baker:** And a reverse onus on bail.

**Mr. Doucette:** Regarding someone trafficking, maybe there must be some clarification on certain cases. However, that is far less common than the people who are trafficking in larger quantities who, under the present system, get off with far less than they should get. Somewhere there must be something that deals with that side of things, as well.

There is another thing about the incarceration part of it that must be understood. I work with a number of addicts in recovery who help me do training for the police and other things. Many of them will name the police officer who busted them and got them into treatment, and will say how being incarcerated helped them decide they needed treatment. Therefore, it should not necessarily be thought that incarceration is a total harm to someone. In certain cases, that is what straightens them around and off their addiction. It can go either way.

**Senator Baker:** I can understand there are two sides to it and where do you begin and stop. However, some cases, such as *R. v. Chu*, provide good summaries for anyone who wants to look at this problem of arrests. This gentleman, 18 years of age, had to go and get a pill from someone else to give to the undercover officer. The same thing applied to the other two cases from this past year. There are some cases in which soldiers coming back from Afghanistan have been convicted of exchanging joints. They get a double penalty: The military court and Criminal Code penalty.

There is a huge problem. If you are under a sentence which has a maximum of life imprisonment, you to do not get bail unless you have a show cause hearing in which you must prove to the judge that you get out. Those hearings are not easy. Therefore, someone is destined to spend time in jail, all because of what we are doing in this bill: Raising that ecstasy pill to life an imprisonment section.

Also, you cannot get a job after that; you will never get a job. You cannot go to the United States anymore. You cannot go to a foreign nation. You are destined not to be able to get a pardon until 16 years after, because you get a firearm prohibition for 10 years; is that not right, Senator Watt? Then you have to wait six years before you get a pardon because it is an indictment offence. That is all for one ecstasy pill or one joint. Give me a break.

**The Chair:** I think that was a comment rather than a question.

**Senator Baker:** I am sorry about that. You see my frustration with this. I am totally frustrated with the case law, anyways.

**The Chair:** Do either of the witnesses wish to give a comment in response to the comment by Senator Baker?

**Mr. Doucette:** No, thank you.

**Dr. Emerson:** No.

(French follows — Senator Carignan: Je suis aussi découragé quand je vois autre...)

 (après anglais)

**Le sénateur Carignan:** Je suis aussi découragé quand je vois autre chose. Samedi dernier, le 14 novembre 2009, dans *La Presse*, il y avait un reportage spécial sur les récoltes clandestines de marijuana. On apprend que le Québec est devenu producteur numéro 1. Il est donc passé devant la Colombie-Britannique, selon les statistiques présentées. Le journaliste a fait un travail d'enquête — je suis parfois impressionné par le travail des journalistes — et s'est introduit avec des jeunes qui cultivent la marijuana dans les champs. Il a passé quelques jours avec eux.

Je vous lis quelques extraits afin d'introduire ma question. Il est question de Sylvain et Éric qui cultivent depuis 15 ans.

En 15 ans, les deux mariculteurs ne se sont jamais fait prendre. Ni par la police ni par qui que ce soit d’autres […] « On a souvent eu des petites frousses, mais rien n'est jamais arrivé. Même après toutes ces années, il y a toujours une petite montée d'adrénaline au moment de se lancer dans le champ. C'est stressant, mais c'est mon petit côté rebelle. J'aime ça…

Les deux ne consomment pas de marijuana Leurs clients sont de grosses cliques du crime organisé qui exportent aux États-Unis.

On a aussi l'exemple d'une jeune femme de 20 ans qui a commencé à trimer à l'âge de 13 ans. Elle travaillait à 13 $ de l'heure pour trimer de la drogue. Elle a acheté son premier scooter avec son travail de trimer de la drogue. Elle a maintenant 20 ans, elle gagne 20 $ de l'heure à trimer de la drogue. On a un autre exemple, un musicien, qui lui a travaillé dur pour la mafia italienne, deux semaines intensives dans le bois, 15 heures par jour. Il trouvait que les conditions étaient difficiles, il mangeait des « grilled-cheese » et il est sorti du bois avec 2 000 $ pour travailler 15 heures par jour. Maintenant, il trouvait ça trop dur, il a décidé de partir à son propre compte et il fait pousser ses propres plants.

Quand je vois des choses comme cela, avec la situation juridique actuelle, on n'a pas de peine minimale; nous avons un système de justice que certains disent qu'il est efficace et qu'il fonctionne. Nous avons des centres de traitement de toxicomanie, mais manifestement ces gens ne consomment pas. Ma question s'adresse aux deux témoins, vous ne pensez pas qu'on devrait au moins essayer des peines minimales de façon à ce que nos deux mariculteurs, depuis 15 ans, ils ne se sont pas faits prendre, aient autre chose qu’un petit peu d’adrénaline quand ils vont dans le champ et qu’ils aient vraiment l'inquiétude de se faire prendre avec les stigmates que le sénateur vient de mentionner pour notre exemple de pilules d‘ecstasy et de faire en sorte que des jeunes de 13 ans ne puissent pas être utilisés dans la culture de la marijuana? Je trouve que c'est une introduction au crime à un très jeune âge. Je pense que si les peines minimales existaient, au moins, cela pourrait faire cette partie de travail. Êtes-vous d'accord avec moi?

(M. Emerson: Perhaps I could speak specifically to the question about)

(anglais suit)

 (Following French — Senator Carignan)

**Dr. Emerson:** Perhaps I can speak specifically to the question about whether minimum sentences would be a deterrent. Again, I am not a criminologist, so I qualify that, but I have read the testimony of many of the witnesses before you and many of the questions of the senators asking for evidence that minimum sentences are a deterrent. The consistent answer that comes back is that minimum sentences are not a deterrent. There is no evidence that minimum sentences will deter activity.

You highlighted the attractions to the activity, and one is the money. Money is a huge motivator, and that is probably why there is no evidence that minimum sentences are a deterrent. The motivation to make money far exceeds whatever deterrent factor minimum sentences are supposed to achieve. As I said, there is no evidence to that effect.

The other factor you mentioned is the excitement or the thrill. Part of the excitement and thrill is that these are prohibited substances. Young people often get excited by doing things that are not acceptable to adults. Certainly this is one of the areas where de-exciting some of the substances by regulating rather than prohibiting can have the potential of reducing the attraction of young people into this type of activity.

I do not believe minimum sentences would do anything to address the situations you have raised and, in fact, may result in those young people going to jail for extended periods of time, and, as I think Senator Baker pointed out, a range of serious, life-time consequences to those young people by being trapped into a minimum sentence.

(French follows, Senator Carignan: Mr. Doucette, je vous presenter que le salaire ....)

(après anglais)

**Le sénateur Carignan:** Je veux juste vous préciser que les salaires mentionnés ne sont pas énormes. Si c'était légal, probablement que dans une usine de tabac, c'est le prix que les gens sont payés. Dans une usine de tabac actuellement, les gens sont probablement mieux rémunérés que le salaire mentionné. Manifestement, ce n'est pas l'argent qui est un attrait ici, puis le fait de de légaliser ou non ne fera pas augmenter les salaires.

(M. Doucette: Certainly in my written submission I do believe that we need to have some kind)

(anglais suit)

 (Following French, Senator Carignan).

**Mr. Doucette:** As indicated in my written submission, I do believe that we need to have some kind of deterrent and that just taking money away from people is not a strong enough deterrent. They make lots of money. There must be something more meaningful. Nobody likes to go to jail, so they have to go to jail. Certainly those organizers should go to jail for much longer than the young people.

I want to remind people that a young offender will not go to jail, unless that will be overridden by this, because if they are a young offender, they will be dealt with under the Young Offenders Act, I believe. That is a separate issue. We are talking about adults. If an adult is committing any crime, they need to face the consequences appropriate to that crime. The earlier they learn that, the better. There may be some people early on who might get caught who are not quite aware, but certainly as that becomes published by the papers, as it certainly will, other young people will learn from that and hopefully will think twice before they decide to commit the same crimes.

**The Chair:** As a former journalist, may I say I hope you are right when you suggest that young people will be reading the newspapers.

(French follows, Chair continuing — C'est ca, Senator Carignan?)

(après anglais)(La présidente)

C’est ça sénateur Carignan, vous avez terminé.

**Le sénateur Carignan:** J'avais une autre question.

**La présidente:** Comme vous le savez, on a dépassé l’heure, je vais vous demander de la faire courte.

**Le sénateur Carignan:** Vous avez dit dans votre témoignage qu'on devrait s'inspirer de la légalisation de l'alcool et du tabac. Si on s'inspire effectivement de l’alcool et du tabac, on s'entend tous que l'alcool et le tabac, comme la drogue, sont mauvais pour la santé et sont bannis dans presque tous les pays du monde au niveau de la drogue. Si on pousse le raisonnement à s'inspirer du tabac et de l'alcool, actuellement, on interdit aux gens de fumer à peu près dans tous les endroits publics; on interdit la publicité sur le tabac et on investit des milliards pour essayer de réduire la consommation de tabac. On investit également dans des publicités importantes pour réduire la consommation d'alcool.

Est-ce que ce n'est pas premièrement utopique de penser qu’un jour, on pourrait légaliser la marijuana, au moins en Amérique du Nord et, deux, même si s'était légalisé, vous ne pensez pas que les problématiques de santé seraient encore très présentes et qu'on n’aurait pas réglé le problème de la consommation pour autant.

(M. Emerson: I appreciate that question because I had made a note)

(anglais suit)

 (Following French, Senator Carignan)

**Dr. Emerson:** I appreciate that question because I had made a note when Mr. Doucette was presenting around the fact that I was suggesting that the alcohol and tobacco model was one we should follow for illegal drugs. I appreciate the opportunity to clarify. That was not what I intended to say, if that is what I said. What I think I said is there are many lessons learned from tobacco and alcohol about how we could better regulate substances. We do not want to follow the alcohol and tobacco model for substances.

I want to make it clear that is not what I was saying. The problem with the alcohol and tobacco model is they are in a commercial promotion type of model, and the public health approach would not support that type of a model for substances. In fact, there are many public health measures that need to be applied to alcohol and tobacco to move the model away from the commercial model to a public health based, regulated approach. I was not suggesting that we would shift substances — the senator specifically mentioned cannabis — into tobacco and alcohol model. That is not what I said. I want to be clear on that.

I would suggest we would need to move carefully and deliberately. We do not have all the answers, but at the current time we are not even talking about alternative methods of regulating these substances. All we are talking about is ramping up prohibition approaches which, as I indicated, increase the harms from the prohibition. There are many other ways of dealing with these substances. We need to have that discussion and explore all of those options and move carefully, incrementally and deliberately to a method that achieves the right balance of harms from the substances and harms from the policies and laws which are applied to those substances.

I am not proposing a utopia in terms of legalizing marijuana, but we need to have those discussions, which is why part of the proposals in the Health Officers Council of British Columbia paper was to establish those groups to work through those and come up with models that are well thought out and learn the lessons from tobacco and alcohol and not make the same mistakes.

**Senator Joyal:** I know our time is short. My question and concern is essentially on the first level that we have described in our discussion — those on the streets who sell for money because they are consumers and most are addicts.

Mr. Doucette, in your presentation at page 3, outlined the role of the drug treatment courts. I will quote your statement:

I believe the drug court system is a good way to get drug addicts who break the law into treatment. We just have to make sure we have drug treatment courts where they are needed and that there are enough treatment facilities for all that need them.

I could not agree more with you on that. Our preoccupation is this bill will catch in its net the first level of people. My colleague Senator Baker has described some cases. My colleague Senator Watt could talk to you about the Aboriginal peoples in a similar situation.

The problem with this bill is when it was tabled by the government they did not announce that the drug court would be expanded. There are only six drug courts in Canada. We all agree that the big dealers should be put in prison. However, we fear we will create harm in some section of the most vulnerable in our society. The bill does not have a safety clause, that is, a capacity for a judge to understand that in areas or regions of Canada there is no such court available. This bill needs a safety valve to take into account the particular situation we have presently, not 10 years down the road but today. If we vote on this bill in X number of weeks and it becomes the law, the judge will have to apply the law. At the same time, we are trying to make the law more efficient, to fight organized crime in the drug business. It is important that we are equally concerned about the sake and future of those who are addicted and trying to find their way in the system.

I am sorry to say this, but I think that is missing in your presentation because you do not seem to recognize that the drug treatment court is not available everywhere in Canada, and in fact, there are huge sections of Canadians — among them, as I said the most vulnerable — who will not have access to it, and they will end up in prison with no treatment which is not what we are looking for at this point in time.

**Mr. Doucette:** That is why I put it in there the way I did. I agree with you that it is important that we have funding going towards more treatment. I was hoping that would be something you would recommend must come with it, funding for additional treatment, and whether that be through the drug treatment courts, which I think are an excellent tool, or as I said, for the other people who are not before the courts. We need funding for treatment. I know there has been an increase in funding over recent years, but there must be further increases as well.

**Dr. Emerson:** You have hit on a very important point, and it goes back to the discussion about needing a comprehensive approach. You are right. One of the biggest gaps in the comprehensive approach is adequate treatment. Mr. Doucette mentioned that one of the triggers to getting people into treatment is when they do end up coming in contact with the criminal justice system. It is important that there are various levers to trigger people to get treatment.

I certainly do not think that a mandatory minimum sentence is the type of motivation that one should have to put people in treatment, but we need a wider-spread treatment system in order to deal with the scope and range of problems out there.

