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Chair

Mr. Garry Breitkreuz

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● (0910)

[*English*]

The Chair (Mr. Garry Breitkreuz (Yorkton—Melville, CPC)): I'd like to bring this meeting to order. This is the Standing Committee on Public Safety and National Security. This is meeting number 17. We are continuing our study of the DNA Identification Act. It's a statutory review.

We'd like to welcome this morning, from the Laboratoire de sciences judiciaires et de médecine légale, Monsieur Dufour. He will introduce the rest of the panel. We also have someone not mentioned on our list here, from Quebec's ministry of public security, Mr. Frédérick Laberge. The Centre of Forensic Sciences is also with us this morning, with Mr. Raymond Prime.

We welcome you all and ask you to introduce yourselves and maybe give us a little background. We'll allow you opening statements, and then we'll go to questions and comments. Your opening statements can be approximately 10 minutes, or whatever you choose. We look forward to your testimony.

Who will begin?

Monsieur Dufour, go ahead, sir. Then it will be Mr. Prime.

[*Translation*]

Mr. Yves Dufour (Director General, Laboratoire de sciences judiciaires et de médecine légale): I would like to start by thanking you for inviting us to appear before the Standing Committee on Public Safety and National Security. I would like to introduce the people with me today—Frédérick Laberge, Director of Biology at the Laboratoire de sciences judiciaires et de médecine légale and Administrative Director, as well as Diane Séguin, the Deputy Director of Biology at the laboratory in Montreal.

We will read you the brief we prepared for about 10 minutes, and then we will take your questions.

In 1914, the Quebec government created the first forensic laboratory in North America, located in Montreal. Today, the laboratory is under the responsibility of Quebec's Ministry of Public Safety, and is an impressive example of a modern forensic laboratory.

Our disciplines include toxicology, biology and DNA; counterfeiting and forensic document analysis; chemistry; fires and explosions; ballistics; electrical and computer engineering; forensic pathology; and gaming equipment certification.

The laboratory's mission is to provide objective expertise in forensic science to support and further the administration of justice and police and legal investigations.

I will now describe our role. Ontario and Quebec are the only provinces in Canada with forensic laboratory facilities that perform their own DNA analysis. The other provinces and territories send their DNA work to the Forensic Laboratory Services of the Royal Canadian Mounted Police.

The laboratory is responsible for analyzing biological samples collected by the police from crime scenes on Quebec soil. The resulting DNA profiles are unloaded to the National DNA Data Bank (NDDB) Crime Scene Index for comparison with the Convicted Offenders Index and other DNA samples in the Crime Scene Index.

The laboratory is the only organization authorized to supplement the Crime Scene Index with DNA samples collected from crime scenes in Quebec. DNA orders for offenders convicted by Quebec courts of law are executed by the Quebec police. The samples are then sent directly to the National DNA Data Bank for biological analysis and to be added to the Convicted Offenders Index. The Laboratory is not involved in updating the Convicted Offenders Index.

As regards our contribution to the National DNA Data Bank, the laboratory spends $5.7 million a year, including fixed costs, and has 50 FTEs at its disposal to meet its DNA analysis mandate. Despite its extremely limited resources, as of March 30, 2009, the laboratory had provided more than 15,674 DNA profiles to the Crime Scene Index, which represents more than 32.6% of the total number of profiles (48,227). As of the same date, Ontario had contributed more than 18,898 DNA profiles, which represents 39.1% of the total, while the RCMP laboratories contributed 14,655 profiles, accounting for 28.3% of the total.

I come now to the issue of federal funding for the Laboratory's contribution to the NDDB's mandate. As a result of negotiations on the creation of the NDDB and the role Quebec would play in this national program, it was agreed that the federal government would help offset the additional costs generated by the new NDDB-related activities. Since August 1999, Quebec has signed two Biology Casework Analysis Agreements to contribute to the NDDB's Crime Scene Index.

The first agreement, signed on August 12, 1999, was for three years—from April 1, 1999 to March 31, 2002. It provided for automatic renewal with the same conditions for a one-year term or until a new agreement could be reached, in accordance with the renewal clause.

● (0915)

The expiry of this first agreement was extended to March 3, 2003. The terms of this agreement stipulated that the federal government would reimburse Quebec 20% of the average cost of DNA profiles completed by the laboratory. In September of 1999, an accounting firm established that the average cost of a DNA profile was $2,645. Therefore, the federal government's contribution would be $529 per profile (20% of $2,645).

In 2004, a second agreement was signed for a three-year period (April 1, 2003 to March 31, 2006), including an automatic renewal for the 2006-2007 year. Under this agreement, Canada agreed to reimburse Quebec $771.76 for each DNA profile completed by the laboratory for a designated offence (under section 487.04 of the Criminal Code), up to a maximum of 11,311 profiles. This amount ($771.76) represents 23.3% of the average eligible cost to process a DNA profile.

On March 31, 2007, the laboratory had fulfilled all its obligations with regard to the second agreement. Since that date, the Quebec government has been trying to negotiate adequate long-term funding to continue its vital contribution to the NDDB.

The federal government and the Quebec government signed an interim cost-sharing agreement in July 2008 to extend the funding for biology casework analysis until a new long-term agreement was reached. The federal government agreed to contribute $2.3 million in both the 2007-2008 and 2008-2009 fiscal years.

The negotiations for the long-term agreement are particularly difficult, because the federal government has so far refused to honour the financial commitment it made in the previous agreement. At the same time, the laboratory's workload increased with the passing of new federal laws (C-13 and C-18) on January 1, 2008. Quebec is expecting to see an increase of more than 1,500 DNA profiles per year, without any additional funding. A new building, new equipment and more resources are necessary to meet the demand this new legislation creates. The issue has been brought to the attention of the federal government again and again.

I come now to the federal-provincial-territorial working group on DNA.

In April 2008, the federal government revived the federal-provincial-territorial working group on DNA to develop a work plan to renew the biology casework analysis agreements with the provinces and territories. A work plan proposal was presented to the deputy ministers of Justice and Public Safety at the federal-provincial-territorial levels in June 2008.

The proposed work plan included the following steps: a short-term work plan (6-12 months) aiming to establish the real cost of DNA analysis as well as the current capacity of the laboratories and to evaluate the increased workload as a result of Bills C-13 and C-18; a long-term work plan (18-24 months) aiming to examine the way international partners use DNA profiles, maximize the efficiency of this technology in the judicial system and its related costs, and evaluate the various cost-sharing and service delivery models.

Quebec objected on the grounds that it had accepted the 2007-2009 interim agreement on the condition that serious negotiations take place in 2008-2009 and that it could not afford to wait a further two years at the same level of funding. Quebec also pointed out the national scope of the program and Ontario and Quebec's essential contributions to the NDDB, that is to say a contribution representing more than 72% of the DNA profiles uploaded to the NDDB Crime Scene Index.

● (0920)

In August 2008, the federal government commissioned Services Conseils Canada to undertake a study of the costs and capacities of the three Canadian laboratories: the Laboratoire de sciences judiciaires et de médecine légale, the Centre of Forensic Sciences and the RCMP's Forensic Laboratory Services. This study was supposed to have served as a basis for negotiating a new funding agreement for biological casework analysis. The report was scheduled to be tabled at the end of December 2008.

Despite the fact that Services Conseils Canada finished its work in late January, the laboratory has yet to receive its final report and recommendations. At this time, no other negotiations are underway to reach an agreement on biology casework analysis funding. The federal government entered into biology casework analysis agreements with the other provinces and territories that use the RCMP's Forensic Laboratory Services.

