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

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**EVIDENCE**

**Tuesday, November 30, 2010**

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**Chair**

**Mr. Ed Fast**



## Standing Committee on Justice and Human Rights

Tuesday, November 30, 2010

• (1545)

[English]

**The Chair (Mr. Ed Fast (Abbotsford, CPC)):** I call the meeting to order.

This is the Standing Committee on Justice and Human Rights. Today is Tuesday, November 30, and this is meeting number 39. Just for the record, this meeting is televised.

You have before you the agenda for today. We're dealing with two items. First of all, we're beginning a review of Bill C-48, An Act to amend the Criminal Code and to make consequential amendments to the National Defence Act. Secondly, we'll move to a review and consideration of the supplementary estimates (B). The minister will join us for the second hour of our meeting.

Back to Bill C-48, to assist us with our review, we have with us two witnesses. First of all, we have an official from the Department of Justice, John Giokas, counsel, from the criminal law policy branch.

Welcome back.

**Mr. John Giokas (Counsel, Criminal Law Policy Section, Department of Justice):** Thank you.

**The Chair:** We also have with us Lieutenant-Colonel Bruce MacGregor. He's director of law, military justice policy and research for the Department of National Defence.

Welcome to our committee.

**Lieutenant-Colonel Bruce MacGregor (Director of Law, Military Justice Policy and Research, Department of National Defence):** Thank you.

**The Chair:** I understand, Mr. Giokas, that you have some introductory comments. Once you're done, we'll open the floor to questions.

**Mr. John Giokas:** Thank you, Mr. Chair.

I'm here today because I understand that the committee has requested that officials provide an overview of Bill C-48, An Act to amend the Criminal Code and to make consequential amendments to the National Defence Act.

As the chair has indicated, I'm here with Lieutenant-Colonel Bruce MacGregor from the Office of the Judge Advocate General. After my presentation I will respond to any questions you may have with regard to the Criminal Code amendments set out in this bill, and Lieutenant-Colonel MacGregor will respond to any questions you

may have with regard to the consequential amendments to the National Defence Act.

That being said, as a preliminary matter let me begin by saying—and as I'm sure you're aware—that the punishment for first- and second-degree murder in the Criminal Code is life imprisonment, with the possibility of applying for parole after a period of parole ineligibility determined under section 745 of the code. That period is 25 years from the time an offender is brought into custody for first-degree murder.

It's also 25 years for any second-degree murder where the murderer has previously been convicted either of another domestic murder or of an intentional killing under sections 4 and 6 of the Crimes Against Humanity and War Crimes Act. The parole ineligibility period for all other second-degree murderers is a minimum of 10 years.

That being said, sentencing judges are already authorized under the Criminal Code, under section 745.4, to set a parole ineligibility period for second-degree murderers that may range anywhere from 11 to 25 years. In making this decision, judges must have regard—and I'm quoting here from section 745.4—“...to the character of the offender, the nature of the offence and the circumstances surrounding its commission, and to the recommendation, if any, made...” by a jury.

In essence, the bill before you today proposes to amend the Criminal Code to authorize a judge to impose multiple periods of parole ineligibility on convicted multiple murderers, to account for each murder victim, and to use exactly the same criteria in making his or her decision in this regard.

Let me be more specific. Bill C-48 would amend section 745.5 and related provisions of the Criminal Code to authorize a sentencing judge to impose on an offender sentenced for more than one first- or second-degree murder, or any combination of first- and second-degree murders, a separate 25-year period of parole ineligibility for the second and for each subsequent murder.

As mentioned, in exercising this authority, the judge would be required to have regard to the character of the offender, the nature and circumstances of the murders, and any jury recommendation. In essence, we are proposing exactly the same criteria as appear in section 745.4 to ground this new authority; however, the sentencing judge would also be required to state orally and in writing the basis of any decision not to exercise the authority being proposed in Bill C-48.

However, the key point is that these additional 25-year periods of parole ineligibility would run consecutively to the period of parole ineligibility imposed for the first murder. As I mentioned, that period will depend on whether it is a first- or second-degree murder and whether the judge has used the authority in section 745.4 to set the parole ineligibility period for the first murder at anywhere between 11 and 25 years.

The coming into force of Bill C-48 will occur on a date to be fixed by order in council. To ensure that jurisdictions are aware of the nature of this proposal, the Department of Justice will begin consultations with them as soon as this bill is passed into law.

That being said, we are now open to any questions that you may have on Bill C-48.

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

Given that our time is limited owing to the fire alarm during question period, I am suggesting that we go with five-minute rounds. Is that acceptable?