It does strike me as very imbalanced that in some areas where they do have access to a mandatory treatment system they could avoid the minimum sentence where in other areas, if they did not have the treatment, they would be caught in the mandatory minimums. There is a huge disparity of approach there. As you mentioned, that, coupled with catching lower-level dealers and producers, will not do them any good and, in fact, putting them in jail under a mandatory sentence will be more harmful. Yes, I agree.

**The Chair:** I have what I think is a fairly simple question.

This bill exempts from the mandatory minimums an offender who «successfully completes» a drug treatment program. Is there a body of evidence or practice or whatever that tells us how you measure successful completion as distinct from completion? We know there are statistics on the number of people who drop out before they get to the end of the programs, at least some, but do you know of a distinction that is measurable or how one would measure the difference between completion and successful completion?

**Dr. Emerson:** That had me scratching my head. I do not know what was meant by «successful completion» without any definition or description. We know that drug addiction is a chronic relapsing condition, and so you can complete a course of treatment and not be using for a period of time and then go back to using. Well, did you successfully complete or not? I do not know what success is in terms of that. It had me scratching my head. I do not know how that would be measured.

**Mr. Doucette:** It has been my assumption that it would follow what is currently used in the drug treatment court program. I am not sure off the top of my head what length of time that is. I made comments about having spoken to people who have succeeded with drug treatment courts where there is the case worker who follows them through, and yes, relapse is something that can be expected but when they do they quickly get them back into the appropriate treatment and sometimes have to change the treatment modality to accommodate whatever it is that caused them to relapse.

Certainly it is after a period of abstinence that they are considered to have completed successfully. That does not mean they possibly could not relapse a year or two later. I assume they will not follow them that long and then incarcerate them after that. I do know they have a system in place now that looks at that, and I assume that that is what they are referring to in this bill.

**The Chair:** If not, then clarity is needed.

Thank you both so very much. It has been very interesting. I do not know how comfortable the two of you felt advancing your various positions, but it was instructive for us to have both of you available at the same time.

(French follows, Chair continuing, Pousivon de notre etude C-15 .....)

(La séance reprend)

(après anglais)

**La présidente:** Nous poursuivons notre étude du projet de loi C-15, Loi modifiant la Loi réglementant certaines drogues et autres substances et apportant des modifications connexes et corrélatives à d'autres lois.

Alors ce soir nous accueillons, de Santé Canada, Cathy Sabiston, directrice générale des substances contrôlées et de la lutte au tabagisme, Catherine MacLeod, directrice générale principale de la Direction générale des régions et des programmes et Jane Hazel, directrice générale de la Direction des services de marketing et des communications.

(chair: Thank you all very much even more than usual we are very grateful to witnesses but in your case)

(anglais suit)

 (Following French, Chair continuing)

Thank you all very much — even more than usual. We are always grateful to witnesses, but in your case, we know that Health Canada has been turning itself inside out trying to cope with the H1N1 outbreak. Although that is not your direct area of responsibility, I suppose it has ramifications for everyone in the department. The floor is yours, Ms. Sabiston.

**Cathy Sabiston, Director General, Controlled Substances and Tobacco Directorate, Health Canada:** Thank you to the members of the Standing Senate Committee on Legal and Constitutional Affairs for giving me the opportunity to speak to you about Health Canada's role in the National Anti-Drug Strategy, Canada's approach to reducing the supply of and demand for illicit drugs, and addressing crimes associated with illegal drugs.

Bill C-15, which is presently before you, proposes to amend the Controlled Drugs and Substances Act via the introduction of mandatory minimum sentences for serious drug crimes involving certain aggravating factors such as the use of weapons, the involvement of youth, et cetera. However, Bill C-15 is not an isolated action. It is only one element of the government's much larger strategy aimed at curbing illicit drug use and abuse.

(French follows, Ms. Sabiston continuing, Bien que la ministre de la justice ....)

(après anglais)(Mme Sabiston)

Bien que le ministère de la Justice soit le principal responsable de la stratégie nationale de la lutte anti-drogue, Santé Canada est le ministre responsable de la mise en œuvre du plan d'action axé sur la prévention et le traitement.

À titre de coordonnatrice de l'ensemble des activités de la stratégie nationale anti-drogue pour le portefeuille de la santé, je vous parlerai plus longuement des plans d'action axés sur la prévention et le traitement et du rôle que nous jouons dans le cadre du plan d'action en matière d'application de la loi.

(Mme Sabiston: Illicite drug use an abuse affects all Canadians and as a direct)

(anglais suit)

 (Following French, Ms. Sabiston continuing)

Illicit drug use and abuse affects all Canadians and has a direct impact on both the health system and the Canadian economy. A 2002 study by the Canadian Centre on Substance Abuse found that the overall cost of substance abuse in Canada was estimated at $39.8 billion. More specifically, economic costs attributed to the use and abuse of illegal drugs were estimated to be approximately $8.2 billion. The largest economic costs were those associated with lost productivity due to illness and premature death, law enforcement and direct health care.

Given that illicit drug use is a long-standing and complex problem with considerable personal, social and economic costs, the Government of Canada has moved to establish and launch a comprehensive strategy that partners Public Safety Canada, the Department of Justice and Health Canada in building safer and healthier communities by reducing and contributing to the elimination of illicit drug use and abuse in Canada. That is where the Health Canada role fits into the National Anti-Drug Strategy.

Launched in October 2007, the National Anti-Drug Strategy aims to reduce the supply of and demand for illicit drugs. The strategy, which comes with an investment of $230 million over five years, has three priority areas for action, as follows: Preventing illicit drug use, $30 million; treating illicit drug dependency, $100 million; and combating the production and distribution of illicit drugs, $100 million.

While mandatory minimum sentences would contribute to reducing the supply of illicit drugs, prevention and treatment initiatives are nevertheless necessary components of any integrated and comprehensive strategy with the aim of addressing illicit drug use.

(French follows, Ms. Sabiston continuing, Je debuterai par la plan d'action ....)

(après anglais)(Mme Sabiston)

Je débuterai par le plan d'action en matière de prévention. Comme son nom le laisse entendre, le plan d'action en matière de prévention vise à dissuader les gens d’utiliser des drogues. Autrement dit, il vise à éliminer le problème avant que celui-ci ne se présente. Le plan d'action privilégie la prévention de la consommation de drogues illicites chez les jeunes. Il diffusera de l'information aux personnes qui sont les plus touchés par la consommation de drogue, y compris les parents, les jeunes, les éducateurs et les instances responsables de l'application des lois et les collectivités.

(Mme Sabiston: The privincial action plan refocuses existing comunities)

(anglais suit)

 (Following French, Ms. Sabiston continuing)

The Prevention Action Plan refocuses existing community-based, drug-use preventation strategies, programs and services for youth; provides information directly to parents, educators, and health professionals; develops materials for school-based awareness and prevention strategies for elementary and secondary school students; discourages illicit drug use through new, national public awareness campaigns and provides financial assistance to communities for local projects to tackle the growing challenges of illicit drug use among young people.

A number of jurisdictions have roles to play in the area of prevention. For its part, the Government of Canada has invested $30 million over five years in a targeted mass media campaign that raises awareness among youth between the ages of 13 and 15 about the dangers of illicit drugs. The first of its kind since 1993, the campaign was launched in March 2008 and began with a message to parents: Reinforce your influence over your teenagers and talk to your sons and daughters about illicit drugs.

A May 2009 evaluation indicated that the campaign reached its target audience and that the messages resonated. In fact, the parent component of the campaign drove over 2,900 calls to our information centre and over 280,000 visits to our website. Also, more than 123,000 copies of the parent booklet have been ordered, with thousands more downloaded from the website.

A post-campaign survey confirmed our suspicions. The survey found that parents within our target audience took action because of the campaign. Adults sought out the information booklet and spoke to their kids about the dangers of drugs. This is one initiative that will, over time, help achieve results in terms of reduction in drug use among young teenagers.

Building on the success of this initial launch, Health Canada is once again engaging parents of youth, ages 13 to 15, with a relaunch of this campaign on November 23, through TV and the Internet. This will be followed closely by the launch on December 28 of a multimedia campaign aimed at youth between the ages of 13 and 15 years old.

The age of initiation of illicit drug use occurs at about 14 to 15 years of age. This is why our campaign aims to reach youth who are still in the contemplation stage of their possible experimentation with illicit drugs.

The Government of Canada also supports health promotion and drug-use prevention projects. Through the %%%Drug Strategy Community Initiatives Funds, Health Canada will help reduce illicit drug use among teens by supporting community-based initiatives that help identify and respond to the unique needs of local youth.

(French follows — Ms. Sabiston cont'g: Par example, Sante Canada...)

 (après anglais)(Mme Sabiston)

(après anglais)

Par exemple, Santé Canada soutien financièrement le Centre canadien de lutte contre l'alcoolisme et les toxicomanies afin de créer une stratégie de prévention en toxicomanie chez les jeunes, une initiative qui permet de mobiliser les efforts de prévention ainsi que d'étoffer les politiques et les pratiques en matière de prévention, et qui favorise l'établissement de liens entre des associations sans but lucratif, le secteur privé et les ordres du gouvernement afin d'optimiser la portée de nos efforts.

(Mrs. Sabiston: Unfortunately, prevention comes too late for those people …)

(anglais suit)

 (following French — Ms. Sabiston cont'g — ...optimize la porte de nous afors.)

Unfortunately, prevention comes too late for those people who are already using drugs and whose social, physical and mental health suffer as a result. For this reason, the Government of Canada has also made significant investments to implement the second critical component of the National Anti-Drug Strategy: the Treatment Action Plan. The Treatment Action Plan supports innovative approaches to treating and rehabilitating those with illicit drug addiction who pose a risk to themselves and the community.

This plan promotes collaboration among governments, and supports agencies to increase access to drug treatment services. The plan enhances treatment and support for First Nations and Inuit people; provides treatment programs for young offenders with drug-related problems; enables the RCMP to refer youth with drug-related problems to treatment programs; and supports research on new treatment models.

The Drug Treatment Funding Program, an initiative that supports provincial and territorial governments in the delivery of quality drug treatment services, is a key component to the Treatment Action Plan. This program helps provinces and territories adopt national best practices, apply new research findings to clinical practice, and better measure and evaluate the effectiveness of their drug-treatment systems.

The Government of Canada is also dedicating funds to address the needs of especially vulnerable populations: Residents of Vancouver's Downtown Eastside, and members of First Nation and Inuit communities.

As many of you may know, Vancouver's Downtown Eastside is home to an incredibly vulnerable population: Individuals who suffer from addiction to heroin, cocaine, crack, crystal meth other drugs. These people need help to regain their health and hope for the future.

In response, the Government of Canada has established an Assertive Community Treatment (ACT) Team that is working around the clock to provide psychiatric, medical, nursing, therapeutic and rehabilitation services. Twenty new treatment beds have been created for female drug users who are engaged in the sex trade — women who need a safe, stable environment in which to overcome their addiction. Funding has also been allocated to improve addiction services for Aboriginal people living in this neighbourhood.

In addition, Health Canada provides funding each year through the National Native Alcohol and Drug Abuse Program to support 54 treatment centres, as well as drug and alcohol prevention services in over 500 First Nations communities across Canada.

Under the Treatment Action Plan, Health Canada is working to increase access to and improve the quality of addictions services for First Nation and Inuit youth and families in Canada.

(French follows — Ms. Sabiston cont'g: Pondant que les plans d'action...)

(après anglais)(Mme Sabiston)

Pendant que les plans d'action en matière de prévention et de traitement diminuent la demande de drogues illicites et offrent des traitements à ceux qui ont des dépendances aux drogues, le plan d'action en matière d'application de la loi vise à restreindre l'offre des drogues illicites en soutenant la capacité de mise en application de la loi afin de combattre les activités de production et de distribution de drogues synthétiques ainsi qu'en renforçant les efforts d'application de la loi afin de permettre la tenue d'enquêtes et l'engagement de poursuites dans le cas des crimes liés aux drogues.

(Mrs. Sabiston: For Health Canada, the Enforcement Action Plan has allowed …)

(anglais suit)

(Following French — Ms. Sabiston cont'g — ...crime liee au druges.)

For Health Canada, the Enforcement Action Plan has allowed the department to hire additional compliance officers to inspect sites and establishments licensed to produce, import, export and distribute precursors under the Precursor Control Regulations, which sit under the CDSA, and has provided funding to increase capacity to assist in clandestine lab investigations and to carry out additional lab testing, for identification purposes, of seized chemicals and illegal drugs for use in court proceedings.

Starting in 2007-08, the funding has allowed Health Canada to staff eight additional regional compliance officers. The plan is to ultimately have 22 officers by 2011-12. To date, the compliance officers have completed 120 precursor-related inspections in 2008-09 and it is expected that another 190, approximately, will be done by the end of this fiscal year.

Together, this activity ensures that the chemicals commonly used in the illegal production of synthetic drugs, like methamphetamine and ecstasy, stay in legitimate distribution channels but that, if necessary, accurate and timely analysis of suspected illicit drugs seized by law enforcement will support the effective prosecution of offending parties.

Consequently, passage of the amendments to the CDSA proposed in the bill before you will result in tougher penalties for certain offenders. It will also ensure the application of similar penalties to offences involving all amphetamine-like substances, thereby equalizing the current discrepancy between penalties for offences involving methamphetamine and those involving ecstasy or MDMA.

As you can see, Bill C-15 represents one component of the Government of Canada's comprehensive approach to addressing illicit drug production, use and abuse in Canada. While the Prevention Action Plan and Treatment Action Plan aim to erode demand for illicit drugs and provide treatment for drug dependencies, the Enforcement Action Plan aims to stem the supply of illicit drugs in Canada. Bill C-15, in particular, aims to make criminal activities less lucrative and enticing.