Since the NDDB was established, more than 11,500 matches have been made, thereby helping police solve crimes. The success of the NDDB program completely depends on supplementing and updating the Convicted Offenders Index and the Crime Scene Index.

Quebec, through the laboratory, actively contributes to developing the NDDB. To date, 32% of the DNA profiles unloaded to the Crime Scene Index have come from the laboratory. This contribution could be even more significant if the federal government were to provide funding for the analysis of all DNA profiles requested by the Quebec police in the course of their criminal investigations.

Because of inadequate funding, the laboratory is currently unable to process DNA analyses for the offences set out in Bills C-13 and C-18. As a result, the NDDB's usefulness is seriously hampered.

In order to resolve this situation and optimize the performance of the NDDB, the federal government must assume a greater responsibility for funding this national program by granting the funds necessary to process all forensic DNA profiles for designated offences, taking into account the increased demand created by Bills C-13 and C-18 and the current backlog of DNA profiles in Canadian laboratories.

[*English*]

The Chair: Thank you very much.

Mr. Prime, are you prepared to open with a statement as well?

Please go ahead.

Dr. Raymond Prime (Director, Centre of Forensic Sciences): Yes, and thank you, Mr. Chairman.

I'd like to introduce a colleague with me here. Mr. Jon Newman is the deputy director at the Centre of Forensic Sciences. He's our subject matter expert for today, and I'll ask him to help with some of the questions later.

In Canada, forensic science service is delivered through three relatively large laboratories, as you've heard, which offer similar services with respect to DNA testing. In Ontario, these are provided through the provincial governments, and in the other provinces of the country they are provided by the RCMP. In Ontario, the Centre of Forensic Sciences provides services to law enforcement, crown attorneys, coroners, pathologists, and other official investigators. We do accept cases from defence counsel, and in some circumstances we provide a service to them. We're one of the few government laboratories in North America that does this.

I'd like to emphasize that while we're interconnected, there is a clear distinction between the work we do and that of the national DNA data bank in Ottawa. The operational laboratories in Ontario and Quebec and the RCMP are users of the data bank and integral contributors to the crime scene index. We are essential parts of the partnership, for without us there would be nothing with which to compare the offender profiles. The CFS is a strong supporter of the national data bank, and I would like to offer some compelling examples from our work that demonstrate its value in solving crimes, in exonerating the innocent, and in preventing the people of Canada from becoming victims of serious crime.

Ontario police agencies collect evidence at a crime scene and submit the items to our laboratory. The types of evidence that are submitted to us range from swabs of bodily fluids to articles of furniture or even vehicles. The challenge to the forensic scientist is to find biological samples before we can actually do any DNA testing. This is a labour-intensive process, and this is in fact a rate-limiting step, and it creates the capacity issues you heard about with some frustration from Chief Constable Egan a few weeks ago. When appropriate samples are located, DNA profiles are developed, and these are loaded to the national DNA data bank.

In this brief introduction I'd like to address four questions about the DNA Identification Act and the national data bank. Does it work, could we do more, what are its limitations, and can it be improved?

The key element to the success of the data bank is the number of hits between a convicted offender profile and a crime scene profile that provide investigative leads. We must remember that when a crime scene profile is uploaded, it is automatically searched against all profiles in the data bank, and will perpetually be searched against all these profiles. The data bank can do what is not humanly possible by constantly surveying crime scene and other offender profiles from across the country and ensuring that a case is under investigation independent of what the police are investing with their traditional resources.

The data bank has allowed us to solve a wide range of crimes ranging from break and enters to homicides. Its value is immediately apparent with the recognition that it was possible to go back to evidence that had been retained from unsolved cases from prior decades and solve these cases. One of the earliest such projects undertaken by the centre was to examine unsolved sexual assault cases in Toronto, which brought closure and justice to many victims after periods of up to 20 years.

I'd like to share with you some examples of how the use of the data bank has assisted investigators. In 1991, 63-year-old Muriel Holland was sexually assaulted and killed when someone broke into her apartment. The investigation examined more than 1,000 suspects over a decade using both conventional and DNA techniques. The case was solved early after the introduction of the data bank when a hit occurred to a retroactive sample from a 43-year-old offender. The head of the Peel Regional Police homicide bureau at the time was quoted as saying:

> It was quite possible it would never have been solved without the data bank. The data bank is a huge tool to help bring together science and the justice system. I can't overstate the fact that this is a great step forward for us.

The next example demonstrates how the data bank is used to eliminate suspects and focus an investigation. Ten-year-old Holly Jones disappeared from her Toronto neighbourhood. Her remains were discovered a few days later in Lake Ontario. During the ensuing investigation, the people of Toronto were anxious for the safety of other children, and the police had more than 1,600 telephone tips to investigate. A DNA profile was obtained from under the child's fingernails and compared against the convicted offender index; no hit was obtained. The often under-recognized value of the data bank is that at the push of a button, thousands of potential suspects can be eliminated. This can save countless police resources and ensure that innocent people are not unnecessarily detained.

● (0925)

Ultimately, a suspect was identified and charged. Clearly, his identification as a contributor to the DNA profile was the key that led to his decision to plead guilty. This is an example of the impact of the DNA on the court system and one of many cases in which the accused, when faced with DNA evidence, offers a guilty plea. This saves money by eliminating a trial and relieves others of the trauma of the criminal trial process.

In 2008, Bill C-13 and Bill C-18 made changes that allowed the use of the data bank to assist in the investigation of new offences. My next example demonstrates how these changes are impacting the operational laboratories and creating new pressures for us.

York Regional Police seized 49 kilograms of ecstasy and other drug paraphernalia valued at several million dollars. From 11 items that were sent into the lab for testing, four different DNA profiles were uploaded to the crime scene index. The investigation continued and resulted in a guilty plea, with a significant nine-and-a-half-year sentence. Furthermore, one of the DNA profiles hit on a crime scene sample from an unsolved 2005 attempted murder, so that investigation continues. The drug lab was directly linked to organized crime, with international connections.

As a result of the changes brought about by Bill C-13 and Bill C-18, the police can expect to use DNA evidence for additional offences. However, because of these capacity issues I've mentioned, we are unable to provide DNA testing routinely in drug cases, even though it is cost-effective to do so.

Our capacity to provide DNA testing services in support of investigations is limited only by available resources. The demands for DNA testing exceed the resources that are available to do the testing; therefore, we use the DNA Identification Act as a framework for case acceptance. We have estimated that Bill C-13 and Bill C-18 would add approximately 1,500 cases per year to our workload.

With the introduction of the national DNA data bank, a funding formula was developed, which my friend has already discussed with you. This provided a subsidy to Ontario and Quebec of approximately 20% of the average cost of DNA services in exchange for providing data to the data bank, which is operated as a national service. Ontario presently receives about $2.3 million, an amount that has not changed since 2005, despite the fact that demand and caseload continue to increase.

The importance of supporting DNA testing is reflected in the fact that both the Canadian Association of Chiefs of Police and the International Association of Chiefs of Police have passed resolutions demanding increased resources be committed by government for DNA testing so that police can carry out their duties of protecting life and apprehending criminals.

While much has been written about the value of DNA, the impact on the operational laboratory is not properly appreciated. The workload in the forensic biology units has increased much more than that of other traditional areas of forensic science. For example, there are now cases that can be solved, such as no-suspect sexual assault cases, where DNA evidence becomes critical in identifying the culprit in previously unsolvable crimes.