**Some hon. members:** Agreed.

**The Chair:** All right. We'll start. Who is going for the Liberals?

You have five minutes.

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

Thank you so much for your presentation.

I have two questions. First, since the death penalty was abolished in 1976, how many offenders sentenced to concurrent life sentences for multiple murders have received parole?

Second, since 1976, what, if any, is the average sentence served by convicted multiple murderers prior to being granted parole, if indeed any such offenders have been granted parole?

**Mr. John Giokas:** Unfortunately, I don't have the statistics since 1976. I can give you some numbers, if you'll just give me a moment.

As of August 2009, there were 4,311 federal offenders who had committed first- or second-degree murder. Of these, 457 have more than one murder conviction. While I can't answer your question about the length of time they spend in custody, I can tell you that as of August 2009 only 26% of multiple murderers had been paroled, compared with over 40% of single murderers.

Concerning the precise questions you've asked, I will undertake to get that information for you and bring it back to the committee.

• (1550)

**Hon. Marlene Jennings:** Could you also undertake to report, if you have the data, how many of the 26% who had been paroled as of August 2009 have had their parole revoked? If possible, I would also like to know the reasons for revoking parole.

If there is any time left, I will turn it over to my colleague, Mr. Lee.

**Mr. Derek Lee (Scarborough—Rouge River, Lib.):** I have two questions.

First, this bill and the penalty arrangements under it don't connect in any way, I take it, to the penalty for high treason.

**Mr. John Giokas:** No.

**Mr. Derek Lee:** Okay.

Second, in your remarks, you said the second period of consecutive ineligibility was 15 years. Could a second period of parole ineligibility be less than 25 years but greater than 10 years? In other words, the first given parole ineligibility period was, let's say, 20 years on a second-degree murder—

**Mr. John Giokas:** No. The proposal as set out requires a mandatory 25 years for the second and any subsequent murder.

**Mr. Derek Lee:** That answers my question. There is no flexibility, no matter what the first period of parole ineligibility was. A second one, under this legislation, must be a 25-year ineligibility period.

**Mr. John Giokas:** Yes, that's right. It's based on the existing provisions of the Criminal Code in section 745.

**Mr. Derek Lee:** Thank you.

**The Chair:** Thank you.

We'll move to Monsieur Ménard.

[*Translation*]

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** Here's what we're talking about: is this a person who has previously been convicted of murder who is being tried for another murder that he has committed, or a person who has committed a double murder during the same incident? For example, this year in Quebec, a doctor killed his two children.

**Mr. John Giokas:** Under the bill, all murders must have been committed after the bill comes into force, but the murders must not have been committed in the context of the same affair. There may be a first murder, and another may subsequently be committed in a different context. Regardless of whether there is one trial or two, what counts is that all the murders are committed after Bill C-48 comes into effect.

**Mr. Serge Ménard:** I understand that very well.

In Quebec, there were two tragedies in the same year. In both cases, they were family tragedies. In the first case, in an incomprehensible moment of despair, a surgeon killed his two children because his wife had left him. The second case is that of a family that was living in poverty and that had tried everything to get out of it. Ultimately, the parents decided that the entire family was going to die. So they prepared a cocktail of drugs that all family members took. The father and the two children died, but the woman survived and was thus charged with the three murders.

In the circumstances of multiple murders, are parole eligibility periods consecutive? When I read the wording, I still get the impression it concerns the trial of someone who has previously been convicted of murder and who is then convicted after another trial for another murder.

• (1555)

**Mr. John Giokas:** No. As I said, it may happen that someone commits a murder in the context of a certain affair and then commits another murder in another context.

**Mr. Serge Ménard:** Yes. I have no trouble understanding that. That's another case.

**Mr. John Giokas:** There may also be three murders related to the same affair, as in the example you raised. In that case, the convictions are consecutive. That person may be given a 10-year ineligibility period for the first murder because it's second-degree murder and was committed in special circumstances. You understand the situation very well. However, if a judge decides—it is very important to emphasize that this is optional—to add consecutive ineligibility periods, each period will be 25 years. In the case you referred to, the same person could receive a 10-year ineligibility period for the first murder, 25 years for the second and 25 years for the third, if that's what the judge decided.

**Mr. Serge Ménard:** That's the case if the same judge conducts the trial for the three murders.

**Mr. John Giokas:** Yes.

**Mr. Serge Ménard:** All right. In fact, that leads me to believe that the majority of multiple murders are committed in circumstances in which the person is desperate.

**Mr. John Giokas:** I agree.

In Canada, we have had very few examples of serial killers. The vast majority of serial murders are committed in a single context, particularly within a family or in a work context. These are people who have problems; that's for sure. That's the reason why the proposed measures are optional.