It is timely that we here are presenting in this third week of November while Canada is observing National Addictions Awareness Week, which provides information and promotes activities to raise awareness of addictions among Canadians.

Thank you very much for having me and my colleagues here today. It will be a pleasure and privilege to answer your questions.

**The Chair:** Thank you very much. Before I go to the general list, I will ask you for what I expect will constitute homework. Two-hundred and thirty million dollars is a lot of money. It is not at all to be minimized. However, it is spread over five years and three priority areas.

For example, the second element of the program — treatment — gets $100 million over five years, which is, on average, $20 million a year. Broken down amongst 10 provinces and 3 territories, it suddenly does not seem to go as far as one yearns to have it go.

Could you give us a more detailed breakdown of where those precious dollars are being allocated, so we have a clearer understanding of what is actually being done?

**Senator Wallace:** Thank you, Ms. Sabiston, for your excellent presentation.

After hearing the various witnesses we have had over the weeks of considering Bill C-15, it was interesting to have you explain the comprehensive approach that Canada's anti-drug strategy encompasses. As you well suspect, different witnesses have focused on different elements of the strategy. I would say that probably most of the witnesses we have heard have focused on the treatment aspect of the strategy, and for good reason. It is extremely important, and we all realize that.

I found it interesting, as you described the three elements of the comprehensive plan, prevention, treatment, and enforcement, that it was also comprehensive in the sense that it involves various departments of the provincial government: Public Safety, the Department of Justice and the Department of Health. At least to some of us, it is reassuring to know that although Bill C-15 is a Department of Justice-sponsored bill, it involves a broad spectrum of government departments.

As I mentioned, we have heard quite a focus on the treatment aspect of that strategy. I thought it was particularly interesting that you have raised the issue of prevention. For all of us, that is a key element. We think of the youth and our children, and we want to take whatever action can be taken to effectively reduce the chances of their being drawn into the drug world.

In regard to that, in your presentation, Ms. Sabiston, you referred to the prevention campaign, referring specifically to parents. I was a little surprised at that. I would have thought maybe you would have started with youth, but you started with parents. Would you like to expand on why that was done and how effective you found that?

**Ms. Sabiston:** Thank you for the question. I will defer to my colleague Jane Hazel, who is responsible for that program.

**Jane Hazel, Director General of Marketing and Communications Services Directorate, Health Canada:** Thank you, senator. That is an excellent question.

As Ms. Sabiston mentioned in her notes, it has been a long time, 16 years, since we have had an anti-drug campaign in Canada. We wanted to learn from other countries that have been running these campaigns. We looked at nine campaigns that have been run in other countries to learn their best practices and lessons learned, especially looking at the U.K., Australia and the U.S., who have had big campaigns in the past.

In terms of best practices, we learned some key things. First, it is important to target that 13 to 15 age group that Ms. Sabiston mentioned and contemplate our youth who are at the cusp of perhaps experimenting. The second big lesson learned, and it was a little surprising, is that kids of this age actually still respect and believe their parents. It is a shock to some. The research we did ourselves here in Canada bore that out. Kids are still listening and turn to their parents at that age to get information.

A key to success was to equip parents with the tools first so they would know how to talk to their children and feel comfortable doing that. The research we did with parents here in Canada showed that some of them were a little conflicted. In fact, they may have used marijuana themselves as a youth, so they did not feel comfortable addressing it with their own child, or they did not feel they knew the new drugs or that the drugs nowadays were stronger than when we were kids, so that made them feel comfortable. The research showed very few of them had initiated discussions with their own children.

The key was to first reach them and equip them and arm them so that they felt comfortable when the youth campaign started and their children perhaps came to them, they could respond and were savvy and knew about the drugs and had the right language. I do not know if anyone actually saw the parent campaign that ran last year, but that was the whole theme. You are learning a whole new language.

Ms. Sabiston went over some of the results, and they were incredibly positive, with many parents downloading and ordering the booklet. The lesson learned worked here in Canada. That is why we went that way.

**The Chair:** Could you provide us with a copy of the booklet?

**Ms. Hazel:** Absolutely.

**Senator Wallace:** I have one other question, if I could, and I will direct it to the three of you.

The issue of treatment is obviously of extreme importance and is necessary to be part of this comprehensive approach, but my understanding is that treatment is fundamentally a provincial matter. How does your department and perhaps other federal government departments deal with treatment?

**Catherine MacLeod, Senior Director General, Regions and Programs Branch, Health Canada:** It is true that treatment is primarily a responsibility of the provinces and territories. However, under the National Anti-Drug Strategy, the federal government is providing funding to assist provinces and territories on several fronts through our Drug Treatment Funding Program.

One part is on the system side, and that is funding that is dedicated to assist in sharing best practices and focus on performance of systems that are implemented across the country in various jurisdictions.

The second part is more on the service side. This is really to help with gaps that those other jurisdictions are experiencing, so services to youth with a focus on early prevention and intervention, assisting with everything from additional counsellors off-hours when youth are out and about and can take advantage of services and all sorts of things, depending on the province and the jurisdiction. That is where we are supplementing and working with our colleagues at other levels of government.

**Senator Wallace:** It is reassuring to know that there is that close coordination with the provinces around Bill C-15, but in other ways as well, to make as effective as it can be. That is very good. Thank you for that.

**Ms. Sabiston:** My colleague is correct, but I would add that the federal mandate does include treatment services for working with Aboriginal populations, as well as those services provided by correctional services. We do have a small direct mandate, but it is primarily the provinces and territories.

(French follows, Senator Carignan, J'aimerais dans un premier temps vous signaler)

(après anglais, but it is primarily the provinces and territories.)

**Le sénateur Carignan:** J'aimerais dans un premier temps vous signaler comment je suis impressionné par la qualité et la structure du plan qui a été mis sur pied, qui a été lancé, si j'ai bien compris, en octobre 2007, par Santé Canada. Comme je le dis souvent, à situation ou à problème complexe, solution complexe. Et je pense que le plan a identifié un problème complexe et a mis de l’avant des solutions de différents niveaux. Donc c'est très impressionnant.

Mais je vais vous poser une question étant donné qu'on est dans la semaine de la prévention. Santé Canada a publié une étude récemment sur ce qu'elle a trouvé comme produit de drogues inexactes et sur les formes également qu'elles sont faites. C'est malheureux que le sénateur Baker ne soit pas ici parce qu'il donne souvent l'exemple d'une petite pilule d'ecstasy et comment c'est si peu. Il laisse sous entendre que c'est peu par rapport à d'autre chose. Je comprends qu'il ne minimise pas quand même l'impact de l'ecstasy.

Pouvez-vous nous dire ce que vous avez trouvé dans la fameuse petite pilule d'ecstasy, tant au niveau de son contenu que de sa forme si attrayant pour amener les jeunes à la consommer?

(Mme MacLeod: There was an announcement last week in Quebec)

(anglais suit in TAKE 1800)

 (Following French in 1750 — Senator Carignan — ...si attrayant pour amener les jeunes à la consommer?)

**Ms. MacLeod:** There was an announcement last week in Quebec, where the Drug Analysis Service co-announced with law enforcement agencies the results of a study where we analyzed, as you suggest, some of the pills that are out there.

Not surprisingly, we found the pills contained products quite different from what was expected. As a matter of fact, over 50 per cent, in most cases, were not what they were being sold as; if the pills were being sold as ecstasy, we found it contained methamphetamine and other products which could be more dangerous and riskier.

I have written information in the form of a press release from that report which I would be happy to share with the committee. There is a false impression sometimes in that what is being sold is in fact quite different when we do the analysis of the drug.

**The Chair:** Please provide material, or the reference for the material, to the clerk.

**Senator Campbell:** Thank you for coming today. I must tell you I am a huge fan of your organization. In 2003, we got the supervised injection site in Vancouver as a result of your organization. I understand and respect what you do.

The government has invested $102 million in the public safety portion of the Enforcement Action Plan. Is that over five years?

**Ms. Sabiston:** All the monies associated with the National Anti-Drug Strategy are over five years.

**Senator Campbell:** Also, I notice that, at one time, Health Canada had prevention, enforcement, treatment and harm reduction. We seem to have lost the harm reduction. Where did that go?

**Ms. Sabiston:** That is not a pillar of the National Anti-Drug Strategy. The government is very mindful that vulnerable individuals who take drugs illicit and are addicted require treatment and we hope to prevent it in the first instance.

You are correct to note that it is no longer a pillar, but it is certainly inherent in our prevention and treatment activities.

**Senator Campbell:** That is all well and good in a perfect little world, but, unfortunately, we have thousands, perhaps hundreds of thousands, addicted people. We clearly will not prevent them. One would assume Health Canada has based their evidence on peer and pragmatic information and proper evidence. We will clearly not «jail» our way out of this.

Twenty million dollars a year will hardly come close to addressing the treatment.

What do we do with these people while they are out there using and sharing needles, spreading AIDS and HIV, not using condoms, et cetera; the whole run of harm that comes through? What do we do about those people until we reach that perfect world?

**Ms. MacLeod:** I would be happy to comment. As Ms. Sabiston indicated, it is not within our purview to discuss the actual pillars of the strategy, per se, but we would be happy to tell you about some of the complementary work we are doing in the Downtown Eastside —

**Senator Campbell:** Before we go there, I appreciate the work happening there. I know the work you are doing in the Downtown Eastside and I think it is great. However, explain to me why it would not be in your purview —

**The Chair:** Let me ask a question.

**Senator Campbell:** Let me finish, please.

You are the director-general, so I would like to know why it is not within your purview to explain to us how we lost a pillar that was there for as long as I was in law enforcement, when I was a coroner, a chief coroner and as long as I was a mayor? We wake up and, all of a sudden, it fell off the table. I want to know what we will do for people who are affected by the harm. Why is it no longer under your purview?

**Ms. Sabiston:** The National Anti-Drug Strategy has three distinct pillars: Prevention, treatment and enforcement. The government has decided that those will be the pillars, and those are the pillars about which I would be able to speak to today, around which the monies are allocated.

**Senator Campbell:** That is all I really wanted to know.

I have two more things. I am really interested in this; I am fascinated by prevention. I think that is the key to this whole thing.

When you looked at these processes and these different prevention models, did you look at D.A.R.E.?

**Ms. Sabiston:** I have definitely heard of the D.A.R.E. prevention model, but the monies at the moment are allocated to our National Anti-Drug Strategy which my colleague was speaking about. Under our community-based programming, we also do offer some prevention via community-based projects funded through that. That is the area of our prevention support.

**Senator Campbell:** D.A.R.E. was not one of the programs you analyzed for its effectiveness?

**Ms. Sabiston:** I am not personally aware of that, no.

**Senator Campbell:** Could you send me a document or something that says which programs you looked at and how you were able to gauge their effectiveness?

**Ms. Hazel:** Absolutely; I would be happy to.

**Senator Campbell:** We were speaking about this last point with regards to the ecstasy pills. When you buy drugs off the street, one of the difficulties is they do not come with the Health Canada stamp attached to it.

When you do the prevention with the parents, is this one of the themes that you are using; namely, that there could be anything in that pill and it could be cut with anything?

**Ms. Hazel:** Absolutely. That is something that came out strongly in our research. In our ad, we show kids saying different names like «juicy» and you will see it is a mix of ecstasy and meth. We are really trying to enforce the notion that you do not know what is in a drug. On the website, we show the labs where they are created and conditions under which they are created. It is meant to show it is an untrustworthy industry in that you do not know what you are getting.

It is a strong theme that came out. It was a prevention message.

**Senator Campbell:** The other thing that I am interested in is the precursor control. Precursors, in and of themselves right now, are not illegal.

**Ms. Sabiston:** No. Under the precursor regulations, we monitor for compliance to ensure that legal companies, such as the large pharmaceutical companies and/or chemical companies, are not diverting to the illicit market. That is the role of Health Canada. We basically treat the legal market.

**Senator Campbell:** I know I sounded harsh, but I appreciate the role you are playing here. Thank you.

**The Chair:** I have a supplementary. As I listened to you and read your brief, I would like a little clarification. Under the Treatment Action Plan — the $100 million over five years — you set out four bullets under which the plan operates, and you talk about the Drug Treatment Funding Program. Then you say:

The Government of Canada is also dedicating funds to the Downtown Eastside. . . .

There is a similar formulation a little later for First Nations communities.

Is that just a quirk of writing and those programs also come under the broad treatment action plan — the $100 million — or is that separate, over and above?

**Ms. MacLeod:** The funding for the Downtown Eastside project is one of three streams of funding under the Drug Treatment Funding Program. The first is systems; the second services; and the third is the special work we do in the Downtown Eastside.

**The Chair:** Is the funding each year through the National Native Alcohol and Drug Abuse Program separate and has that been stable and unchanged?

When you are sending us numbers, could you include those as well, please?

**Senator Milne:** I also want to congratulate you on what you are able to do with the monies that you receive because the amount seems like a drop in the bucket when you have to deal with this massive problem of addiction. That leads me back to Senator Campbell's concerns about the Downtown Eastside and the safe injection site there. That is a site that was funded, originally, by the Liberal government and I understand it has proven to be successful. In fact, last year the Conservative government had Professor Neil Boyd, at Simon Fraser University, look into it. He said last year that his research showed the Vancouver site has not contributed to drug dealing and other crimes in the city's Downtown Eastside and that there has been a modest decline in drug use on the streets.