Before the data bank, crime scenes such as B and Es had little hope of being solved. These are high-volume crimes that are very important to ordinary citizens and contribute significant numbers of data and increase the effectiveness of the data bank. You may be interested to know that when a police officer provides a sample from a B and E to our laboratory, one in three profiles generates a link to an offender or to another crime scene.

In considering the limitations of the data bank, it should be stressed that a DNA hit does not equal guilt. Investigators must evaluate the significance of a hit in the context of the case, recognizing that DNA may have been deposited innocently. An example of that would be a cigarette butt discarded at a crime scene prior to the crime being committed.

Forensic samples, by their nature, often present particular challenges, and the forensic scientist must understand and appropriately express the limitations of the testing. Because the sample may be degraded or putrefied, or it could be a mixture of body fluids from different people, DNA recovered from non-pristine samples may provide only a partial DNA profile. Nevertheless, that partial profile can be searched and can still provide high-quality investigative information. Partial profiles can also exclude suspects.

Operational laboratories in Canada use very strict quality systems that define their criteria for interpretation and reporting of all findings, including those partial DNA profiles.

● (0930)

You've heard that other jurisdictions are including arrestees in their data bank and about the issues surrounding this. You've also heard that Canada's system, which requires judicial intervention to include a convicted offender's profile, is falling short in the numbers of profiles that could be included. None of these are issues for us as scientists to advocate. However, we can state the obvious: the more samples included in the data bank, the more useful it will be. We can reinforce from our experience, though, that there is a need to include DNA from victims in the data bank, and we're also aware of instances where suspects who are regularly sampled and excluded in sexual assault investigations are willing to volunteer samples to be put in a data bank.

The current list of designated offences probably captures most cases in which there is a potential for DNA at a crime scene. At some point, expanding this will result in a point of diminishing returns.

We know there has been consideration of a missing persons index, and it would have some value to police and coroners' investigations if it were implemented on a national basis. An MPI can be wide-ranging, costly and probably of value only in a limited number of cases. However, there would be some value in considering a more limited approach, noting that, again, a technology is capable of extracting nuclear DNA from samples that can be obtained from found unidentified human remains.

In conclusion, the importance of DNA testing was recognized by the federal government and the provinces, and legislation was enacted that created the national DNA data bank. This partnership between good science and good legislation has served forensic science well and has allowed the Centre of Forensic Sciences to advance our mandate of science for justice in support of the administration of justice and public safety programs for the citizens of Ontario.

Thank you.

● (0935)

The Chair: Thank you very much.

We certainly appreciate that report.

Does anybody else have any opening remarks to make? Mr. Laberge? No?

Okay. As is our usual practice, we will then go to questions and comments, beginning with the Liberal Party.

Mr. Kania, please.

Mr. Andrew Kania (Brampton West, Lib.): Thank you.

Thank you all for coming. You may be aware that we've already studied this issue for two separate days. So from my perspective, today is the science day. I'd like to discuss the science part of it—the breakthroughs, what's deficient, and what the changes are—towards two goals. One goal is to try to make sure we exonerate innocent persons with reliability. The other is to actually convict and to assist in the conviction of persons who are actually guilty and to make sure we don't convict anybody who's not actually an offender.

The concern that was left out last time was in regard to false positives. I'd like to discuss that, in particular with reference to the science and the technology, because I believe the ordinary perception on the street would be that once somebody is convicted through the use of DNA evidence, they're guilty. We understand that's not necessarily so, so I'd like you all to discuss that, please. Whoever is most comfortable with the science can begin.

Dr. Raymond Prime: You must have heard in earlier testimony that when a DNA profile is developed, it's accompanied by a probability statistic that tells you the significance of that finding. The findings that are capable of being developed into full profiles give very impressive statistics and very sound numbers. The reason I mentioned the partial profiles was to bring to your attention that very often in real world cases some interpretation has to be done on the findings, and those findings are accompanied by an accompanying level of confidence in the match that's generated.

The DNA finding alone does not result in a conviction. There has to be other evidence that is accompanying that as well.

I'll turn it over to John and let him comment further on the value of the science.

Mr. Andrew Kania: I want to follow up on that exact point. I understand what you're saying, that, for example, if a cigarette is left at a scene, it doesn't necessarily mean that person did something. But that's not the focus. The focus is making sure the matches are actually reliable, because obviously there are parameters of evidence that will also be relied upon to determine whether or not somebody is guilty. What I'd like to know is, if the RCMP does their investigation —whatever police force—and they conclude there is a match between what was found at the scene and the sample in the data bank, what guarantee is there that that's 100% accurate, to avoid false convictions and at the same time, if there is a method to exonerate people, to make sure that person is actually innocent?

We were advised mistakes are made. There was an example of a British person who was arrested who could not have done it. He was in a wheelchair, but they were on their way to go get him because they concluded he was the culprit. That's what I'm asking about. I want to know that when we convict somebody we're not going to be facing a situation 20 years down the road when there is suddenly better new technology and people conclude that this range of persons should not actually have been convicted. I'll go to one point here, which is that I read about advances in technology, and the statute we have actually takes into account the fact that there will be advances in technology.

So the other question for me is this. I understand people are always trying to improve, but why do we need advances in technology in this? Is it not reliable already? Can we not assume people can rely upon this now? What are we trying to fix?

● (0940)

Mr. Jonathan Newman (Deputy Director, Centre of Forensic Sciences): If I can answer that, I'll take the so-called British mistake first. It's interesting to note—and you'll detect from my accent that I have some contacts back in my home country of the U.K.—that it's not referred to and not in fact known as the British mistake in the U. K. It's known in other countries as the British mistake, but my colleagues in the U.K. advised me quite properly that a data bank in that circumstance worked correctly as it should. It was using a technology at the time that was less discriminating between individuals, but notwithstanding that, as Ray has pointed out in his presentation, a hit to the data bank does not equal a conviction, does not equal guilt.

So in that case, a hit occurred to the data bank. The police investigated it. They did not charge the individual. He wasn't taken to trial because, as is included in our own legislation, a hit to the data bank is the first step and it is treated as an investigative aid. The police take the hit, they conduct their investigation of the suspect, they determine the significance of the hit in relation to the investigation, and they decide whether to charge or not.

I think your question is this. If there is a hit to the data bank, how accurate is that in terms of identifying the person responsible to the exclusion of all others? Right?

I think with the technology we have today, if there is a hit to the data bank, there is a theoretical possibility that that individual may not in fact be the source. However, that possibility is extremely, extremely remote, so you have the issue of science and theory and possibilities and practicalities.

Mr. Andrew Kania: Given that there is still a remote possibility, where is the science limited, and what is being worked on to get it to the point where that will not occur? Obviously, if you're telling me it's not perfect and I read that they're still seeking developments, this is something that needs to be taken into account. Where are we? What's next?

Mr. Jonathan Newman: I think it's important to understand that scientists don't work in a perfect world. Science is all about uncertainty and the unknown and moving forward to reveal information that improves confidence, but scientists don't deal in absolutes. As Ray has pointed out, with any hit to the data bank, there is a statistical analysis that is conducted to try to address that theoretical possibility. So no matter how many advances we make in terms of increasing the numbers of tests we do, there will always be a theoretic possibility that a hit has occurred as a result of a coincidence, but that theoretical possibility, even today, is infinitesimally small.

The Chair: Thank you very much.

We will now move over to the Bloc Québécois.