**Mr. Serge Ménard:** Thank you.

[English]

**The Chair:** Thank you.

We'll move to Mr. Woodworth for five minutes.

You're sharing your time with Mr. Dechert, is that correct?

**Mr. Stephen Woodworth (Kitchener Centre, CPC):** Yes. Thank you very much, Chair.

I just have one or two questions to be absolutely clear.

First of all, regarding the issue of retroactivity, and apart from the specific wording that I see.... Let's just start with under the existing wording: if someone commits a murder, is sentenced, and then commits another murder, would this legislation permit a judge to impose a consecutive parole ineligibility with respect to the second murder?

**Mr. John Giokas:** Yes, if both murders occurred after the coming into force of the legislation.

**Mr. Stephen Woodworth:** All right.

Let me repeat that, because that isn't actually what I was trying to ask. I was just a bit distracted.

What I mean to ask is that if a murder is committed before the section comes into force and results in a period of parole eligibility, and then the same individual commits a murder after the section comes into force, will a court be permitted to impose a consecutive parole ineligibility with respect to the second murder?

**Mr. John Giokas:** No. But there are already rules in the Criminal Code that deal with that situation. There is a combination of effect between the Corrections and Conditional Release Act and the Criminal Code, which would require that the second period of parole ineligibility be added to what is left of the first. In other words, the clock would start running again.

So if somebody commits one murder prior to this legislation coming into force—and I presume, from your example, that they've been captured, convicted, and are serving a prison sentence—and commit another one, if they've served 10 years of that first parole ineligibility period, say, the law automatically adds another 25. So they would serve 35 years. That happens automatically right now.

• (1600)

**Mr. Stephen Woodworth:** But if it was not such a lengthy period...if it was one year, then it would be 26.

**Mr. John Giokas:** That's right.

**Mr. Stephen Woodworth:** Is that by virtue of the wording of this act or by virtue of some other wording in the Criminal Code or the corrections act?

**Mr. John Giokas:** The example you gave me was of a murder before the coming into force of the act and one afterwards. In that case, it's the interaction of section 120.2 of the Corrections and Conditional Release Act and section 745 of the Criminal Code.

**Mr. Stephen Woodworth:** Thank you.

Secondly, I just want to be very clear. If an individual at the present time commits one murder, a week later commits another murder, and a week after that commits a third murder, is there any discretion in the court to impose consecutive parole ineligibilities in such a case, under the present regime?

**Mr. John Giokas:** No, not under the law as it stands now.

**Mr. Stephen Woodworth:** All right.

Thank you.

I'll give the rest of my time to Mr. Dechert.

**The Chair:** Mr. Dechert.

**Mr. Bob Dechert (Mississauga—Erindale, CPC):** How much time do I have, Mr. Chair?

**The Chair:** You have one and a half minutes.

**Mr. Bob Dechert:** Thank you.

Gentlemen, thank you for being here this afternoon.

I think it's interesting that we're discussing this bill today when, as you probably know, Clifford Olson applied earlier today yet again for parole. He's a person who committed 11 heinous murders—that we know about—and received one life sentence. It seems to me that we as a society need to light a candle for every life that's taken illegally and in these terrible circumstances, such as this case, and we need to respect each victim. This bill may be one way we can do that.

I'm happy to report, by the way, that Mr. Olson has been denied parole again, but I feel for the families of his victims, who had to appear again.

We've heard a lot from our friends on the other side of the room about how Canada has a longer than average incarceration period for murderers anyway, so why do we need to do things like this? I wonder if you could describe for us why you think this legislation is necessary, given that case.

**Mr. John Giokas:** Thank you for your question, Mr. Dechert.

The rationale for the bill was set out in the speech of the Honourable Daniel Petit in his remarks on November 15. They were very much to the effect of what you've just said. I don't believe I could add anything more meaningful to them.

**Mr. Bob Dechert:** Thank you.

Why will—

**The Chair:** Mr. Dechert, you're out of time.

**Mr. Bob Dechert:** Thank you.

**The Chair:** We're going to go to Mr. Murphy for five minutes.

**Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.):** When we start asking DOJ officials what their policy slant is, that's the day we should switch roles. I'd take the security, though; I wouldn't mind being a DOJ person.

But I respect your answer on the policy question.

I have a question. It's back to the hypothetical. I think we're all trying to get our heads around the discretion that might be used. Double murder, same circumstances: that's clearly first degree. If the judge decides that on the first murder the person should not be eligible for parole for 25 years, how is he or she going to separate the second murder, which is the same? The person is automatically ineligible for parole for over 50 years in that situation. I don't know how he could use the discretion in one case and not the other.