Then Health Minister Tony Clement said that the government is keeping an open mind about Insite. What is the government's current attitude toward continuing to fund Insite and about the increasing demand for other such sites in Montreal and Toronto?

**Ms. Sabiston:** To back up a bit, the National Anti-Drug Strategy focuses on reducing and preventing the use of illicit drugs, treating those with drug dependencies, and combating the illicit production and distribution of drugs. Health Canada clearly recognizes that injection drug users need assistance and that is why our focus is on prevention and access to treatment leading to full recovery from drug addiction and prevention. Last year, as my colleague said, we devoted additional funds — specifically, $10 million — to Downtown Eastside Vancouver. In terms of the safe injection site and your question, it is before the courts and, therefore, it would be inappropriate for me to discuss it in any manner here.

**Senator Milne:** What about sites for Toronto and Montreal? That is not before any courts.

**Ms. Sabiston:** I would argue that they are linked and I would have to defer that question. Thank you.

**Senator Campbell:** I should make it clear that the federal government did not put any money into Insite. The only money that the federal government put into Insite was to run the research. The City of Vancouver signed a contract and, at the end of that time, it ended. Vancouver would have liked more, but that was fine.

I stress that this is a health care issue, and Insite is a health care clinic that is completely funded by the provincial government. I will not ask you any questions because I understand it is before the courts. We keep talking about the federal government and Insite when, in fact, it was simply research money. The rest was founded as a health issue.

**Senator Milne:** I thank Senator Campbell for correcting me, but it leads me back to the same question. Apparently, it is working. I would like to know what we are doing about potential sites in Toronto and Montreal where there is an increasing demand from organizations concerned about this.

**Ms. Sabiston:** At the moment, the safe injection site in Vancouver is before the courts.

**Senator Milne:** It is the only one in Canada in spite of the facts from last year's study.

**The Chair:** Senator Milne, the witness has given the answer that she feels able to give to that question. Perhaps a letter to the minister would be appropriate, given that this is heading into the realm of high policy decisions.

**Senator Wallace:** In her comment that the monies are being directed by the federal government toward this effort, Senator Milne, used the words «a drop in the bucket.» Could the witnesses give us a sense of what percentage change in funding has occurred under the National Anti-Drug Strategy from three or four years ago? Has it been a drop in the bucket or a sizeable increase?

**Ms. Sabiston:** I would not want to put a label on the magnitude. I would appreciate the opportunity, with the request made for funding, to show that as well as illustrate the change in funding.

**Senator Wallace:** I would appreciate that.

**The Chair:** My kneejerk response when Senator Wallace put his question was to conclude that instead of one drop in the bucket there are several drops but they are still just drops in the bucket.

**Senator Watt:** I am the only Inuk senator who tries to speak for the people in the North — Nunavik, Nunavut and Labrador. I am very concerned about what happened to the First Nations and the Metis. I read through your presentation and listened with great care to what you said this evening. There was a bit of confusion on page 5, starting at:

In addition, Health Canada provides funding each year through the National Native Alcohol and Drug Abuse Program to support 54 treatment centres as well as drug and alcohol prevention services in over 500 First Nations communities across Canada.

I would imagine that you are talking about only First Nations in that paragraph. Later, you said that under the Treatment Action Plan of the National Anti-Drug Strategy, Health Canada is working to increase access to improve the quality of addiction services for First Nations, Inuit youth and families in Canada. Could you give me some clarification on that point? This has confused me for some time and I would like to know precisely what we are talking about. I am sure that Inuit are listening.

**Ms. Sabiston:** I do not have with me the breakdown of allocation of monies vis-à-vis the North and First Nations communities. I could clarify that in the document that we provide around funding.

It is unfortunate that my colleague who works in the First Nations area was unable to appear today. Otherwise, we would be able to answer that question more directly. I am not an expert in that area, I apologize.

**Senator Watt:** Your colleague spoke about getting parents involved in dealing with teenaged youth. I must say that I differ in opinion on that. At that age, they begin to not listen to their parents, at least in my area of the Arctic. When youth reach the age of 14 years or so, they are capable of handling themselves and do not have to depend on anyone else. We normally try to educate children at an early stage on matters of survival, which is a concern that they keep in mind at all times. What happens in the case of someone younger than 14 or 15 years of age? I have heard from a reliable source that even at the ages of 7 to 12 years, they are being fed with not only marijuana but also hard drugs. It is beginning to tear apart our small communities. What can be done about that problem?

**Ms. Hazel:** That is a good but tough question. With a mass media campaign like the one that we are running, we try to go for the national average age of beginning illicit drug use. With any campaign, and especially campaigns of this nature, we find that if we design an ad and target it at a youth who is 13, younger youth sort of look up to that and it influences them. Even though we are saying that the target group is 13 to 15, there is huge spillover into that younger age group. Certainly, the material that we are creating, the website we are creating, will be used by that younger age group and will be effective. We will definitely test it with a younger audience too.

It is easier to appeal to a younger audience. Older children tend to look and think that is too young for them and it does not appeal. We are expecting that spillover.

**Senator Watt:** The fact that you targeted that age group, 13 to 15, does that have anything to do with the fact that under the Criminal Code now, they can be charged at the age of 14? Did that have anything to do with that decision?

**Ms. Hazel:** No, that did not.

**Senator Watt:** Could I go to a bigger picture? This probably will help me to better understand what we are doing here in terms of what we are trying to achieve.

I have heard the witnesses being questioned by various senators. I tried to limit my involvement as much as possible because what do I know of this, other than what I know about what is going on in the North.

What bothers me here is that we talk about the high end and we also talk about the low end. I understand that. I understand what it means by high and low end. If this bill goes through, I would imagine that both the high end and low end will be the victims, even though this law is supposed to focus on the high end. Is that correct?

**The Chair:** High-level trafficking and production?

**Senator Watt:** Yes, high-level trafficking. The low end, I imagine, will become victimized much more than the high end. That bothers me, because there is no clear distinction or definition in terms of how one deals with that middle ground.

Do you have any answers on that aspect? Up until now, I have not heard any clear suggestions coming from the witnesses or in the questions on that aspect. I am not sure whether I have made myself clear on that.

**Ms. Sabiston:** I believe you might be outside of my expertise as an official of Health Canada. Our role is to look at prevention of the use of illicit drugs and the treatment of the addiction. In terms of the mandatory minimum penalties themselves, it would be my Justice colleagues who would be better able to answer your question.

**Senator Watt:** Even though your presentation highlighted the enforcement action plan?

**Ms. Sabiston:** Yes; Health Canada's role in the enforcement action plan is quite small, though I believe important. We inspect the large companies in Canada that have, import or sell the precursor chemicals — like methamphetamines, et cetera — that potentially could be turned into an illicit drug. We monitor how they control them, the security measures they put in place to ensure they are not diverted to the illicit market. We have a small but important role; but, again, it is dealing with the legal market.

**The Chair:** Our next witnesses will be from Justice Canada and they may be able to help.

**Senator Joyal:** And you have $100 million for that?

**Ms. Sabiston:** Not for Health Canada. Our monies are quite small. My colleague would like to add something on our drug analysis services.

**Ms. MacLeod:** Just to add on the enforcement side, we are also responsible for the drug analysis service for law enforcement agencies across the country and clandestine lab investigations. We provide support there.

**Senator Watt:** For the sake of the audience, being only the Inuk senator here, I am trying to voice my opinion on behalf of my people.

In your presentation, the fact that you said you do not have any statistics to go by in dealing with the Inuit, am I to believe and expect that there will be treatment coming down the pike in each one of our communities in a similar way as you have highlighted for the 500 First Nations communities?

**Ms. MacLeod:** Our engagement with Northern communities is on two fronts. Under the Drug Strategy Community Initiatives Fund, we have dedicated a portion of the resources for the Yukon, Northwest Territories and Nunavut. Also, under the treatment program, we are in negotiations with Nunavut and looking forward to receiving a proposal from them.

**Senator Watt:** From Nunavut?

**Ms. MacLeod:** Yes.

**Senator Watt:** Not from Nunavik? There is a difference between Nunavut and Nunavik. I am from Nunavik, which is a part of Quebec.

**Ms. MacLeod:** To clarify then, from every jurisdiction, we do have either proposals that have been submitted for funding or negotiations to receive such proposals under the treatment program.

**Senator Watt:** Is that being negotiated with the provincial government?

**Ms. MacLeod:** Yes, that is correct; provincial and territorial governments.

**Senator Joyal:** I have two sets of questions; my first one would be on page 4 of your presentation, if you want to refer to it. At the last tier of the page, you describe the plan in four bullets. Since you have agreed to provide us with figures in terms of provinces and territories, could you provide us with figures on the various monies allocated to each of these four bullets?

**Ms. Sabiston:** Could you clarify? At the bottom of my page 4, that is not what I have.

**Senator Joyal:** The plan first enhances treatment and support for First Nations and Inuit people; provides treatment programs for young offenders; enables the RCMP; supports research. For instance, for «supports research on new treatment models,» I am you are sure you have specific figures on that; you distribute the money to some projects so you would have the money figures for that.

On «enhances treatment and support,» I understand that you deliver services — I would expect on behalf of the Government of Canada for the Aboriginal people because they fall under federal jurisdiction. Unless you have an agreement with a province or with a territory, you are directly involved in the delivery of treatment services. Could you give us the figures and where that money is spread around the territories?

From what I understand, there is a lack of treatment centres among the Aboriginal people; there is not enough money for the demand and to deal with the increase of consumption of drugs among the Aboriginal population. It is important to understand what you say on page 5, that you support 54 treatment centres in over 500 First Nations communities across Canada. I would like to understand how that works — what is the amount of money that is distributed and how much has it increased over the years — to put it in perspective, as was said by Senator Wallace.

It seems to me that if we have a major problem in the Aboriginal communities, it is where that money should be directed.

My next question is about the evaluation of the programs. In your presentation on page 3, you say «a May 2009 evaluation indicated that the campaign reached its target audience.» What specific campaign have you devised for the Aboriginal people?

As you know, there is specific way to approach a campaign for Aboriginal people as opposed to for people in the south, to put it that way. It is important that if you devise a campaign of prevention, it must be designed to speak to the Aboriginal people, since the problem of youth and drugs in that population is pretty acute, as I understand. In fact, it is more acute than in other populations in Canada, according to the figures I have seen. What is the specific program or campaign of prevention that you have devised for the Aboriginal people?

Secondly, do you have an agreement with the Assembly of First Nations or the representatives of the Aboriginal people, the Inuit, the Metis or the Indians, to target those peoples and to develop a partnership with them in a way that the community is involved, not only through governments but through the representatives of the Aboriginal people?

**Ms. Sabiston:** I will answer your first question, which was more information on how the monies are distributed in the 54 treatment centres and over 500 First Nations. I have already committed to provide that information to the committee, and I will do so. I do apologize again. If we had known it would be a particular interest, we would have made sure the individual responsible for that particular aspect was with us today. Again, it is my oversight.

**Ms. Hazel:** On the mass media campaign, we are guided by an advisory committee that is made up of over 10 different NGOs. One of them is the National Native Addiction Partnership Foundation. Given it is a mass media campaign, it cannot be tailored for specific audiences, but working with that group and our own department in the First Nations and Inuit health branch who work with the AFN and ITK, the idea is to ensure that the broad messaging we develop would still be compatible with First Nation and Inuit communities and would not be against or somehow not fitting with what they would say. The campaign is more based toward a mainstream audience. The idea is the community initiative funds have more tailored programs for specific communities.

**Senator Joyal:** The federal government is responsible. It has a fiduciary duty for the Aboriginal people. I do not dispute the objective for the whole of the Canadian population, but in terms of the Aboriginal population, we have a specific responsibility. When I say «we,» I include myself as a parliamentarian. It seems important that if we want to deliver proper services to the Aboriginal community, we have to be sensitive to the fact that they might expect an approach that is adapted and adjusted to the reality of Aboriginal youth. As you know, they are one of the prime victims of drug abuse in Canada and end up in prisons. Eighty per cent of the inmates in Saskatchewan are Aboriginal people. I would say that, in Saskatchewan, you have to be conscious that if you want to do the prevention campaign that you propose, which we agree is a good thing, then you have to be able to measure that it is received by the people at the other end with the right message.

**Ms. Hazel:** You are making an excellent point. The evaluation and the surveys we do are with the entire population. We pick up part of the Aboriginal population and make sure it is effective with them as well. In the imagery in our ads, for example, we do have First Nations. One of the youth who is in the ad is a First Nation youth. Much of the research we did around youth found that no matter where youth are, they are still using social media and web 2.0 and Facebook. We felt there was not the requirement to be specific around youth around this issue of prevention.

**The Chair:** Is the booklet that you have produced for parents available in Aboriginal languages, notably, Inuktitut?

**Ms. Hazel:** No. It is French and English only.

**The Chair:** I humbly suggest that you might consider having it translated. Particularly in the generation of parents, there are unilingual Canadians who do not speak English or French.

**Senator Joyal:** That is exactly the aspect that I was trying to explain. We have a special responsibility with the Aboriginal peoples, and we have to approach them in the context of being understood by them. Sometimes, to be understood by them, the language use is important, and the way to depict the reality is different. It seems to me that it is a key, essential element if we want to attack the problem when it presents itself in its most acute terms, which is the Aboriginal population.

Ms. Sabiston, you have not answered the request that we want to have a breakdown of the various aspects of the Treatment Action Plan. I think it is important for us to measure it.