Monsieur Ménard, please.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Since we have very little time, I want to say that my colleague has done a good job of presenting some of our concerns. Since my career was in criminal law, I would say personally that this is one of the most outstanding advances that have happened in the last century in helping the police solve crimes.

Although there are still some minor risks, the degree of certainty is such that these programs must be developed. However, we have some other concerns that I would like to raise with you.

At the moment, do we have the resources required to meet the demand—the demand of investigators and the one created by the new legislation? I notice that we have with us the people who are responsible for analyzing over two-thirds of the DNA samples.

I think you can answer my first question quickly, and then we can move on to other subjects that arise out of your answer.

What is the turnaround time for providing the police with the results of a DNA analysis?

● (0945)

Ms. Diane Séguin (Deputy Director , Laboratoire de sciences judiciaires et de médecine légale): At the moment, we are working on an emergency footing in the laboratories in Quebec. When a case is submitted by the police, whether it is an offence, or the suspect is free, or fleeing, we have to get an answer quickly. In such cases, we put all our energy into dealing with this case quickly, in finding the DNA profiles that could produce matches in the bank.

Since we are on an emergency footing, ordinary cases, that is those that come to the lab and are not classified urgent, because they are part of the normal process, can be put on hold for a year, because we are working on an emergency footing all the time.

We could provide results to the police on urgent cases within two weeks. At the moment, we get about 5,000 cases a year in Quebec, and we have the capacity to process 3,000 of them. So we are constantly working on an emergency footing. We can deal with urgent requests, but, in the end, all the requests are urgent, because even a sexual assault case that is not processed for a year could help the police solve other crimes.

Mr. Serge Ménard: Thank you. I too am working on an emergency footing, because my time is so short, but I would like to know something else. At the outset, we were told that urgent cases make up about 1% of the total. Is that about right?

Ms. Diane Séguin: Yes, that is about it.

Mr. Serge Ménard: So the turnaround time for 99% of the cases is over a year.

Ms. Diane Séguin: Yes.

Mr. Serge Ménard: And you are not able to catch up, if I understand correctly.

Ms. Diane Séguin: That is correct.

Mr. Serge Ménard: So the turnaround times will therefore continue to increase, unless you are given more resources.

Ms. Diane Séguin: Because of the new acts that have come into effect.

Mr. Serge Ménard: Is the same thing true for you, Mr. Prime?

[*English*]

Dr. Raymond Prime: In our laboratory, we have been putting a lot of emphasis on turnaround time over the last two years, because we've had a report from the Auditor General of Ontario that has told us to do that. We have set up practices so that we can turn around some of the easier cases, such as break-and-enter cases, within 30 days. We have several months for some of our non-urgent cases. We're targeting to get those out in three months.

We're just starting to do this. As I said, we've changed our processes, so we don't have any measurements on that yet. We are improving our turnaround times, but we do have a system similar to the one you heard about in Quebec for urgent cases.

The other thing we are doing, though, is we are simply telling police officers that we won't accept certain kinds of cases. We can't continue to have cases come in that we know are going to cause us these kinds of delays. So we have taken the step of saying that we won't take any additional work as a result of Bill C-13 and Bill C-18, unless it meets some very narrow criteria relating to issues of public safety. So we have very significantly curtailed the work we do.

[*Translation*]

Mr. Serge Ménard: Unless I am mistaken, the turnaround times may be shorter, but that is because you've decided to eliminate some of the cases.

[*English*]

Dr. Raymond Prime: That's correct. We do not accept some cases, and we do very carefully limit the amount of evidence we accept in cases as well.

[*Translation*]

Mr. Serge Ménard: What is the main cause of these long turnaround times, which I find unacceptable? We were in fact told that when the bank was set up, the turnaround times were supposed to be about two months maximum.

[*English*]

The Chair: We'll get an answer to that.

Monsieur Laberge has a comment.

[*Translation*]

Mr. Frédérick Laberge (Laboratoire de sciences judiciaires et de médecine légale): That is what we are aiming for. In Quebec we wanted a timeframe of two months for most cases. Unfortunately, given how popular forensics have become, since 2000, we have gone from 1,000 cases in Quebec to over 5,000. We have been able to improve productivity through robotization and improved techniques. We have streamlined resources to process more cases, but unfortunately, we find there is a lack of resources.

In Quebec, we are still receiving 5,000 cases but, because of a lack of resources we can only process 3,000 or so of them. The caseload is increasing from one year to the next which limits our capacity. Furthermore, our processing times are longer because of this increase. That is our current reality.

In Quebec, as in Ontario, minus a few exceptions cases have not been prioritized pursuant to Bills C-13 and C-18. Priority is granted to certain cases like those involving a sexual assault. To us these are major cases which need to be addressed as a priority. Processing times would be shorter in these cases than for break and enters, for instances.

● (0950)

Mr. Serge Ménard: Why is there a lack of resources? When you agreed to collaborate with the national data bank, did you not reach an agreement with the bank for it to provide you with the resources? What happened to these agreements?

Mr. Frédérick Laberge: Indeed, when Quebec committed to this in 1996 an agreement was reached with the federal government to subsidize part of our contribution to the national data bank. The agreement was to be permanent. We negotiate this agreement every three to five years, with optional years.

We have not had a permanent agreement since 2007 and we are currently negotiating with the federal government to that effect. We have not yet come to an agreement. It should be noted that contributions to the national data bank involves additional work.

As has been stated by Ontario our cases are never closed. So long as a case remains unsolved, it remains open. In time, police officers can make new requests. They have to do with cases dating back to 2001 on which we have to redo analyses. Cases remain open so long as they are not solved. You can understand how exponential the effect can be.

Mr. Serge Ménard: Mr. Prime, in Ontario, are you satisfied with your financial agreements or have you seen the same delays as has been noted in Quebec, in other words two years since the renewal of the most recent agreement?

[*English*]

The Chair: Go ahead, sir.

Dr. Raymond Prime: We have the same issues. We have a similar agreement with the federal government as Quebec has, and we're in the same position as they are. We've been waiting for the renewal of the agreement. We've also been trying to increase the proportional funding that comes to Ontario and Quebec, recognizing that we are contributing to a national service and are contributing a very significant number of samples to the database. Both provinces are doing that. We are certainly doing well within, or perhaps even more than, our share of contributions.

The Chair: Thank you very much.

Now we'll go over to the NDP.

Mr. Davies, please.

Mr. Don Davies (Vancouver Kingsway, NDP): Thank you, Mr. Chairman.

First of all, I apologize for missing the beginning of your presentation. I could use a data bank of committee rooms; it would help me get around a bit better.

Now, for my first question. As we know, the DNA data bank is used not only to secure convictions, but also to exonerate people who have been wrongfully convicted. I'm wondering if there's any statistic on how many people have been exonerated from wrongful convictions in old cases.

Dr. Raymond Prime: I'm not sure that's an easy question to answer.

I alluded to the fact that every time you search the data bank and you rule out suspects, you're exonerating people. I think what you're asking is whether there are people in prison who have been exonerated. At this point, I'm not sure we're in a position that we've had enough time to see that happen.

Look at the David Milgaard case, or the Lynda Shaw case. Those were cases where other people were eventually found to have been responsible for the murders. That was a time prior to the existence of the data bank, and prior to the existence of being able to bring in those samples. But even though some people have criminal records, they're not in the data bank, and that's the scenario you would have to have.

We have a lot of cases where we have used DNA to exonerate people. Our lab in particular has been helpful in providing that service to other provinces, simply because of the independence factor—when, for example, you're looking for a second lab that's independent of the first lab.