You're saying that on the second murder he could say he's using his discretion and is granting parole eligibility and equating the two murders the same.... To me, the problem might be.... The discretion is there and that's good. I remark, by the way, that it isn't there in Bill S-6. I wonder why it isn't, because we're dealing with a similar part of the code; that's faint hope and so on. That's one question, I guess.

Second, would we not be better off if we gave the judge a little more discretion on the number of years? In other words, a judge might look at those two instances and consider 25 years. He might be on the borderline as to whether he wants to go 50 years. He might very easily say 35, but we have this choice between the second-degree 10 and the first-degree 25.

You see on TV that in the American courts they can just pick a number out of the air and say, "You're not eligible for parole for 36 years". In Canada, you can pick 10, you can pick 25, and, in the case of two murders, you can pick 50. But you can't pick between 25 and 50 in two first-degree murders, as far as I can tell. I wonder if it might be good to have a sliding scale. If you're going to give discretion, you should give it. You shouldn't say you have a choice between 25 and 50, or 75, or whatever the case.

In three-person murders, I think we get a little far afield. The choice between 25 and 75 is pretty large as well. But between 25 and 50 there might be a judge who thinks, "This guy is 40 and he should pay". No question: each murder is equal in the eyes of the law in terms of the denunciation. But in a choice between 25 and 50, heaven knows, the judge might think that somebody might be able to rehabilitate themselves.

I'd like your comment about whether we should have something in between, and I'd also like a comment on Bill S-6.

● (1605)

**Mr. John Giokas:** Let me deal with the second comment first. The Criminal Code already states in section 745 that in the case of a first-degree murder, it's a mandatory 25 years, and if somebody commits another first-degree murder, it's a mandatory 25 years, and so on.

The issue right now is that those 25 years are served concurrently. What we're doing in the case of first-degree murder is giving the judge the discretion to make the mandatory periods of 25 years consecutive. This is already set out in the code. It's also set out in section 745 that in the case of a second-degree murder, where somebody has already been convicted of another murder, whether it's first or second degree, it is also an automatic 25 years.

So the 25-year period is already established in the Criminal Code. All Bill C-48 does is allow a judge to make the periods consecutive, based on criteria that judges are already using to make a decision that is similar in kind, namely, whether to extend a minimum 10-year sentence to 25 years in the case of a single second-degree murder.

**Mr. Brian Murphy:** You don't see that between 25 and 50 in the case of a double murder a judge might want to have some leeway? You don't see that? You're saying it's already there—it should be 25 or 50. That's what you're saying. That's the discretion a judge has under this bill. I'm not saying it's a bad thing. I'm just saying there isn't much in between. Actually, there's 25 between 25 and 50.

**Mr. John Giokas:** Perhaps I—

**Mr. Brian Murphy:** Just stick with two first-degree murders at the same time. It's either 25 or 50 under this law.

**Mr. John Giokas:** That's right, according to the discretion of the judge.

**Mr. Brian Murphy:** You don't see any need for more discretion. Okay, you're not going to bend on that.

Could you tell me why discretion wasn't kept in for Bill S-6? Why here and why not in Bill S-6?

**Mr. John Giokas:** Which discretion are you referring to?

**Mr. Brian Murphy:** The judicial—

**The Chair:** Sorry—

**Mr. Brian Murphy:** Is it almost time, Mr. Chair?

**The Chair:** Mr. Murphy, we're not dealing with Bill S-6, as you know. I think we should focus our comments and questions on this particular bill. Anyway, you are out of time.

We're going to move on.

[Translation]

Mr. Lemay, go ahead, please.

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** Mr. Giokas, I have a problem and I'm trying to understand.

Let's suppose someone is convicted of second-degree murder. The judge sentences him to life imprisonment with the possibility of applying for parole after 10 or 12 years, or whatever. We know all that.

Now let's take the case of someone who is found guilty of two unpremeditated murders. From what I understand of the answer you gave my colleague, the judge may decide that the person will not be eligible for parole for 25 years?

So that person would have to serve a term of 15 years, for example, for the first unpremeditated murder. However, for the second unpremeditated murder, the sentence would be 25 years; that's for sure.

Have I correctly understood?

**Mr. John Giokas:** Yes, that's correct.

• (1610)

**Mr. Marc Lemay:** So if the person commits two similar murders in the same incident, he could receive a harsher sentence for one of them. It's currently a life sentence for two unpremeditated murders. So there could now be an ineligibility period of 15 years and, subsequently, of 25 years.