**Ms. Sabiston:** I can sense that there is a lot of interest in that. We will make sure you get the information.

**Senator Joyal:** My last question is about the fact that the harm reduction pillar has been abandoned. Was it following an internal evaluation of the department that you came to the conclusion that that aspect of your initiative should be abandoned, or how did it come about that that aspect has been abandoned? Was it a government decision taken at a level other than your level? Did you, being responsible for the implementation of the program, come to the conclusion that it is not meeting its target and is no longer needed and the value for money is not there, and did you decide to put it aside or to abandon it? Was it taken as a policy decision?

**Ms. Sabiston:** It was a decision of the government in announcing the National Anti-Drug Strategy that there would be three primary pillars: prevention, treatment and enforcement. That is the third time I have said that at the meeting today.

**Senator Joyal:** I want to understand it clearly. It is one thing for a department to, on a regular basis, review a program and make conclusions about its effectiveness or not, or the fact that it has run its time. It is another thing to decide, for X, Y, Z principles, that that aspect of the program should be abandoned. That is what I am trying to understand from you, because you have not been clear enough, in my opinion. I apologize to you. You have done the evaluation and, on the basis of that evaluation, the government has concluded that that should be abandoned.

**Ms. Sabiston:** Governments like to put their stamp on the words that are in a strategy, and those were the three words that were chosen by the government. If you look below those names — prevention, treatment, enforcement — there is the idea that people need to be prevented from taking up illicit drugs, and I believe the idea of treatment and helping the most vulnerable is still there.

**Senator Joyal:** But not as a specific heading that we can measure.

**Ms. Sabiston:** I would agree it is not a headline, but I do think that the activities we carry out are helping addicts to get off of their addiction.

**Senator Joyal:** I will not take you further than that, but I have my own perception about this. Thank you.

**The Chair:** Thank you all very much. We look forward to receiving that detailed information that we have asked for, and the sooner the better.

We are pleased to welcome our last panel of witnesses.

(French follows — The Chair: De Sécurité publique Canada, nous accueillons...)

 (après anglais)(La présidente)

De Sécurité publique Canada, nous accueillons M. Daniel Sansfaçon, directeur des politiques, de la recherche et de l'évaluation au Centre national de prévention du crime ;

(Chair: Mr. James Bonta, Director, Corrections Research, Corrections…)

(anglais suit)

 (Following French — The Chair — ...national de prévention du crime;)

Mr. James Bonta, Director, Corrections Research, Corrections Research Unit; and Mr. Guy Bourgon, Senior Research Officer, Corrections Research Unit. From the Department of Justice Canada, we have Ms. Elizabeth Hendy, Director, Policy Implementation Directorate; Mr. Paul Wheatley, Director, Policy Implementation Directorate; and Ms. Kelly Morton-Bourgon, Senior Researcher, Research and Statistics Division.

Welcome, all of you. We are grateful for you for taking the time to prepare and to be here to help us on our way.

I am assuming that Mr. Sansfaçon will begin and that Ms. Hendy will follow him.

(French follows — Daniel Sansfacon (up): Honorables sénateurs, merci beaucoup. Le fait que...)

(après anglais)

**Daniel Sansfaçon, directeur, Politiques, recherche et évaluation, Centre national de prévention du crime, Sécurité publique Can:** Honorables sénateurs, merci beaucoup. Le fait que le Centre national de prévention du crime commence cette présentation c'est un peu dire qu'on remonte dans le temps, dans l'histoire, puisque le Centre national de prévention du crime a financé effectivement les premiers projets pilotes de tribunaux de traitement de la toxicomanie au Canada ; c'était entre 1998 et 1999 pour Toronto et de 2001 jusqu'à 2005 pour Vancouver. Dans la foulée du financement de ces projets pilotes, on en a aussi financé les études d'évaluation. Je crois d’ailleurs que, parmi les documents qui vous ont été distribués vous pourrez voir les sommaires de ces deux études d’évaluation.

Le Centre national de prévention du crime, qui relève de Sécurité publique Canada, contribue à l'élaboration et à la diffusion de connaissances sur les interventions efficaces pour prévenir la délinquance très largement et pour prévenir notamment, spécifiquement, la délinquance liée au phénomène de toxicomanie. C'est suite à l'établissement de tribunaux de traitement de la toxicomanie aux États-Unis dans les années 80 qu'avait émergé l'idée de tester au Canada des projets de tribunaux de traitement. Cette idée de tester s’est présentée d’abord à Toronto puis à Vancouver. S'agissant effectivement d'un organisme — le Centre national de prévention du crime — qui finance des projets pilotes à durée limitée, d'un maximum de cinq an, on n’est pas là pour donner du financement sur le long terme ; on s'assure, la plupart du temps en tout cas, de mener des études d'évaluation. Elles vont porter au moins sur deux choses, et parfois trois: d'abord les processus (comment cela marche) ; deuxièmement les impacts (ce que cela donne comme résultat) ; puis troisièmement, dans certains cas et ce fut le cas pour les études à Toronto et à Vancouver, on a aussi regardé les aspects relatifs aux coûts et, pour partie, aux bénéfices de ces interventions.

(Mrs. Sansfaçon: What did we find through these two evaluation studies?...)

(anglais suit)

(Following French — Mr. Sansfacon cont'g — ...aux bénéfices de ces interventions.)

What did we find through these two evaluation studies? Obviously, as with any evaluation study, there are limitations, and I will return to these in a few minutes. First, we found that retention rates for those two drug treatment courts were relatively low: 15 per cent in Toronto did graduate — that is, they completed the program — compared with 15 per cent in Vancouver. The remainder of the participants either withdrew voluntarily, were discharged by the Crown or were asked to leave outright.

The level of need of participants was a determining factor in their continued participation, with those with more moderate needs generally showing a higher rate of completion. Said differently, it was found in these two projects that clients generally had more serious problems with substance abuse, as well as criminal behaviour, than might have been originally expected, leading to this low retention rate.

The programs were helpful, at least from the point of view of the participants, on a number of fronts, including generally increasing their quality of life, as well as their self-esteem, self-control and well-being. It also helped them reduce their dependency, as well as criminal activity, during the intervention period itself. In Toronto, for example, graduates said the project helped them reduce their drug dependency significantly.

The programs were less successful in so far as other indicators might be concerned; for example, assistance with housing, financial and vocational counseling.

In terms of impacts, in Toronto, we found, for example, that graduates were found to be in breach of court appearance 25 per cent of the time compared to between 50 and 90 per cent for participants who were not engaged or who had been eventually expelled. In 96 per cent of the cases of graduates, it helped them reduce their involvement in criminal activity. All groups had fewer convictions at the time of the first project follow-up, and again at the end of the first, second and third year follow-ups of the drug treatment court projects in Toronto. Less than 15 per cent of the graduates reoffended post-project — one year after — compared to 90 per cent of the comparison group.

In Vancouver, we found, for example, that 52 per cent of all participants had new charges, and 24 per cent new convictions, within six months after their participation in the program. Eighty-eight per cent tested positive for heroin, cocaine or other drugs within six months. However, these percentages were lower with those who successfully graduated.

(French follows in 1850 — Mr. Sansfacon cont'g: En ce qui concerne les coûts, on a noté...)

 (après anglais)(M. Sansfaçon)

En ce qui concerne les coûts, nous avons noté, notamment à Vancouver — car nous avons fait une analyse plus fine des coûts à Vancouver — que ceux-ci s'élevaient à quelque 4 800 $, chiffre arrondi, par participant et diminuent lorsque le nombre de participants augmente. Par contre, sur le plan de la rentabilité, le programme de traitement s'avère parfois plus dispendieux que les interventions traditionnelles. Évidemment cela dépendra de ce que l'on mesure et comment on mesure l'ensemble des interventions qui sont faites.

Je le disais tout à l'heure, pour n'importe quelle étude d'évaluation il y a un certain nombre de lacunes, de limites. Une équipe de chercheurs a notamment réexaminé les deux études d’évaluation menées pour le Centre national de prévention du crime et a observé, et c'est effectivement le cas, que le fait que ce ne soient pas des études à contrôle « randomisé » fait en sorte que la capacité d'attribution des effets observés aux interventions est effectivement limitée. On n'est pas véritablement en mesure de dire que c'est effectivement en raison de ces interventions que les observations qu'on a faites étaient effectivement avérées. Dans les deux études, les caractéristiques des groupes témoins étaient aussi différentes de celles du groupe expérimental, ce qui limite la capacité d'attribution des résultats observés.

Dans les deux cas, les études ont semblé indiquer que les expérimentations, les programmes, étaient, somme toute, peu rentables, en tous cas eu égard, encore une fois, à ce qu'on était en mesure de mesurer et d’observer. Ces auteurs concluaient, à la lumière de cette analyse, qu'il serait probablement prématuré de mettre en place d'autres tribunaux de traitement de la toxicomanie tant qu'on n’aurait pas fait des essais contrôlés et « randomisés ».

Les auteurs de nos études d'évaluation arrivaient, eux, à des conclusions différentes, notamment suggérant plutôt que les études d'évaluation qu'on devrait mener sur les programmes de traitement de la toxicomanie dans les tribunaux devraient plutôt s'intéresser d'abord et avant tout au processus, autrement dit comment ça marche, et donc examiner notamment la prestation des interventions plutôt que de chercher à faire nécessairement une étude « randomisée ».

Au total, malgré ces diverses lacunes, pour le Centre national de prévention du crime nous avons tiré quelques leçons importantes de ces études d'évaluation des deux projets pilotes. Premièrement, que la collaboration entre les tribunaux, le personnel responsable du traitement et la collectivité est essentielle au succès des interventions. Ainsi, par exemple, à Toronto, le fait que le centre de traitement de la toxicomanie et de santé mentale possédait une longue expertise en la matière et une légitimité bien avérée a contribué nettement au succès de l'intervention thérapeutique. Nous avons aussi observé deuxièmement que les encouragements et les récompenses données aux participants, surtout les remarques positives provenant des juges des tribunaux sur leurs progrès, semblent être plus efficaces pour assurer leur maintien dans le programme de traitement que les sanctions plus sévères, notamment le retour en incarcération.

Troisièmement, et mes collègues du ministère de la Sécurité publique Canada en parleront certainement, comme c'est généralement le cas lors des interventions correctionnelles, on devrait, dans le cadre du traitement des délinquants qui se présentent devant les tribunaux de toxicomanie, tenir compte des risques qu'ils présentent et de leurs besoins. C'est le principe risque-besoin qui s'applique dans ce cas-ci aussi.

Quatrièmement, il est effectivement important d'évaluer continuellement la situation, les besoins des participants, et de prendre en compte d'autres besoins, notamment l'accès au logement et à l'emploi dans le cadre de ces interventions thérapeutiques.

En somme, pour le CNPC, ces deux interventions étaient suffisamment prometteuses pour qu'on les considère comme telles et que l'on fasse la recommandation que ce programme soit repris de manière plus ample et poursuivi par d'autres acteurs. C'est effectivement le cas, depuis lors, au ministère fédéral de la Justice. Je vous remercie.

(Ms. Hendy: I am the director of the policy implementation directorate…)

(anglais suit)

 (1850 — Following French by Mr. Sansfaçon: ... de la Justice. Je vous remercie.)

**Elizabeth Hendy, Director, Policy Implementation Directorate, Department of Justice Canada:** I am the director of the Policy Implementation Directorate within the Programs Branch of the Department of Justice. I am responsible for several transfer payment programs administered by the Department of Justice, one of which is the Drug Treatment Court Funding Program.

Recognizing the link between drug use and crime, the Drug Treatment Court Funding Program was established in 2005. It is a policy partnership between the Department of Justice and Health Canada that enables federal justice and health officials to test horizontal approaches for addressing the challenges created by drug-addicted offenders in the criminal justice system. The objectives of the program are to promote and strengthen the use of alternatives to incarceration for drug-addicted offenders; and to build knowledge and awareness among criminal justice, health and social service practitioners, and the general public about drug treatment courts. It is also to collect information and data on the effectiveness of drug treatment courts.

As a component of the National Anti-Drug Strategy Treatment Action Plan, the Drug Treatment Court Funding Program supports six drug treatment court pilot sites operating in Toronto, Vancouver, Edmonton, Winnipeg, Ottawa and Regina at an annual budget of $3.6 million.

Drug treatment courts operate within the criminal justice system, combining judicial supervision with substance abuse treatment as a concerted effort to break the cycle of drug use and criminal recidivism by repeat offenders whose crimes were motivated by drug addictions. Persons charged with drugs offences are not sent automatically to a drug treatment court. For example, drug treatment courts will not accept violent accused or persons who are involved in commercial drug trafficking. If the accused has used a young person under the age of 18 years in the commission of their offence, or if they are charged with a residential break and enter, they will not qualify to enter into a drug treatment court.

Participation in a Drug Treatment Court Funding Program includes court attendance of up to twice per week, random and frequent drug testing and attendance in a treatment program from daily to weekly as participants progress through the program.

Attendance at court allows a participant to inform the court of his or her progress and allows the court to reward compliance, sanction non-compliance or impose new conditions or interventions to help participants to break the cycle of crime and addiction. DTC clients continue to participate in the program typically for more than one year until they meet the criteria for graduation. To graduate, they must achieve a prescribed period of abstinence from drugs for three months, on average, while abiding by all conditions and establishing stability in the community — such as stable housing and employment. Not all DTC clients graduate.

Some will be terminated from the program for incurring new charges, being dishonest with the court, repeatedly not complying with conditions, or failing to attend treatment or court. Drug treatment courts are aimed at reducing the harm that people cause to themselves and to others through their drug use and at reducing the risk that these individuals will continue to use drugs and, thereby, come into conflict with the criminal justice system.