So we know it happens. We do it on a regular basis, but not through the fact that another name has popped up from the national data bank.

[*Translation*]

Ms. Diane Séguin: I would like to mention an actual case which took place in Quebec. An individual with mental health problems incriminated himself in a sexual assault case. Police officers focused their investigation on the suspect who had already served a sentence for sexual assault. It turned out that through DNA testing of this individual, it was determined his profile did not match that found on the victim. Police officers had to start a new investigation. This individual would have been convicted of a crime he had never committed. That would be an example of a success story for the data bank.

● (0955)

[*English*]

Mr. Don Davies: *Merci.*

I want to turn to a related question. Do you have any sense of, or do you keep any figures on, the number of confessions that might have been generated by the disclosure of matching DNA to defence counsel?

In other words, does the data bank assist in sparing the judicial system, or helping it get more efficient, by promoting greater confessions when that evidence is presented?

Dr. Raymond Prime: We know it happens. In the two examples I gave you, there were guilty pleas in those cases.

But we're the scientists. We're the people in the lab who do the work. We don't keep that kind of statistic.

I don't know if Jonathan has any reading on it.

Mr. Jonathan Newman: That's a question that we get asked quite a lot.

It's difficult, if not impossible, to conduct a meaningful survey—just to go back to your one example—of defence attorneys to determine what exactly has compelled their client to register a guilty plea. We know from police investigators, in the example that Ray has provided, that clearly the DNA evidence was a significant contributing factor, but we don't know factually. It's almost impossible to survey.

Mr. Don Davies: Got it.

I'd like to turn to the evidence, and maybe some of the science. The security and integrity of samples, of course, is critical to have a clean chain of possession of any evidence. I think it would be very critical with samples. I wonder if any one of you could maybe tell me a little bit about your practice in that regard. Do you have any concerns in that respect? Or how's it going?

Dr. Raymond Prime: It's part of the business we do to preserve continuity. One of the most important things in a forensic environment is to ensure that the evidence that comes into the laboratory is the evidence that is showing up in the courtroom. Over our whole history, that's something we have very much taken pride in.

In recent years we have also had access to laboratory information systems that allow you to track evidence within the lab as well. We start with the process from the crime scene. We do training of police officers so that they know how to protect and how to deal with evidence. We have specialists in the police department, usually in identification services, who are the evidence collectors. When the items come into the lab, they're given unique identifiers within the lab. Currently we use bar-coding in our lab to track evidence as it goes through the laboratory. It's also tracked within our laboratory information systems.

Then there's the process to send it back, using proper packaging and seal numbers to identify any items that might be difficult to identify in some other way. For example, blood tubes all look the same, so you have to put a unique seal on each. We have processes to make sure that we can ship it back and ensure that the officer receives it unopened. We have systems to be able to demonstrate that the package has not been opened or interfered with, using, for example, frangible seals.

We have quite a sophisticated process in place to track that and to track the movement of items within the laboratory.

Mr. Don Davies: Thank you.

I'm getting the message that more resources are always helpful, and I'm hearing that strongly from Quebec. Where do you feel you need the most resources to improve your data bank? Is it more personnel you would need, more equipment, or more research? If you had more money, what would you do with it?

[*Translation*]

Mr. Frédérick Laberge: It would be mainly be invested on experts, because we're talking about analyses... To get results, you have to carry out comprehensive analyses, as you do when profiles are not unique to one individual, but are mixed. It is an area of expertise which cannot be automated. The human element is essential.

At our lab what we are mainly missing right now are experts to carry out these analyses and eventually to testify before the courts.

● (1000)

Mr. Yves Dufour: To that point, I simply want to add this: when new people, new experts come to work with us, they don't automatically work on cases the week after their start date. That is not how things work.

The people who come to work in our lab need a BA, a master's degree or a Ph.D. They need one and a half to two years of lab training before they can testify in court. The people working in our lab do forensic analyses, testify before the courts and also provide training.

Also, it should be noted that when individuals start working in our lab, either in biology or in other sectors, they receive training for a year to a year and a half. We may need perhaps 30 to 35 people dealing with cases pursuant to Bills C-13 and C-18, which is what we are supposed to be doing, but we are not because we are short-staffed. Nevertheless, it does not mean that if we hire 35 people tomorrow morning we could deal with these cases in three weeks or even in six months.

First of all, you cannot hire 35 people at the same time and train them all. You would have to train them in groups of five or six and take the time needed to train them adequately so they may do the work and also testify before the courts.

Mr. Frédérick Laberge: This upgrading of skills takes from three to five years. To reach this level, it takes at least three years.

[*English*]

The Chair: Thank you very much.

Do you want to comment on that?

Dr. Raymond Prime: I'll just be brief. I just wanted to make sure that you understand that we're not just whining about needing money. We put a lot of effort into our own labs in terms of trying to streamline our services. We have done engineering studies on the work flow, and we look at ways to minimize the work we have to do in the labs. For example, in our break-and-enter program, we pushed it back to the police to do the sampling so that we would have standard samples come in. We don't just have the clothing, the hats, and the apple cores and everything else. They actually do the sampling for us. We do all those things to try to minimize the work we're faced with, but we really need more resources, and the resources are mostly people.

We use robotics. If there's new technology that allows us to do more things faster, then we can adapt to that technology. But we need the people to look at those samples, extract the cuttings, look for the almost invisible spots of blood or semen or whatever other body fluid we're looking for on these very large objects, which might be bedsheets, carpets, or clothing. It's people we need.

The Chair: Okay, thank you.

We'll go to Mr. Norlock, please.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you very much for coming this morning, gentlemen. I think it's a learning curve for us all.

I'd like to pick up on the questioning with regard to the certainty of a DNA sample that equates to a person. It sort of leads me into two areas that the three centres would deal with.

The first is fingerprints. We relied heavily on fingerprints in the past. I wonder if you would be able to relate the certainty of a fingerprint, once it matches, once you have the requisite indices, which are 11 or 12, I believe, to the DNA and the indices that indicate that this DNA belongs to that individual—the more indices, the more the accuracy. I would equate that to fingerprints. I would like you to talk about that and then about the scientific theory that either one could belong to a person other than the person who gave either that fingerprint or that DNA sample. For the folks out there, some would say that it is possible that you could get a good sample and it would be analyzed, and it might not belong to that person. However, I think the world of science says that it's extremely highly unlikely.

I wonder if you could equate the fingerprint to DNA and make that analysis, because we now accept fingerprints completely, because the science has been proven. But DNA is new in its evidentiary submission to courts, and we sometimes doubt anything new.

Either of the two gentlemen from the centres or Ms. Séguin can answer.

● (1005)

Dr. Raymond Prime: I can start, because there's some irony in what you've just said. In the U.S., there's a National Academy of Sciences report that has been tabled recently in which they are criticizing American laboratories in particular, and also criticizing fingerprint science because it's not as good as DNA and hasn't been approached with the scientific rigour of DNA. So there's some irony in what you say there, because we are being faced with those challenges.

But it's two different things. For the fingerprint you're looking at, you're trying to find a match to another image and then comparing the two images together. In DNA, you have your matching numbers. You've generated a profile that you can create numbers for to compare, and you're saying that this number exactly matches this number to the extent of the comparisons you have. Then you go on to evaluate the significance of that match and the chance of finding another randomly selected individual who will have that match.

I'll ask John to go into the specifics.

Mr. Jonathan Newman: I think Ray summarized it quite well. Fingerprints are different from DNA inasmuch as your fingerprint is not an inherited characteristic. You can't look at your parents, for example, and look at your own fingerprint and see similarities between the two.