**Mr. John Giokas:** Yes, that's possible, if that's what the judge decides.

**Mr. Marc Lemay:** But can the judge decide to impose a sentence of less than 25 years?

**Mr. John Giokas:** No, not in the event of a second ineligibility period.

**Mr. Marc Lemay:** The judge has no choice in the case of the second ineligibility period. If he imposes two consecutive ineligibility periods under new sections 745.21 and 745.51, the second must be 25 years. He has no discretion to decide otherwise.

**Mr. John Giokas:** No. As I explained, that's already provided for in paragraph 745(b) of the Criminal Code.

**Mr. Marc Lemay:** Yes.

**Mr. John Giokas:** The period is 25 years in the case of a second murder. What we're doing is to give the judge discretion to impose the second consecutive period.

We've designed the measures in accordance with those already in the Criminal Code. The only change is that we're also granting the judge some discretion.

**Mr. Marc Lemay:** For example, let's take the case of Colonel Williams, who was convicted of two murders. He currently has a term of 25 years.

**Mr. John Giokas:** Yes.

**Mr. Marc Lemay:** But if the judge had that discretion, he could sentence him to two consecutive 25-year terms. That's what I've understood.

**Mr. John Giokas:** Yes, if the murders had been committed after the act came into force, the judge could have sentenced him to 50 years, 25 years for each murder.

**Mr. Marc Lemay:** All right. He couldn't do it in the present situation.

**Mr. John Giokas:** No.

**Mr. Marc Lemay:** The situation is exactly that. There is a problem with the Criminal Code. No one saw it.

I know you can't engage in politics. So you can't say what you think about the short title of this bill. However, everyone currently agrees that the courts don't have the necessary discretion. If a person commits four murders, he'll be sentenced to 25 years.

**Mr. John Giokas:** That's it.

**Mr. Marc Lemay:** Now we could let the judge impose consecutive terms. If he exercises his discretion, it's at least 25 years more. That's what I've understood. That's what's proposed in the bill.

**Mr. John Giokas:** Yes.

**Mr. Marc Lemay:** Under paragraph 745(b), there will be no opportunity to impose a term of less than 25 years.

**Mr. John Giokas:** That's correct.

**Mr. Marc Lemay:** Perfect, that's clear.

Thank you.

Wait a moment; do I have any time left?

[English]

**The Chair:** No. You have 15 seconds.

[Translation]

**Mr. Marc Lemay:** Do the provisions also apply to military members under section 149 or 140 of the National Defence Act?

[English]

**LCol Bruce MacGregor:** Yes, Monsieur, it is. From the military justice system, we see no reason to diverge from the government's position on this for the sake of the military. So it is consistent.

[Translation]

**Mr. Marc Lemay:** All right.

Thank you.

[English]

**The Chair:** Mr. Dechert, for five minutes.

**Mr. Bob Dechert:** Thank you, Mr. Chair.

I'd like to start by just correcting the record. Mr. Lemay mentioned a certain individual. Russell Williams has been stripped of all rank in the Canadian Forces, and I think Lieutenant-Colonel MacGregor will agree with me. So I think we should probably correct the record.

**Mr. Marc Lemay:** In translation—

**Mr. Bob Dechert:** Oh, perhaps it was. I apologize. That's what I heard in translation.

**Mr. Marc Lemay:** Monsieur, can you repeat that?

**Mr. Bob Dechert:** Yes. Russell Williams has been stripped of all rank in the Canadian Forces. I just wanted to point that out and correct the record on that matter.

[Translation]

**Mr. Marc Lemay:** All right.

[English]

**Mr. Bob Dechert:** Mr. Giokas, could you tell us why consecutive periods of parole ineligibility are not made mandatory under this legislation for multiple murderers?

**Mr. John Giokas:** It's to ensure that we are in conformity with the charter.

• (1615)

**Mr. Bob Dechert:** Okay. That's a short and sweet answer. Thank you.

What are the cost implications, in your view, of housing and providing health care to an increased number of aging federal inmates, which may be a result of this legislation?

**Mr. John Giokas:** There will be no cost implications that are foreseeable for the next 25 years.

**Mr. Bob Dechert:** Okay, and beyond that, if Clifford Olson perhaps needs a walker, I personally would be happy to contribute to that.

What impact will longer periods of incarceration, in your view, have on an inmate's incentive to pursue rehabilitation and demonstrate good behaviour?

**Mr. John Giokas:** I'm unfortunately not in a position to be able to comment on that. I'm not trying to avoid the question, but it's not my area of expertise. I would suggest that corrections officials be asked that question.