The pilot sites supported by the Drug Treatment Court Funding Program require strong collaboration between legal and health professionals at the local level. The Drug Treatment Court Funding Program does not specify a model for the pilot sites to follow. As a result, each pilot site has its own unique characteristics taking into account the needs of the offender population in that particular city.

As mentioned, another objective of the program is to build knowledge and awareness among stakeholders and the general public about drug treatment courts. Efforts in this regard have included support provided to the Canadian Association of Drug Treatment Court Professionals for national conferences in 2006 and 2008, as well as round table events in 2007 and 2009. We also support an electronic bulletin board that facilitates the exchange of information, best practices and lessons learned among Canadian drug treatment court pilot sites.

Finally, we focus efforts on national data collection as we implement the Summative Evaluation Recommendations. As part of ongoing management of the program, Justice Canada is committed to further review an evaluation as we determine the effectiveness of this innovative approach to dealing with drug-addicted offenders in the criminal justice system.

As the majority of the pilot sites have been operating for less than four years, it is not possible at this time, based on data available and our knowledge of the program, to determine if drug treatment courts are the most appropriate criminal justice intervention for drug-addicted offenders nor if they are the most efficient and cost-effective way of dealing with substance abuse issues within the criminal justice system.

I will now ask my colleague, Paul Wheatley, Director of the Evaluation Division, to provide you with an update on the subject of evaluation.

**Paul Wheatley, Director, Evaluation Division, Department of Justice Canada:** Thank you for the opportunity to speak about the program. The evaluation was carried out last year as part of the performance measurement strategy for the program. The purpose of the evaluation was to assess the relevance, design, delivery, outcomes and cost effectiveness of the Drug Treatment Court Funding program.

The methodology used for the evaluation included a document and file review, an analysis of administrative data collected by the program, interviews with 50 key informants, case studies involving structured interviews with a sample of 22 program participants and a stakeholder survey with 88 completed responses.

Overall, the key findings are generally positive. The evaluation found strong support for the drug treatment court model among criminal justice professionals, addiction specialists and community and government organizations that have been involved with these specialized courts. By combining judicial supervision with substance abuse treatment, much of the qualitative evidence reviewed by the evaluation suggests that these courts provide an effective alternative to the traditional criminal justice system.

In terms of some of the other key findings, the evaluation concluded that the contribution agreements were effectively managed, although some of the non-governmental organizations experienced some financial challenges, especially early on in the program's development.

The program largely appears to be reaching many of its intended groups, including the economically disadvantaged. However, the highly structured nature of the program makes attracting some high-needs participants more challenging, including young adults, Aboriginal persons and women.

Another challenge identified by the evaluation is the shortage of housing options and treatment space being faced by some of the programs. A clear link can be established between the availability of adequate housing and the treatment outcomes for people living in high-risk environments.

In terms of outcomes for program participants, the evaluation found that out of the 429 program admissions during the 2006 to 2008 period, 44 per cent had either successfully graduated from or were still in a program as of September 2008. Of those participants who were admitted to the program and no longer in it, the graduation rate was 18 per cent.

However, because we only have two to three years of program operation to work with, these figures need to be interpreted with a great deal of caution. Actual long-term graduation rates will likely be somewhere between the 18 per cent short-term graduation rate and the 44 per cent short-term retention rate.

In terms of looking at longer term outcomes after leaving the program, the qualitative data collected did lend tentative support to the long-term effectiveness of the drug treatment court model. However, the very short time frame to observe and measure post-program criminal activity precluded us from carrying out a recidivism study as part of this evaluation. Despite that, we are continuing with a follow-up study to the evaluation to try to rigorously assess the impact of the program on participants' reoffending patterns after leaving the program.

**The Chair:** Thank you very much indeed. This is very helpful and useful information.

**Senator Wallace:** Thank you for the presentation at this late hour. It is interesting when I think back to what we have heard over the last few weeks, where there has been some discussion of the drug treatment courts, although much of the discussion has focused on the more punitive portions of Bill C-15, the incarceration provisions. It is good to have you here and hear on the treatment side, and the focus you bring to that. The treatment issues are a major component of Bill C-15 and Canada's National Anti-Drug Strategy.

In particular, the two departments represented here today, both Justice and Health are working very closely on issues relevant to Bill C-15. I think we can draw some considerable comfort from that.

I am not sure to whom I should direct the question I have for you, so I will leave it to each of you to decide who responds; perhaps more than one will wish to. Regarding the model that was originally developed for the drug treatment court, I see from your materials that it was based in part upon the U.S. experience. In developing this model, and as you are working your way through it to determine the effectiveness of it and how it may have to be adjusted going forward, what was the basis for the model we have now? What jurisdictions were examined and, in some significant ways, what was our drug treatment court system patterned after?

As well, within our country, at the provincial level, what type of health care officials or examples of health care officials or provincial involvement was there, if any, in developing the drug treatment court program we have today?

**Ms. Hendy:** I will attempt to answer your question. I was not in the position of director of policy implementation when the drug treatment court program was started. However, my understanding was that at the bequest of federal prosecutors who were frustrated with seeing repeat offenders coming through the system, there were pilot projects started in Toronto and Vancouver under the National Crime Prevention Centre.

Following our review of that issue back in 2005, the government decided to have a call for proposals and send out a request to interested parties, which would have involved treatment providers and court services. Of that, four additional sites were expanded back in 2005.

I can only assume that they looked to the U.S. to see how drug treatment courts were working in that country prior to the expansion. I cannot personally speak to that, however.

**The Chair:** Senator Wallace, this may or may not be a good point — there is never a good point to interrupt — but I have been remiss; apparently, Mr. Bourgon and Mr. Bonta had some opening remarks that they had wished to deliver and which might help us in our reflection. Would you be prepared to yield the floor to them?

**Senator Wallace:** I could not refuse, having cast the fly in the water like that.

**James Bonta, Director, Corrections Research, Corrections Research Unit, Public Safety Canada:** I will go first, senator. I guess this is the first time a public servant has been able to overturn a senator.

Thank you very much for the invitation. We are here for two reasons. One is that our research unit had conducted a large quantitative review of the drug treatment court literature. It is in the process of being published. It is right now out for translation, and Dr. Bourgon will speak to some of the findings from that review of 96 studies of drug treatment courts.

I am here to give you an introduction and background to what Dr. Bourgon will speak about. The bulk of my professional career as a researcher has been around the issues of offender rehabilitation — what works with offender rehabilitation. I have been studying this, along with my colleagues, for a number of years.

In the process, we have reviewed over 200 control evaluations of interventions with offenders. From those evaluations, we have tried to pick out the patterns as to what kind of treatments work better with offenders. They are not all equally effective. This is an important point to make because drug treatment courts do provide treatment services. You need to understand the quality of those treatment services.

In our review, and I will be brief on this, we have put forward three general principles that seem to be characteristic of the most effective treatment programs. We call them the risk, need and responsivity principles, and I will summarize them for you.

First, treatments tend to have a bigger impact if they are intense enough and matched to moderate and higher risk offenders. Point one is the matching of the intensity of service to the risk level of the offender.

The second principle is the need principle. The important point here is that when offenders come for treatment services, they will come to service providers with many different complaints and problems, but not all of those problems are related to their criminal behaviour. Some are, and some are not. For example, if an offender is complaining of extreme nervousness and high anxiety, addressing that need may not result in decreased criminality. I sometimes joke that, if anything, you may get a calm criminal as a result. Other needs are more directly linked to the criminal activity. This committee is studying the issue of substance abuse, which is what we will call a criminogenic need linked to criminal behaviour.

The third general principle is referred to as responsivity. I will try to explain that to the committee. There are many different treatment interventions out there. Dr. Bourgon and myself are psychologists. We are aware of all the various treatments. However, people do not respond to those treatments equally. We have treatment such as psychoanalysis and Rogerian therapy. We know that with criminal offenders, in general, the kinds of treatments that work best with them are what are referred to as cognitive behavioural treatments, treatments that try to change the thinking patterns of offenders, which in turn changes their behaviour.

If I move back and give you the results of our analysis of hundreds of studies, we find, first of all, not all treatment programs will follow those three principles. Some will only follow one, some two, and then there are some that follow all three principles. Those treatment interventions that follow all three principles, when delivered in the community, are associated with a 35 per cent reduction in recidivism, which is quite sizeable. As a reminder, not all treatment programs will do that.

If I could summarize before I turn over to Dr. Bourgon, good treatment is interventions that follow the principles of risk, need and responsivity. Dr. Bourgon will speak to some of these issues in their analysis of drug treatment courts.

**Guy Bourgon, Senior Research Officer, Corrections Research Unit, Public Safety Canada:** Following along the lines of Dr. Bonta, we were not the first meta-analysis. That is just a quantitative review of all the literature. In fact, three were already published before we went out and did this study. They ranged from saying that drug treatment courts can reduce reoffending from 7 per cent all the up to 14 per cent. That concerned us because we wanted a more reliable indicator of what is happening and how effective these courts are. One of the things that all of the researchers noticed is that the study or methodological quality of the evaluations is critical and poor, and that might explain why different researchers were coming up with different numbers.

In addition to that, we wanted to look at treatment quality. Dr. Bonta just talked about risk, need and responsivity. The treatments being provided by drug treatment courts vary considerably. In fact, in some States, when they actually report the number of clients going through the program, not all of them were actually getting treatment. There was a lot of variability in there. We wanted to actually look at all those studies quantitatively and put them together and try to evaluate whether study quality and treatment quality was affecting this to get a more reliable indicator.

Study quality is simply nothing more than not all evidence is of equal value. If you think of it that way, some studies might be just, “I will look at one person and another person and make a conclusion based on two observations,” whereas another study might look at 1,000 people and 1,000 other people and then make a conclusion.

We used collaborative outcome data committee guidelines, which is something published that allows one to evaluate a study and the methodological quality. You get four categories. You get the strong categories. This would be like a random clinical trial used to make drugs appropriate and legal. The evidence in those kinds of studies is strong. The scale goes from strong to good to weak to ones that are rejected. The rejected ones are studies where, just by reading it, regardless of the results, you look at it and say, «I am not very confident these results can be replicated if we do this again,» or, «I can put my finger on a bunch of bias in the study that actually makes the results not as meaningful and not worthwhile.»

We looked at these 96 studies, and we coded them on this particular scale. We found for the drug treatment court literature that about 75 per cent of all the studies did not even get beyond the rejected level. In other words, only 25 per cent were what we would consider acceptable methodological quality to consider to get a reliable indicator. In fact, when you looked at all these studies and if you were to actually put your finger on the bias, just from reading their methodology, you could see that about 80 per cent of them were biased in favour of finding a treatment effect. That tells you in a large nutshell that stuff that is being published in peer reviewed journals and research reports that the methodological quality of these studies was rather biased. We were left with approximately 25 studies that we deemed were at least weak or better. In fact, only two of them reached our rating of good, and none reached the rating of strong.

We put these 25 studies into our meta-analysis and got an 8.4 per cent reduction in recidivism, which was on the low end of the initial range. If you looked at just those two studies that were good, the result was a 4 per cent reduction in recidivism.

That is just one of the factors that we hypothesized that might be influencing the results. The other was the treatment quality, and Mr. Bonta gave you a nice overview. We reviewed all the documentation from these courts and these 25 studies to try to rate whether they adhered to any of these principles. We found that 44 per cent of those that met minimum criteria were not even adhering to any of the principles of effective treatment. Almost half of them would not even reach one of the principles of risk, need or responsivity, 52 per cent adhered to a single one, only one study adhered to two principles, and none adhered to all three. When you look at that, you have reductions of about 5.4 per cent for adhering to none —

**The Chair:** Could I just clarify? You say only one study adhered to the principles. Does that mean only one treatment court or only one study measured those principles?

**Mr. Bourgon:** All of them were rated on it, so I was left with 25 that met methodological criteria, and 44 per cent did not adhere to any of them.

**The Chair:** Is that 44 per cent of the courts or of the studies?

**Mr. Bourgon:** Of those studies. I think that is 11.

**The Chair:** They did not measure all three principles?

**Mr. Bourgon:** They did not adhere to those principles. We rated their adherence to those principles. In other words, those treatment programs —

**The Chair:** It is the programs, not the studies.

**Mr. Bourgon:** It is the programs themselves.

**The Chair:** The programs did not. I am sorry to be so thick about this.

**Mr. Bourgon:** You have drug courts and treatment programs. I understand.

**Senator Milne:** We have studies of studies.

**Mr. Bourgon:** Yes. Only 11 of those treatment services adhered to zero principles; 13 adhered to a single one; and only 1 adhered to two. None adhered to three. Is that clear?

**The Chair:** That is dreadfully clear. Thank you.

**Mr. Bourgon:** Just like Mr. Bonta's research, as the courts adhered to more and more of the principles, the effectiveness increased. That single study that adhered to two principles had 248 offenders, and its reduction was 31 per cent, which is right in line with what we know about general treatment literature.

The conclusions of all of this, besides that the methodology is very poor in this area, is that the treatment services need to be better improved to have a better bang for their buck. Our best guess at this point in time is that most drug treatment courts can expect between four and eight per cent reduction in reoffending. However, the caveat is that the methodology is still relatively poor for the area.

**The Chair:** I do apologize. I am interrupting upon interrupting here. You need to add subsections to the interruptions.

**Senator Wallace:** There is a lot of information. To understand the basis of the various studies you examined, are we talking about drug court facilities only in Canada or are we talking about U.S. and other jurisdictions, as well?