DNA is an inheritable component passed down from parents to offspring. We look at components within the DNA, which Ray has referred to as numbers, and we can reference those numbers to the general population and see how common or how rare it is that each of the components occur. Then, by looking at a number of different components, we build up an increasingly detailed picture of the profile and address the significance of the match through the comparison to databases that tell us the frequency of the individual components or how common or rare each of the individual components is.

For fingerprints, we're simply looking at, as Ray has described, the two prints, the known and the unknown, and asking the question: are they exactly the same and do they match or not? If they match, then that's determined to be an identification. With DNA, because people are related, if two profiles match or are exactly the same, the components of the profile and how many components make up the profile will determine how rare that profile is in the general population. That can't be done with fingerprints.

[*Translation*]

Ms. Diane Séguin: For instance, in the case of a random match, if five genetic components are analyzed and we have two individuals identified, we need to look at additional genetic components. The greater the number tested the easier it is to discriminate between two individuals. Two individuals may possess five identical genetic components but by looking at a number of other components, it is possible to distinguish between the two.

Therefore, the greater the number of loci analyzed, and some are identical in 13 loci, for instance, the closer we get, through statistical calculations, to a profile fitting these 13 loci, which would be one person out of 600 billion which could possess these 13 identical genetic loci.

You can determine frequency, within the population... It is very rare to find an individual with the same profile as another. When looking at five genetic loci, there could be one out of three million individuals, for instance, who could have a corresponding profile. If we analyze additional genetic loci, we can discriminate further.

Technology evolves, we do an increasing number of genetic loci, and we arrive at results which allow us to discriminate with near certainty between two individuals.

[*English*]

Mr. Rick Norlock: Thank you.

To make it as simple as possible, we want to get the bad guy. DNA gives you, when it relates to an identified person, or in other words, the suspect.... In our courts, along with other evidence, if the suspect's fingerprints match the scene, that's generally the bad guy, the person who did it. Would it be correct to say that a DNA match to the person who's at the scene in the samples taken from the scene is not only as good as a fingerprint—if I go back to Mr. Prime's reference to the American science community—but actually better? Or at least it's as good, but probably it's better. Is that a good statement to make?

● (1010)

[*Translation*]

Mr. Frédérick Laberge: It is a method for identifying individuals. That said, even if we find fingerprints or DNA, the genetic profile of an individual at a crime scene, all we can say is that the individual was at the crime scene, not necessarily that he or she is guilty.

It is an investigative tool, just as fingerprints are an investigative tool for police officers.

One investigative element, combined with others, allows us to draw links and eventually to charge someone.

Mr. Yves Dufour: In Quebec, there is the case of William Fyfe, a serial killer who admitted to eight or nine murders. The first time he was arrested it was on the basis of a fingerprint found on a door frame.

However, all other evidence that arose afterwards to convict him was DNA evidence. For instance, there was DNA found inside of a ring which belonged to a woman he had killed, which had been brought to his mother's house in Barrie, Ontario. Police officers had managed to get ahold of this ring and identify the victim.

That said, at first he was arrested on the basis of his fingerprints on a door frame. Afterwards, DNA allowed for links to be made to the other murders which followed.

[*English*]

Mr. Rick Norlock: Thank you.

I always look for best practices. On Canada's DNA data bank and our advancement in the field of forensic science, is there a country we can look to and learn from that is more advanced than ours, or are we as advanced in the use of DNA analysis and its acceptability in our courts as any country?

Mr. Jonathan Newman: We can all learn from each other. I don't think there's a single jurisdiction that is seen as being the Holy Grail of forensic DNA analysis. There are things to be learned from jurisdiction to jurisdiction, whether it's between the Centre of Forensic Sciences and the RCMP in Quebec, or the Centre of Forensic Sciences and the FBI, or Quebec and the Forensic Science Service in the U.K. There are differences between jurisdictions.

But I have had consultations with colleagues in other jurisdictions, and Canada is at the forefront of the application of this technology in support of the justice system.

The Chair: We'll have to wrap it up there.

Mr. Oliphant, please.

Mr. Robert Oliphant (Don Valley West, Lib.): Thank you all for being here today.

The best part of being an MP is that we meet people who know so much more about something than we do, and you have all contributed.

Mr. Newman, I want to thank you for your comments on science. I have been trying to get it out forever in my life that science is more of an art than people think. That was very important.

I want to return to the resources question. Correct me if I'm wrong, but given the current legislative framework, I'm hearing that we are already maxed out in the resources we have to do what has to be done, given the current list of designated offences. If we increase the number of designated offences or take away judicial discretion, we will overburden the system. That's in my head.

Following on Mr. Newman's last comments, there are different standards and technologies around the world, and as technology changes it doesn't necessarily reduce the cost. In fact, it could increase the cost of doing your work, so you either need more resources to do your work or you have to find a different way of doing it.

I'm wondering whether you think we should be doing more work, or doing what we do now, only better. Are there ways we can do this work with the same resources or simply more resources?

Mr. Jonathan Newman: It's a combination of both, and Dr. Prime alluded to this. As laboratory practitioners we are always looking for ways to work faster and more efficiently, but ultimately there's a limit to our ability to do the work.

With the advent of Bill C-18, 1,500 additional cases are predicted, which is an increase of about one-third of our caseload. We are just not able to utilize new technology or changes in the way we do the work to keep up with the ever-increasing demand for this work. The police want us to do more cases faster. We survey our police contributors every year, and that has been a consistent message since the use of DNA came into the courts. They want more and they want it faster.

● (1015)

Mr. Robert Oliphant: And I would suspect Quebec and Canada have a similar answer?

[*Translation*]

Mr. Frédérick Laberge: Absolutely, but in Quebec, and also in Ontario, a great number of technical improvements have been made to create economies of scale.

Since the year 2000, our unit costs have decreased considerably. However, because we have far more requests, the cost is obviously greater.

That said, we are not looking at an inordinate amount of additional funding to get up to date. These are not exorbitant amounts.

[*English*]

Mr. Robert Oliphant: Does either Ontario or Quebec use private labs for its overflow work?

Dr. Raymond Prime: The short answer to that is no.

[*Translation*]

Mr. Frédérick Laberge: No.

[*English*]

Mr. Robert Oliphant: So unlike the RCMP, which has a contract with a private lab, Maxxam, you don't do that.

Dr. Raymond Prime: That is correct.

Mr. Robert Oliphant: What is your opinion on privatization and feeding your highly sensitive work out to private companies?

[*Translation*]

Mr. Frédérick Laberge: We are rather reluctant in that respect because this is a very specialized area of expertise, which we have mastered. And, at the end of the day, if it was opened up to the private sector, there would be a risk of losing this expertise. That is our position.

Given our high volume, we believe we should be in a position to have effective government labs which could adequately fulfil this mandate without turning to the private sector.

Mr. Yves Dufour: If we were to turn to the private sector, there would be costs. The private sector does not operate free of charge. So, the amounts which would have to...

[*English*]

Mr. Robert Oliphant: They have to be paid and get profit, so it's actually—

[*Translation*]

Mr. Yves Dufour: Exactly.

[*English*]

Mr. Robert Oliphant: That would be my concern about privatization, so I will be working hard to make sure we don't privatize this work anymore.

I have 20 seconds, so I just want to talk about education and research and development. Governments of a certain ilk—no names mentioned—do not like to spend money on research and development. Other governments like to foster research and development. This seems to be an area in which Canada could have a competitive advantage—to actually develop technology and export it to the world. Do you think we have the capacity for that?