**Mr. Bob Dechert:** Fair enough.

Under this legislation, could consecutive periods of ineligibility for parole be imposed on offenders who have already been convicted of multiple first- and second-degree murders?

**Mr. John Giokas:** All murders have to occur after the coming into force of the legislation, so somebody who is already a multiple murderer has the benefit of the law as it stands today.

**Mr. Bob Dechert:** I see.

Thank you. I have no further questions.

**The Chair:** Is there anyone else on the government side to complete the five minutes? Nobody?

We'll go back to Mr. Murphy.

**Mr. Brian Murphy:** In answer to one of Mr. Dechert's questions, you said to make it comply with the charter. I didn't quite get the full answer on that. I assume, then, that there was a full review of this legislation for charter compliance.

**Mr. John Giokas:** We always review legislation for charter compliance. It's a legal requirement on the minister.

**Mr. Brian Murphy:** But what specifically was done to make this proposal charter compliant? In your answer to Mr. Dechert, I'm not sure I was clear on that.

**Mr. John Giokas:** I'm not able to divulge—for obvious reasons—legal advice provided to the minister. What I can say is that it is our belief, based on advice that has been provided to the minister, that this legislation is charter compliant.

**Mr. Brian Murphy:** Now, Mr. Chairman, you don't want me to mention any other legislation. Can I mention the code? Okay, that's rhetorical.

**The Chair:** Yes, you may.

**Mr. Brian Murphy:** Thank you. We're a free and democratic society. It's wonderful.

There is in some of the life imprisonment aspects the offence of treason. There's no application for treason in this law whatsoever. I think Mr. Lee asked about that.

**Mr. John Giokas:** No. I don't believe we have anybody in prison for treason now and it's hard to envision multiple acts of treason.

**Mr. Brian Murphy:** I don't want to go back to other legislation, but other legislation that we've looked at did throw in high treason. Was it just because it's in the same part of the life imprisonment section or...? Because, like you say, it's not a heavily used section.

**Mr. John Giokas:** The high treason provision appears in Bill S-6, the faint hope bill, and that's because people who are convicted of high treason also benefit from being able to apply for faint hope relief.

**Mr. Brian Murphy:** I have a few minutes here, and Mr. Lee has a question.



**The Chair:** Mr. Lee, please go ahead.

**Mr. Derek Lee:** I have just one question.

This is a hypothetical I'm laying out here. In the first criminal act involving murder, you did make reference in your earlier remarks to other types of homicides—I think you did—but as I read the section, it always refers to “murder”. So these sections wouldn't apply to a case where, for example, there had been a manslaughter in the first offence—

**Mr. John Giokas:** No.

**Mr. Derek Lee:** —and there had been a murder in the second offence.

**Mr. John Giokas:** No.

**Mr. Derek Lee:** These sections would not be applicable there. It has to be a first- or second-degree murder followed by a first- or second-degree murder or one of the...?

**Mr. John Giokas:** An intentional killing under the Crimes Against Humanity and War Crimes Act.

**Mr. Derek Lee:** Yes. Okay.

Thank you very much, Mr. Chair.

**The Chair:** Thank you.

Are there any other questions?

We'll go to Monsieur Lemay.

[Translation]

**Mr. Marc Lemay:** The judge will have to justify his decision. Under section 745.51, will the Crown be able to appeal that decision; that is to say if the judge decides not to make the ineligibility periods consecutive?

• (1620)

**Mr. John Giokas:** Yes, that decision is subject to appeal by both parties: either by the Crown or by the defence.

**Mr. Marc Lemay:** I would obviously be surprised if the defence appealed the decision. Perhaps the Crown might do so. That would be under what clause?

**Mr. John Giokas:** Under clause 3 of the bill, the Crown may appeal, and under clause—

**Mr. Marc Lemay:** All right.

**Mr. John Giokas:** It's clauses 2 and 3.

**Mr. Marc Lemay:** Does the court have to render its judgment in writing or does an oral judgment enough?

**Mr. John Giokas:** It's either one.

**Mr. Marc Lemay:** Thank you.

[English]

**The Chair:** Thank you.

I notice that Mr. Comartin has now joined us.

Mr. Comartin, did you want to have one five-minute question?

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** No, I'm fine.

**The Chair:** You're fine. All right.

We'll thank our witnesses for appearing. Your testimony will be helpful as we continue consideration of this bill.

We're going to suspend for a couple of minutes. I'd like members to stay at the table while we do that because there's some committee business I want your direction on.

We'll suspend for two minutes.