**Mr. Bourgon:** Of the 96 studies we looked at, two were from Canada, three from Australia, and all the rest were from the United States.

**Senator Wallace:** Your comments were quite critical of the results, and I was not quite sure whether we were talking about our performance in Canada alone.

**Mr. Bourgon:** We have only just started.

**Senator Wallace:** It is a very small part of the sampling you looked at compared to the entire number you examined.

**Ms. Hendy:** I wanted to say that it is true we are very young in the process in terms of having drug treatment courts in Canada. While the U.S. has had them for a long time, they are not necessarily the same type of models we have in Canada.

However, I would like to remind everyone of the high-needs, marginalized clientele we are dealing with in terms of drug treatment courts. Based on the summative evaluation, we know the majority of participants are 30- to 40-year-old Caucasian males with some high school, some with only grade 10 or 11. They are homeless, unemployed, have mental health concerns and they have a serious drug addiction to cocaine, heroin or crack.

When you take that highly-marginalized population and put them into a treatment program, monitored by the court system and is very structured, and you ask them to stop taking drugs and to be monitored up to twice a week by a judge, I would remind you that the results, as you see in the literature, can be expected. You are taking a very marginalized group and putting them into a structure they are not used to. We must take that into consideration when we are reviewing the effectiveness of drug courts.

**Senator Wallace:** In evaluating the effectiveness of drug courts and following studies such as those that you have participated in, are the programs being adjusted in response to these studies, if we look at the last however number of years? Is the department directing that changes be made to the effectiveness of programs based upon the analysis, or are they static and, basically, the type of rehabilitative treatment we have today is what would have existed three or four years ago?

**Ms. Hendy:** No, I would say the courts are working, internally, among themselves, examining lessons learned. That is why we are sharing best practices. We have just received the results of the summative evaluation. We will be reviewing those results over the course of the next few years and working with the sites to see how we can improve the treatment programs based on the recommendations coming from the summative evaluation.

I would say they are not static.

**Senator Wallace:** How would the treatment services through these drug courts be responding to local community input — to health care officials at provincial level, at the local level? Is that a significant element? Is it responsive to that local assessment, as opposed to having it directed from Ottawa, through the federal bureaucracy?

**Ms. Hendy:** Yes. That would be an appropriate assessment. As I stated, there are no directions coming from the federal government as to how these courts should be modeled. They are very much based on the local circumstances. As, I understand, the treatment, judicial and court administration services within those particular cities are working together as a team, and they would be adapting their court appropriately as per the offender population in that city.

**Senator Wallace:** Would the federal Department of Justice be working in cooperation with the provincial justice departments in assessing or determining the effectiveness of drug courts?

**Ms. Hendy:** Absolutely. The summative evaluation is available to all and we would be encouraging our provincial counterparts to review it. We would also be encouraging them to send us any information they have in terms of the effectiveness of courts working in their jurisdictions.

**Senator Wallace:** Do you frequently receive that type of input from provincial government departments?

**Ms. Hendy:** We do but only two of the courts at the moment, where the funding recipient is in terms of the Regina DTC site and Vancouver DTC site, are provincial government. Therefore, we get that type of information from those two sites.

(French follows — Mr. Sansfacon: Si vous permettez, j'ajouterai quelques observations...)

 (après anglais)

**M. Sansfaçon:** Si vous permettez, j’ajouterai quelques observations sur l’ensemble des questions qui ont été soulevées. D'abord, effectivement, s’agissant des méthodologies d’évaluation, les deux études qui ont été faites au Canada, notamment — en tout cas c’est de ces deux-là que je peux parler le plus intelligemment — sont aussi des évaluations qui ont justement pour objectif d’aider les programmes à s’améliorer de manière continue. Dans ce sens-là, et sans entrer dans un débat méthodologique avec mes collègues, on fait face dans ce cas à une situation complètement différente du test que l'on fera, « randomisé », pour élaborer des médicaments pharmaceutiques. Ce n'est pas ce type de méthodologie dont on parle.

On a toujours pour objectif de faire en sorte que les études d'évaluation permettent aux gens qui administrent ces programmes, qui livrent les interventions sur le terrain, au fur et à mesure, de tenter de les améliorer. Lorsque le Centre national de prévention du crime, en 1998-1999, a répondu à la demande qui lui était faite par les intervenants de Toronto, l’impulsion est venue de la base, pas du gouvernement fédéral ; elle est venue notamment du CAMH (Centre for addiction and mental health) de Toronto, de la ville de Toronto, donc des intervenants locaux, qui avaient d’ailleurs démarré sans nous — ils n’avaient pas besoin de nous pour cela — et qui, par la suite, sont venu chercher un financement — le Centre national était alors à Justice Canada — pour améliorer le programme et, dans la foulée, mener une étude d'évaluation. C'est comme cela qu'on est arrivé à ces deux projets pilotes qui ont mené à ce que l’on connaît aujourd'hui.

**La présidente:** Merci infiniment. Nous avons sur la liste les sénateurs Watt, Milne, Baker et Joyal. Je vous rappelle, très chers collègues, que nous avons déjà gardé nos témoins très tard.

(Sen. Watt: Thank you for your presentations. Again, I will not…)

(anglais suit)

 (Following French — The Chair — ...déjà gardé nos témoins très tard.)

**Senator Watt:** Thank you for your presentations. Again, I will not be able to get into the detailed nitty-gritty of the drug courts; I will be talking about them in general terms. Where do people who live in the Arctic fit in, as an example? How do we access the programs?

If I understand correctly, the important part of this bill is the provision of a drug treatment court alternative to incarceration. That seems to be attractive on one hand but, on the other hand, I am concerned about how it will work.

How will the people in the North, from the Arctic, access the drug courts? From what I understand, there is already a limited number of drug treatment courts in Canada and you are still at the organizing stage in terms of making more of them across the country.

How do we access it? Who covers the cost for those who have to travel from the high Arctic to the court?

**Ms. Hendy:** Thank you for your question. I recognize the difference in access to the courts between the territories and the provinces. I would draw your attention back. The purpose of this bill was not to indicate that the exemption to delay sentencing would be only if you were able to participate in a drug treatment court program. The second part of that exemption is that you could attend a treat program as per section 720(2) of the Criminal Code, which refers to an approved treatment program. Individuals in the North would be able to attend an approved treatment program in the North. There would be no need to attend a drug treatment court.

**The Chair:** How many approved drug treatment programs are in the North?

**Ms. Hendy:** I am not the expert to answer that question, but I recognize the need.

**Senator Watt:** In other words, if this bill were to become law, there might be a lack of facilities for people to go to a drug treatment program. Is that a certainty? When will that take place?

**Ms. Hendy:** I would have to defer to my colleagues responsible for that kind of program.

**Senator Watt:** Where would I find the answer to the question?

**Ms. Hendy:** I will take your question back to the Department of Justice to obtain an answer.

**Senator Watt:** Can you send us a response in writing?

**Ms. Hendy:** Yes, but I believe I will direct your question to the Department of Health. I will get back to you with an answer.

**Senator Watt:** This applies to Nunavut, Nunavik and Labrador.

**Ms. Hendy:** Yes, I understand. I will see whether the Department of Justice is able to respond to that question.

**The Chair:** Please include the other territories in that response.

**Senator Watt:** You might include First Nations.

**Ms. Hendy:** I will look into that.

**Senator Watt:** You also mentioned that the attitude of a person under treatment is taken into consideration and you talked about housing. When you talked about housing, you were talking mainly about housing those who go into treatment. One the biggest problems we have in the Arctic, whether Nunavut, Nunavik or Labrador, is a huge shortage of housing. A social crisis already exists in the North apart from the drug issue. That must be addressed if we hope to have these programs work to the benefit of the people.

**Ms. Hendy:** When we discussed housing, we found early on with the existing sites that if there was a lack of stable housing within the first three months of an individual's participation in a drug treatment program, there would be a greater chance that they would be expelled from the program or unable to deal with the program. It is impossible to deal with a person who lives under a bridge or is otherwise homeless. During the last couple of years, we tried to work with our partners at the Homelessness Partnering Secretariat of HRSDC to add a housing component to the Toronto and Vancouver drug treatment court sites, where we have been successful. We are waiting for the results of that additional pilot to determine if the addition of a housing component has made retention issues more effective in a drug treatment court through the early stages of the program. As my colleague could elaborate further, it was a finding in the evaluation that housing is an integral component of the drug treatment court program.

**Senator Watt:** We will have to wait to see what happens down the road.

**Ms. Hendy:** I would think so, yes.

**Senator Milne:** I am most discouraged. I understand that the intent of Bill C-15 is to target the criminals and criminal gangs who are pushing drugs, not the homeless people on the street who are addicted to drugs. The drug courts seem to deal only with those people. Ms. Hendy, I believe that you said every person in the drug treatment court program cannot be followed along because you do not know where they live. They live under overpasses and on the streets.

Other witnesses have been quite enthusiastic about the Drug Treatment Court Program. Yet, we have two doctors telling us that only one of the umpteen studies that you looked at met even two of your three principles, Dr. Bonta. Was the study that met the two principles a Canadian study?

**Mr. Bonta:** No.

**Senator Milne:** We are receiving mixed signals from the witnesses before us and those who appeared earlier. As I understand the bill again, someone who is charged with trafficking under this bill is not eligible to go to a drug treatment court. Am I correct?

**Ms. Hendy:** If they are charged with commercial trafficking, they would not be eligible.

**Senator Milne:** Commercial trafficking under this bill, as Senator Baker has pointed out to us evening after evening, can include something as simple as a friend handing an ecstasy pill or a marijuana roach to another friend. We have heard university professors before the committee say that 80 per cent of their students would be cooped up for life under the terms of this bill. I am very discouraged about just about everything in this bill.

**Ms. Hendy:** I would have to ask my colleagues in the criminal law policy section to speak to the bill. I should clarify if my remarks were taken incorrectly. The majority of the DTC participants would have been considered homeless. It does not mean that all of them were homeless. The purpose of the Drug Treatment Court Funding Program is to deal with non-violent repeat drug offenders. The purpose of Bill C-15, as I understand it, is to deal with the more violent commercial traffickers and high-end drug offences. I believe the exemption was brought in.

**Senator Milne:** However, commercial trafficking does not cut it because in this bill, ordinary everyday trafficking can mean handing a pill to a friend.

**Ms. Hendy:** I would defer to my colleagues.

**The Chair:** We have to accept the witness' disavowal of expertise in the Criminal Code. The point that Senator Milne makes is of some considerable interest to those studying this bill.

**Senator Milne:** My question is: Do the drug treatment courts work? I am hearing from studies of studies that they do not know whether they work. You are within a statistical margin of error on these.

**Ms. Hendy:** I would defer to my colleagues.

**Senator Milne:** I am waiting for some kind of an answer.

**Mr. Wheatley:** Having evaluated the six Canadian Drug Treatment Courts, as they have been operating over the past two or three years, we cannot be definitive yet because it has been such a short period of time. However, much of the evidence that we looked at, which was largely qualitative and came from the site evaluations of each of the DTCs, was positive. We tentatively concluded that the courts are working.

However, we do have a much more rigorous study under way right now where we will be taking a look at all the participants who have gone through each of the drug treatment courts across Canada and we will be doing a rigorous recidivism study. We will be taking a look at their reoffending patterns after they have left the court.

That is getting at the long-term outcomes. It is not just asking if they are staying off drugs and not committing crimes while in treatment, but examining what happens after they leave the program. We are looking for enduring benefits there. We cannot be definitive at all right now about what those results will be, but we are actively studying that.

**Senator Milne:** Are you encouraged at all? To me, this seems to be the sort of direction that our correctional services should be moving in, and yet I am feeling very hopeless here tonight.

**Mr. Wheatley:** I can say that, as part of our evaluation, we spoke to many people, many of them on the ground, working in these courts. They are all very positive about the work they are doing. Although this is somewhat anecdotal and qualitative, they are seeing and telling us that these courts are working. They are not working for everyone; they are probably not even working for the majority of the people who go through them, but they are making a marginal difference at least.

**Senator Milne:** However, there seems to be also a difference between how they are working for men and how they are working for women and young people. Are they working for women and young people?

**Mr. Wheatley:** The evaluation did find some differences there. They are working less well for young people and women. In fact, sex trade workers were one of the target groups for this program. Aboriginal people as well were not being well reached by the program. Again, the evidence is not completely definitive on this, but it appears that the programs may not be working as well for them, either.

**Mr. Bourgon:** You were looking for a definitive answer. Probably the best definitive treatment answer I can say is treatment can work with offenders. Dr. Bonta has spent years amassing huge amounts of evidence that show treatment can work with offenders. Drug treatment courts are simply a service delivery model of treatment.

My research showed the evaluation strategies being used are relatively poor. Our best guess is it is four to eight per cent. The other thing that our research showed is that more attention needs to be paid in providing treatment that is offender driven. The people coming in to drug treatment courts are people who come in through the criminal justice system. There are many addicts in the world and many people with substance abuse problems. Not all of them get involved in the criminal justice system. Quality treatment for offenders follow those principles. As Mr. Sansfaçon said, part of the evolution is promising; this is a promising way of delivering services to this population. However, much work still needs to be done.

**Senator Milne:** When you are hoping for less recidivism and you want to correct people as they are going through their life, you generally start with younger people and people who are not really quite so heavily involved in it. Yet Dr. Bonta has told us that these types of treatments are much more effective when it is an intensive treatment on more needy people.