Dr. Raymond Prime: We have to get the universities interested in doing that. Canada is a small market, so it is a challenge. We've had linkages with the University of Toronto to develop a forensic science program, and some of their students come into our lab periodically, and we do work with other universities to do that.

Mr. Robert Oliphant: Is there not a new lab, though, developed at the University of Ontario Institute of Technology? Aren't they doing forensics?

Dr. Raymond Prime: Yes, there's a program at the University of Toronto, and there is one at UOIT, which you referred to, and there are some in the north. There are a lot of programs. We're calling it the *CSI* effect. Lots of kids want to go into forensic science right now.

I need one second to just pick up on something I heard you say, Mr. Oliphant, in the beginning of your introduction. You said something about the taking away of judicial discretion creating more work for us. I want to make it clear that the work we do in the lab is not impacted by the judicial discretion, which, as I understand it, is the judge providing a ruling that samples go to the national DNA data bank. That component would not bring more work into our lab.

Mr. Robert Oliphant: Thank you.

The Chair: Ms. Séguin, did you have a comment?

[*Translation*]

Ms. Diane Séguin: Yes.

I attend international conventions, as does Mr. Newman, and we really focus on research and development. We have to keep up to date with other world class laboratories. We must be able to compare our results to those of other countries, be it the United States, Latin America or even Europe. We must maintain this level and, to do so, we need resources to continue our research and development.

There are students from Lausanne, Switzerland, who come to Quebec for lab internships because our technology really is quite advanced. We present studies we have done in the lab at international conventions. Therefore, it is very important to maintain our level. Research and development is very important. It cannot simply be cast aside.

● (1020)

[*English*]

The Chair: Mr. McColeman, please.

Mr. Phil McColeman (Brant, CPC): I, too, would like to thank the witnesses for taking the time to come and educate us on this very important technology from a science point of view.

I do want to carry on a little deeper with the questioning on the service model, which Mr. Oliphant just moved into. I just want to understand it.

Because there is an emerging demand for this, have you noticed private providers cropping up? Are there people who see being a private provider of this service as a possible enterprise?

[*Translation*]

Mr. Frédérick Laberge: In Quebec, there is one company which would like to enter the fray, but only one at this point. It should also be noted that when compared with the private sector, our quality-assurance criteria are extremely high.

At this point, our laboratory is in the process of ISO certification, which we will probably obtain over the course of this year. These providers would have to obtain ISO accreditation to be able to provide services. It is not an easy thing to obtain.

Ms. Diane Séguin: There is the issue of the chain of possession we referred to earlier on. When police officers bring us cases, the chain of possession internally, within the lab, is guaranteed. Samples are brought to us, we can confirm their integrity throughout the process. And when we issue a report and see a match, obviously we don't simply note that there is a match and provide information: we analyze the case and ensure the match is valid, and that all aspects of the case have been verified.

It becomes difficult if you go through the private sector to deal with one element in the chain, to ensure the integrity of the chain of possession. So it is also important for us to control all aspects of the analyses during the entire process.

[*English*]

Mr. Phil McColeman: I understand that and accept it. I guess I'm drawing a parallel in my mind, rightly or wrongly, with the health care system and diagnostic work that's done in that system, both in government and, as a separate entity, in private labs.

Are you aware of any examples of police departments directly using private service providers for this?

The Chair: Mr. Prime, I think you'd like to comment on both of those issues.

Dr. Raymond Prime: I'll comment on both issues. I'd like to mention that my experience with private sector forensic applications is that because it is a very narrow and small field, it's not a really profitable business to get into. Historically, the people who have provided private service in forensic science have been those who provide testimony for alcohol and impaired driving, because there's a large volume of court work, or people who do handwriting comparisons, because they don't have a lot of overhead to deal with.

There have been some small ventures into DNA in Ontario. Maxxam was mentioned, and there are some at Lakehead University. Generally, these are businesses that are tacked on to another kind of forensic business, such as paternity testing, where you have the volume. It's a small field, and it often comes because they can attract people who are already fully trained from labs like ours and the RCMP's, and perhaps the Quebec lab. So there is that difference.

Could you remind me of the second part of your question?

Mr. Phil McColeman: The second question was whether you are aware of any police departments, be they municipal, provincial, or national, that are going directly to private labs.

Dr. Raymond Prime: The police in Ontario might go to a private lab after they've exhausted all possibilities with us. They are free to do that, and we know that from time to time they have done it.

● (1025)

Mr. Phil McColeman: Following that thinking, I'd like to understand better the model that was set up in Quebec and Ontario, having made a decision—I assume it's a provincial government decision—to set up separate entities. Perhaps it's a volume issue. Why are there three entities, meaning Quebec's, Ontario's, and the national one, instead of one national one? They don't exist in other provinces.

[*Translation*]

Mr. Frédérick Laberge: In Quebec and in Ontario we have provincial police forces, the Sûreté du Québec and the OPP. These police forces are different than those in other provinces and territories.

Forensics are a provincial area of jurisdiction.

Mr. Yves Dufour: I'd like to point out that our laboratory, in Quebec, was founded in 1914, 95 years ago. It is the oldest laboratory in North America. The second one was created in Chicago in 1928.

You ask whether police officers would want to deal with private companies for DNA analysis. It is the confidence they have in our laboratory and in the other types of services we provide that has them coming back to us, because they are sure the services they will receive will be state-of-the-art.

[*English*]

Mr. Phil McColeman: What ministry do you function under provincially?

Dr. Raymond Prime: It's the Department of Public Safety and Correctional Services.

Mr. Phil McColeman: And what one is it in Quebec?

[*Translation*]

Mr. Yves Dufour: In Quebec, it is the Ministry of Public Safety.

[*English*]

Mr. Phil McColeman: Thank you.

The Chair: We'll come back later.

We'll now go over to the Bloc Québécois.

Ms. Mourani, please.

[*Translation*]

Mrs. Maria Mourani (Ahuntsic, BQ): Thank you, Mr. Chairman.

Good morning, ladies and gentlemen. I have a brief question and I will then hand over the floor to my colleague Mr. Ménard.

If I understand correctly, even though your organization reports to the Ministry of Public Safety, it is not linked to the police. You are an arm's length institution. Is that correct?

Mr. Yves Dufour: Absolutely. We are an independent services unit. The media often refer to police labs, but we are an independent lab. Our offices are located in the Sûreté du Québec building, and that may be why there is some confusion. We are an independent service unit, and police forces are our clients.

Mrs. Maria Mourani: Is that also the case in Ontario?

[*English*]

Dr. Raymond Prime: In Ontario we're separate from the police. We are in the same ministry as the Ontario Provincial Police, but we are independent of the police service.

[*Translation*]

Mrs. Maria Mourani: The fact that you are an independent institution must to some extent contribute to the fact that you have some freedom in terms of your decisions and your processing times? You are absolutely independent and do not face pressure to do a shoddy job.

Mr. Yves Dufour: We are independent, but our mandate is to support the administration of justice. We do not work for either the Crown nor for the defence; we work for the court. We report on facts and present analyses before the courts, and the judge assesses the evidence. Crown prosecutors and defence attorneys do their work. We do not do legal work, but it is our job to say that a given forensic analysis led to a given result.