• (1620)

(Pause)

• (1630)

**The Chair:** I'll reconvene the meeting. We're moving now to supplementary estimates (B) for 2010-11. You should have the estimates before you.

We welcome back our Minister of Justice and Attorney General of Canada, the Honourable Rob Nicholson. Accompanying him is an official from the Department of Justice, Deputy Minister of Justice and Deputy Attorney General of Canada Myles Kirvan.

You know the drill. You have opening remarks, and then we'll open the floor to questions.

Mr. Minister.

**Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada):** Thank you, Mr. Chairman and members of the committee. I'm pleased to be here on supplementary estimates (B) for the Department of Justice.

Mr. Chairman, as you know, our government was elected on a promise to tackle crime. We've acted decisively on this promise in order to ensure the safety and security of our neighbourhoods and communities.

[Translation]

As Minister of Justice and Attorney General of Canada, I am determined to ensure that our justice system is in fact just.

[English]

We know that law-abiding Canadians want us to act. Our government believes, as we stated in the Speech from the Throne, that the law must protect everyone and that those who commit crimes must be held to account. Canadians want a system that delivers justice.

To achieve that goal, we have pursued a wide range of reforms to strengthen our criminal law. Our record speaks for itself.

We've passed legislation to establish mandatory prison sentences for gun crimes and toughen sentencing for dangerous criminals, and we've raised the age of protection from 14 to 16 years to better protect young people from adult sexual predators.

We've succeeded in eliminating the two-for-one credit for time spent in jail awaiting trial, a practice that disproportionately reduced prison sentences for some violent offenders. Police associations and victims groups, and indeed, all provinces and territories, have expressed their support for that legislation.

Our government has passed legislation to increase penalties for murders and reckless shootings connected to gangs and organized crime. Any murder connected to organized crime activity now will automatically be considered murder in the first degree and will be subject to a mandatory sentence of life imprisonment without eligibility for parole for 25 years.

In addition, there are many pieces of proposed legislation that are currently before both Houses of Parliament, legislation that will strengthen the justice system to the benefit of law-abiding Canadians, with a particular emphasis on protecting children and showing respect and compassion for the victims of crime.

I would mention that none of this would have been possible without the invaluable assistance, advice, and commitment we have received from the employees of the Department of Justice. I take this opportunity to thank them for all their dedication and hard work.

[Translation]

Mr. Chairman, as you can see, our commitment to protect Canadians remains stronger than ever.

[English]

For example, most recently I was proud to announce our legislation to protect Canadians from property crime and auto theft, which just recently received royal assent, as you know. The Tackling Auto Theft and Property Crime Act will help crack down on property crime, including auto theft and trafficking in property that is obtained by crime. Auto theft has a huge impact on Canadians and threatens the safety of our communities.

This legislation will help disrupt criminal enterprises and send a clear message to gangs and organized crime that if you engage in auto theft, there will be serious consequences. Once this new law comes into force, law enforcement and courts will have better tools to tackle auto theft and the entire range of activities involved in the trafficking of all types of stolen or fraudulently obtained property.

Another part of our fight against organized crime, Mr. Chairman, can be found in the new set of regulations we enacted to strengthen the ability of law enforcement agencies to fight these sophisticated criminal activities. These new regulations identify as serious offences such organized crime activities as illegal gambling and specific prostitution- and drug-related crimes.

The fact that an offence is committed by a criminal organization makes it a serious crime. These regulations will help ensure that police and prosecutors can make full use of the tools in the Criminal Code that are specifically targeted at tackling organized crime, and that are better able to respond to organized crime and ensure that penalties are proportionate to the increased threat to public safety that organized crime activities present.

Mr. Chairman, we also welcomed this year the coming into force of the legislation to fight identity theft, which is a fast-growing crime in North America, as you know. Our new law provides police and justice officials with important new tools, including three new Criminal Code offences targeting the early stages of identity theft or identity-related crime: obtaining and possessing identity information, trafficking in identity information, and unlawfully possessing or

trafficking in government-issued identity documents. All of these offences are subject to a five-year maximum prison sentence.

Our government believes Canadians are entitled to have their identities and other valuable information protected to the highest degree possible. Now they have greater protection against identity theft, and police are better equipped to stop these crimes before they are committed.

We're also standing up for the victims of white-collar crimes, which can have a devastating effect on individuals and communities. Our government has listened to the concerns of victims of fraud, and we are helping them to seek restitution and ensure their voices are heard in sentencing those who have harmed them so profoundly.

To that end, as you know, we have introduced legislation that cracks down on white-collar crime and fraud and increases justice for victims. Our legislation would make jail time mandatory: at least two years for fraud over \$1 million. It would toughen sentences further by adding aggravating factors that the courts can consider.