**Mr. Bonta:** Yes, but even among young people, there is variation. There are young people who have many more criminogenic needs and are at a higher risk. Even when we do the analysis by adults and youth, we find the same pattern: The risk-need responsivity principles apply also for youth. We define youth in our studies as those aged 12 to 18.

**The Chair:** I am not sure which comes first here, the chicken or egg. However, it occurs to me in listening to you that the problem may be in the responsivity end of things. If the programs are not sufficiently well designed to respond to the particular nature and needs of given classes of clients, then they will not be as successful with them.

Is it at least possible that the programs have begun by figuring out how to deal with Caucasian grown-up males and now need to move on to becoming a little more sophisticated in terms of other clientele?

**Mr. Bonta:** That is certainly happening in the offender rehabilitation literature. First, we start off with the general offender and now there have been movements towards subtypes of offenders. In fact, one of our colleagues in our research unit, Dr. Karl Hanson, has found that the risk-need responsivity principles also seem to apply to sexual offenders. There has been one review of the literature on drug-abusing offenders that appeared to follow these kinds of patterns, but it has not been clearly shown yet.

**Mr. Sansfaçon:** I would just like to add an additional piece of information in response to Senator Milne's question about intervening with youth. I want to say that, under the National Anti-Drug Strategy, the National Crime Prevention Centre is indeed supporting a number of projects. They are projects, not systematic interventions across the country. They are projects to help youth, children aged 6 to 11, who may show early signs of drug use, and adolescents, aged 12 to 17, who have demonstrated patterns of use, to try to get them off the use of drugs and prevent them from entering into longer-term trajectories.

**Senator Baker:** I would also like to congratulate the director of research and evaluation policy for the high quality of his staff, and the research directors that we have here today are good examples. I would like to congratulate everyone. You all gave excellent presentations to this committee.

I have a couple of short questions. Dr. Bonta, how long have you been with the Correctional Service of Canada?

**Mr. Bonta:** I am with Public Safety Canada. I joined in 1990. Before that, I was the Chief Psychologist at the Ottawa Carleton Detention Centre for 14 years.

**Senator Baker:** You ought to be familiar with the psychology of criminal conduct. Dr. Bonta, the psychology of criminal conduct has been referenced in a lot of case law in Canada. I do not know if you are aware of that. Fourteen of fifteen years ago when that book was published, the one sentence that stood out to me was that, if the Correctional Service of Canada followed the correct procedures, it could result in a reduction of 50 per cent in the numbers of people who repeat.

**Mr. Bonta:** It is not quite 50 per cent.

**Senator Baker:** I am pretty sure it was 50 per cent.

**Mr. Bonta:** I think I wrote it.

As I mentioned before, from our analysis, programs delivered in the community — probation, parole, et cetera, and good ones that follow those three principles — on average, there is a 35 per cent reduction. However, it is a little bit tougher with prison-based programs delivered within prisons and residential facilities. However, you could have 20 to 25 per cent reductions in recidivism, on average.

**Senator Baker:** That was 15 years ago. Have you changed your mind since then as to the conclusions you came to in that much-referenced book of yours? Have things changed in 15 years?

**Mr. Bonta:** Senator Baker, we are now on the fifth edition of the book, and our mind has not changed.

**Senator Joyal:** A crime is a crime.

**Mr. Bonta:** And treatment works, under the right conditions.

**Senator Baker:** Risk analysis is considered to be now, in most sentencing jurisdictions in the nation, a necessary component of the sentencing process. I think that you had something to do with the formula that is used by some provinces to do risk assessment on people who are convicted of crimes.

**Mr. Bonta:** Yes. I am a co-author of a risk need risk instrument, with my colleague Dr. Andrews. This instrument is used in about seven of our provinces and all the territories. In some jurisdictions, they may use that information to help write their presentence reports to make recommendations to the court.

**Senator Baker:** Especially for youth?

**Mr. Bonta:** Another colleague of mine, Dr. Hoeg, specialized in a youth version. I am a co-author of the adult version.

**Senator Baker:** My final question is this, to Dr. Bourgon as well: Have your opinions changed in recent years on either of these important factors of treatment to prevent repeat crimes, and as far as analysis of risks' assessment of persons who are found guilty of offences before our courts pertaining to drugs? Have you changed your opinion at all over the previous decade?

**Mr. Bonta:** This may sound like I am a stubborn person, but the essential opinion has not changed. What we have learned over the last 15 or 20 years is we have come a long way in considerable refinements and improvements. Our programming has become better.

More of our offender treatment programs, for example, in Correctional Service of Canada, follow more closely the risk need responsivity principles. Our various risk need assessment forms have changed and become better, more sophisticated and comprehensive.

**Senator Baker:** The author to your right?

**Mr. Bourgon:** I could do nothing but concur with what Dr. Bonta said. If anything, over the last 10 or 15 years, the position has become clearer.

**Senator Joyal:** Why has none of the Atlantic provinces or Quebec had the experience of drug courts, while all of Western Canada, if I can say that Ontario is a Western province — Alberta, British Columbia, Manitoba, Saskatchewan — has had an initiative with the drug treatment courts? Is there an explanation for that?

**Ms. Hendy:** Just that when the program was expanded to include an additional four sites back in 2005, it was based on the call for proposals and the proposals that were submitted at that time.

**Senator Joyal:** You got no proposals from any of those five provinces?

**Ms. Hendy:** Not to my knowledge.

**Senator Joyal:** You pointed quite astutely to the section of the bill — section 8, amending section 5 — which is «to attend a treatment program under subsection 722 of the Criminal Code.» Section 722 of the Criminal Code says «delay sentencing to enable the offender to attend a treatment program approved by the province under the supervision of the courts.»

My question would be to any of you: Have you been involved in the definition of those programs that are approved by the courts or is this left to each province individually?

Also, what happens with the territories? Under which jurisdiction do they fall to approve the programs that would be available in the territories for Aboriginal peoples and other Canadians living there?

I am asking the question because when we heard the Canadian Centre for Justice Statistics, the increase of drug offences in the Northwest Territories is among the highest in Canada. If we are to understand what we are doing with this bill, we should know how it will materialize in that part of the country. Again, according to the statistics — I am quoting chart 4 that was given to us by the Canadian Centre on Justice Statistics — Northwest Territories, Nunavut, Yukon are among the highest, some higher than B.C., for drug offences.

The problem is acute, according to that chart. I am concerned with this section, if there is no drug court there, who will be approving the program so that a person who is addicted in the context of the research that you are conducting would have access to that section of the bill?

In other words, I am concerned that we may be creating a checkerboard of situations in the country. It is one of our preoccupations when we adopt an amendment to the Criminal Code, that we want to have, as much as possible, the same measure of justice everywhere in the country.

**Ms. Hendy:** First, none of my colleagues here from the Department of Justice is a lawyer, so we are not to interpret the Criminal Code. We must implement our programs. My understanding — and I would have to ask that we could take the question back and provide you a response — would be that in the provinces, it would be the attorney general of the province who would approve the treatment programs.

As for the territories, I do not want to get into the difference between the administration of justice between the territories and the federal government. I will take the question back to my colleagues and submit a written response.

**Senator Joyal:** You understand my question: Is the drug treatment program that you study and you administer under the drug court system similar in content to the drug court program that could be approved by a provincial attorney general so that we are giving to the individual the same kind of opportunity, and not creating two kinds of approaches to the discretion given to a judge to lift the minimum sentence in some circumstances?

**Ms. Hendy:** Absolutely. All of the drug treatment court pilot sites that are now operating and being federally funded would have had to have approval of the provincial AG to operate in their jurisdiction. There is nothing stopping any other provincial AG from starting up a drug treatment court if they wish, without having federal funding.

**Mr. Sansfaçon:** If I may add: There is something in Yukon called «the community wellness court.» Whether that might either be recognized by the territorial government or by some other party, if that might fall under the provision in the Criminal Code and be a recognized program is certainly part of what the Department of Justice might consider. Certainly, there is, in all these cases, the necessity to ensure that there is availability across the country, for example, of treatment programs; but at the same time, there is a need to recognize that there is this local factor at play where the situation, say, in Vancouver will not be the same as that in Yellowknife or in Halifax.

Therefore, there will always be some degree of tailoring of the programs, which is exactly why the six drug court treatment programs that we currently have are different from one another. Even the first two that we had funded under the NCPC were different from one another. They were essentially driven by the same fundamental philosophy and principles to help drug-addicted chronic offenders — non-violent offences, et cetera, which was explained earlier — but nevertheless being capable of responding to the local situations, needs and capacity in terms of treatment delivery programs.

**Senator Joyal:** Again, I would be very concerned to know what drug program is available in the northern part of the country, considering that according to these statistics, it is where the increase is the highest. If we want to know we are addressing the problem, we should be aware of that.

A report has been circulated to us, and I think you know about it. It is the meta-analytical examination of drug treatment courts, do they reduce recidivism, published in August of 2006, so it is three years old. I will read the conclusion. While there are other issues that were not the subject of this research, such as the cost effectiveness of DTCs, the result of this meta-analysis «provides clear support for the use of drug treatment courts as a method of reducing crime among offenders with substance abuse problems.»

Since three years have elapsed since then, would you offer us a more up-to-date appreciation than that conclusion, especially in respect of recidivism, on page 9 of the report, which was along the lines of the figures you gave us: Drug treatment courts reduced recidivism rates by 14 per cent compared to traditional criminal justice system responses.

Are those the statistics we should quote, or do you have something else to provide to us?

**Kelly Morton-Bourgon, Senior Researcher, Research and Statistics Division, Department of Justice Canada:** That was the meta-analysis that we did back in 2005. Since then, Public Safety has done a more recent meta-analysis, which they presented to us today. We did not go into whether or not they were meeting study quality as well as whether or not the programs were adhering to the principles of risk, need and responsivity. Although our results were done in 2005, they are a bit dated. The 14 per cent needs to be tempered by the fact that we did not look at those additional aspects. I would probably suggest that the meta-analysis done by Public Safety, looking at study quality and adherence to the principles, would be a more reflective statistic with regards to the reduction in recidivism.

**Senator Milne:** Were yours based on the Canadian courts?

**Ms. Morton-Bourgon:** No, we had two Canadian courts, two Australian courts, and the rest were from the United States.

**Mr. Bonta:** Our study included all the studies in their review, plus some additional studies.

**The Chair:** We still only got one.

**Senator Joyal:** Could you refresh my memory? How long have the drug treatment courts been in existence in the United States?

**Mr. Bonta:** The first one was in Miami, Florida, in 1989.

**Senator Joyal:** They continue to expand it?

**Mr. Bonta:** They have probably 2,000 drug courts now in the U.S.

**Senator Joyal:** In other words, we could conclude very naively that if the Americans have maintained it, it is because they probably find a benefit for the collectivity.

**Mr. Bourgon:** The initial purpose of drug courts was to reduce the population in prisons. It was not to reduce reoffending. It was strictly to reduce the number of people in jail. It was during the crack epidemic time period, and the federal government threatened funds to Florida if they did not reduce their offender population. That was the birth of drug courts.

**Senator Joyal:** Has the reasoning remained the same today? Is there the benefit that you have proposed, which is to reduce recidivism?

**Mr. Bourgon:** It has been a driving factor. Whether that is continuing to drive the forces would be a sociological view of what has been going on, and I am not in a position to describe that.

**The Chair:** I will put to you a question I put to some earlier witnesses, because it strikes me that you may be better equipped to answer it. This bill provides that you are exempt from minimum penalties if you successfully complete a treatment program. Everything I have read suggests that you are not considered to have completed, that is, graduated from, a program until you have actually done it and the program itself includes some follow-up period — I think you said average three months — to determine whether or not you are allowed to graduate — in other words, whether you have succeeded. If my understanding of how the programs work is accurate, then what would be the difference between completing and successfully completing a treatment program, or would there be any difference or does it matter?

**Ms. Hendy:** Again, I am not with criminal law policy, so I was not the author of the legislation.

**The Chair:** I am asking you based on your experience on the drug courts. Is there a distinction you draw as between completion and successful completion?

**Ms. Hendy:** I believe there have been a number of cases where the drug treatment court directors are struggling with the definition of «graduation.» I believe they are probably working with their court services to determine what exactly it means to graduate.

There are examples of some offenders who, when they entered the drug treatment court, were homeless, unemployed and had a definite chronic addiction to heroin. Through the treatment process, they are no longer addicted to heroin, but maybe they smoke up a joint every week or so. Therefore, they would never be able to pass a random drug test to prove they are truly abstinent from drugs. For every other part of their participation in that program, attending program and court and perhaps now have a job and stable housing, they are considered a successful graduate. Based on the criteria, perhaps they would not «graduate.» That would be an example.

**The Chair:** That is interesting.

**Ms. Hendy:** That is my understanding of an example, but again, I am not an expert.

**The Chair:** Successful completion might be a slightly less onerous condition than simply completion. It is an interesting concept.

**Mr. Sansfaçon:** It certainly is in line with what was observed, particularly in the Toronto evaluation study which, among other things, concluded that they wanted to move away from success as a dichotomous variable, graduate, not graduate, and look at it more in terms of a continuum, including indicators such as well being, not only whether or not there is drug use or recidivism, but looking at many other indicators of well-being as a more comprehensive, global view of the effectiveness of these drug treatment courts.

It is true that graduation or a «success» story in a drug treatment court is not easily defined, and I believe our own courts are struggling with this, as probably are the 2,000 American ones.

**The Chair:** This is fascinating. It makes an enormous difference to have real experts tell us what real experts know. We are grateful to you.

Senators, the committee will meet again in this room at 10:45 tomorrow morning.

(The committee adjourned.)

(The committee adjourned.)