Earlier, Ms. Séguin referred to a young man in the City of Quebec who incriminated himself in a sexual assault case. When we presented the DNA evidence, we managed to get this young man with a mental illness outside of the legal arena so he could consult a psychologist or a psychiatrist. He really needed a psychiatrist and a psychologist more so than he needed jail; it wasn't the right place for him.

We are independent and we provide the courts with forensic expertise. If the processing of a sample is slow, our clients, either the coroner's office or a police force can ask us, when a trial is imminent, or in a given case, to try to make it a priority, and we will do so. Obviously, the lack of staff and funding slows things down.

Mrs. Maria Mourani: Does the same apply to the RCMP, or does it administer its own centre?

Mr. Yves Dufour: You should put the question to the RCMP, which is not here this morning.

● (1030)

Mrs. Maria Mourani: Do you not know?

Mr. Yves Dufour: We work with the RCMP, which has forensic services.

Mrs. Maria Mourani: But they are for the RCMP, aren't they?

Mr. Yves Dufour: They provide services to all territories and all provinces other than Ontario and Quebec.

Mr. Serge Ménard: I found the reference that I mentioned earlier. It is from the Auditor General's May 2007 report. I would like to hear what Mr. Prime and what the Quebec representatives have to say about this. The Auditor General is talking about the RCMP forensic labs:

> Although it can process urgent service requests in less than 15 days, they account for only 1% of all service requests. In the remaining 99% categorized as routine, the FLS is unable for the most part to meet the 30-day target it has set for them. While average turnaround times have improved for all other types of analysis, for DNA analysis requests they have worsened—from 91 days in 2003-2004 to 114 days in 2005-2006—despite increased spending and additional staff. The backlog of DNA requests is a major contributor to the long turnaround times.
>
> Although the labs now have [...]

Do you see any value in the objectives that were set at the outset? Is a turnaround time of 114 days too long to be acceptable? In Ontario and in Quebec, it takes you more than 114 days to deliver the current DNA analyses.

Mr. Frédérick Laberge: As we said earlier, in Quebec, our turnaround time is more than 114 days in the majority of cases, even if we consider the cases in the order of their priority.

Nevertheless, we have extremely long turnaround times and this makes our service almost useless. In fact, delays in the service create huge delays in the court system.

Moreover, if we are able to identify some individual who has to do with these files, but if the individual has not been identified, he or she would continue committing crimes. This already presents an enormous risk.

That being said, it would be very difficult for us to meet the standard of a 30-day turnaround time. At this time, we do not have the capability to do that.

In any case, I do not think that every file deserves a 30-day turnaround time. However, I think that a target of 60 or 90 days would allow us to deal with most of the files.

Besides, we need to set out some guidelines regarding the order of priority for urgent files. We would need much more resources to meet a 30-day turnaround time. That is what we think in Quebec.

[*English*]

Dr. Raymond Prime: There are some concerns about the numbers in that report, because we're comparing turnaround times with actual targets, which are theoretical limits.

We have concerns about long turnaround times, and in the last year we've put a lot of effort into reducing our turnaround times. Our most recent figures in biology are projected to be in the range of 54 days for an average turnaround time. That doesn't mean we don't have a lot of important cases that are in the lab for several months. If we do some easy cases quickly, it's going to make those look good compared to the older cases, and we get an average, so our average has come down.

We would like to have all cases out in 30 days, and that's what we hear from the police officers in many instances. However, when the survey we did last winter asked them which cases they need quickly, their answers ranged from 30 days for an important case, such as homicide, to 60 or 90 days for break and enters. That is somewhat opposite to the way we can easily do it in our laboratory.

We do know that the client wants the work out within a short period of time, and we can't always do that. We do put in provisions, as Ms. Séguin has indicated, that allow us to get the important things. The things that impact on public safety are done in a very short time, but the rest of that case might take several months to finish off.

The Chair: Monsieur Ménard, do you have a very brief question?

[*Translation*]

Mr. Serge Ménard: Do you have an agreement with the federal government that is currently in force or are you still negotiating, as Quebec is still negotiating, two years after your last funding agreement has expired?

[*English*]

Dr. Raymond Prime: We're in the same situation as Quebec. We have the same type of agreement. We did sign the extension that gave us the same funding as 2005. We haven't had an increase, but we do have the interim agreement.

● (1035)

The Chair: Thank you.

Go ahead, Mr. Rathgeber, please.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you very much, Mr. Chair.

Thank you to all the witnesses for your attendance here this morning.

Dr. Prime, I understand that in approximately 2007—and I think you made reference to this—the Auditor General of Ontario did a comprehensive audit of your facility in Toronto regarding efficient, timely, and reliable service, and recommended that significant changes be undertaken with respect to systems and procedures in order to make turnaround times comparable to those of the leading international forensic laboratories.

This is a two-part question. First, what international forensic laboratories was the Auditor General comparing you to? Second, have some systems been developed to reduce your turnaround times?

Dr. Raymond Prime: In fact, a report is going to the Auditor General today to tell them what we have done. We have very seriously examined our processes. I mentioned that we've been out to speak with the client to find out what targets should be set. A critical component of that report was not so much the actual turnaround times, but the fact that we weren't using targets to set a goal to try to achieve better turnaround times. We examined all the processes and set up targets for all the different processes in the lab beyond DNA, which we're discussing today.

As for the labs they compared us against, they were taken from the RCMP report, so it was the RCMP and Sweden, as I recall it.

Mr. Brent Rathgeber: Thank you.

Dr. Raymond Prime: And the Forensic Science Service in England as well, I think.

Mr. Brent Rathgeber: Thank you.

You indicated in your opening comments that your lab does provide work for criminal defence attorneys from time to time?

Dr. Raymond Prime: We do work with defence counsel. We try to do it in conjunction with them and the crown attorneys. We don't provide work in confidence. So we don't work in the way that they can hire us to do a case, for example. But if they want specific tests done or if they have something that needs to be tested that the crown wasn't willing to test and they think it might have an impact on the case, if we think it's scientifically possible and their hypothesis is testable, then we will accept it.

Mr. Brent Rathgeber: Who pays for that?

Dr. Raymond Prime: The Province of Ontario pays for it. We just take it on as a case.

We try to treat the defence counsel the same as we treat the police and the crown attorneys.

Mr. Brent Rathgeber: I have one science question. Which body samples provide the best DNA? Is it the hair or the saliva? Do you have a preference? Is one body substance more reliable than another?

Mr. Jonathan Newman: In terms of a pristine comparison sample taken specifically from an individual for purposes of comparing it to a crime scene sample, the preferred sample is a blood sample. It strikes the appropriate balance between ease of sampling and ability to obtain a sufficient amount of DNA that can then be easily tested. So a blood sample is the best.

When you talk about a crime scene sample, it's a very difficult question to answer. It depends on the amount of sample available, the conditions in which it's been stored, etc. As Ray has pointed out, we receive everything at the laboratory, including the kitchen sink.

So for a sample from an individual, a blood sample is the best sample for our purposes. For crime scene samples, the more body fluid present, the better, but again, it depends on how it's been stored.

Mr. Brent Rathgeber: Am I wrong in my recollection that when offenders are obliged to provide a sample to the data bank that it's typically hair or saliva?

Mr. Jonathan Newman: It's blood.

Mr. Brent Rathgeber: It is blood. I am wrong.

Thank you.

The Chair: If there are no more questions, we'll suspend for a brief time and allow our witnesses to vacate the table.

We want to thank you very much. We're going to go into an in camera session. Your testimony has been very helpful and we appreciate it. Thank you very much.

We'll suspend for a brief moment.

[*Proceedings continue in camera*]

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