Mr. Chairman, in the Speech from the Throne, we paid particular attention to the need to protect the most vulnerable members of our society, our children. Sexual exploitation of children causes irreparable harm, and our government is committed to helping prevent sexual offences against children by ensuring that adult sexual predators receive sentences that reflect the extreme seriousness of their crime.

We have proposed legislation that would establish mandatory prison sentences for seven existing Criminal Code offences, such as luring, sexual assault, and aggravated assault. As a result, conditional sentences, including house arrest, would no longer be available for any of these offences. The proposed legislation would also increase mandatory prison sentences for seven sexual offences involving child victims, such as possessing and accessing child pornography, and sexual exploitation.

● (1635)

Mr. Chairman, the creation and distribution of child pornography are appalling crimes in which children are brutally victimized over and over again. Our government has recently proposed a mandatory reporting regime across Canada that will require suppliers of Internet services to report information about Internet child pornography. This will strengthen our ability to protect our children from sexual predators and help police rescue these young victims and prosecute the criminals responsible.

Our government has also shown its concern for the victims of multiple murderers and their families. We firmly believe that families of murder victims should not be made to feel that the life of their loved one doesn't count.

This is why I tabled a bill in October that will permit judges to impose consecutive periods of parole ineligibility for multiple murderers, thus putting to an end sentencing discounts for these horrible crimes. While there can only be one life sentence for an offender who commits more than one murder, the parole ineligibility period—25 years in the case of a first-degree murder—could be imposed consecutively for each subsequent murder.

In addition, we will continue to seek the elimination of the faint hope clause from the Criminal Code. By saying no to early parole for murders, our government hopes to spare families the pain of attending repeated parole eligibility hearings and having to relive these unspeakable losses over and over again.

I was saddened earlier this month when there were several unnecessary amendments to this important piece of legislation, including the replacement of the short title of the bill. As a result of these unnecessary amendments, Bill S-6 will be delayed, and I'm disappointed to report to victims that this is not already the law of this country. But, again, we remain committed.

I would like to take this opportunity to thank the honourable members for the work they do. I plead with them not to make unnecessary amendments to bills that only slow down bills for which there is widespread support and consensus among the people of this country.

We remain committed to helping victims of crime. Through the federal victims strategy, we committed \$52 million over four years, starting on April 1, 2007, for a package of program services and funding to help the federal government and the provinces and territories respond to the needs of victims. This, of course, includes the creation of the Office of the Federal Ombudsman for Victims of Crime.

I was very pleased recently to announce that the Government of Canada would provide over \$5 million over the next five years to support the development of child advocacy centres across Canada. I visited the one in St. Catharines, Ontario, which is, of course, next door to my constituency, and I couldn't help but be impressed by the work being done there. It's being done in a number of municipalities across Canada, and this is something that we all must encourage.

Our government remains committed to supporting victims of crime through existing programs, and we'll continue to work with stakeholders to create new initiatives, such as the child advocacy centres I just mentioned. Nevertheless, Mr. Chairman, victims of crime have indicated that their primary unmet need is access to information about the justice system and the services available to them.

To help meet this need, the Government of Canada is reaching out to victims of crime through the recent Victims Matter campaign to raise awareness and let victims know what resources are available to them. The funding for this campaign comes from a separate Treasury Board allotment for government advertising for the fiscal year 2010-11. This investment is above and beyond the funds already allocated to the victims fund.

The campaign's goal is to increase awareness and uptake of the services and programs available to victims of crime and therefore, by extension, increase the use of the victims fund. The results of the

campaign so far are showing that we are reaching Canadians and raising awareness. As of November 27, the Victims Matter website had received more than 1.1 million hits, with close to 40,000 visitors averaging a length of visit of more than five minutes, which suggests that visitors are finding plenty of content worth reading.

● (1640)

Mr. Chairman, safety and security are priorities for our government, and we will not apologize for our commitment to victims and law-abiding citizens.

[Translation]

In closing, Mr. Chairman, I want to thank you and committee members for the important work you are doing.

[English]

The Department of Justice is instrumental in the government's work to respond to the needs of Canadians. The funding that we have received has brought results, and I will do my utmost to ensure these funds continue to be spent wisely and in the service of Canadians.

We will continue to deliver on our promise to tackle crime and stand up for victims. We will continue to listen to the views of Canadians on how we can improve our criminal justice system and make all our communities safe.

Thank you very much, Mr. Chairman.

I look forward to any questions you may have.

● (1645)

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

We're back to seven-minute rounds.

Mr. Murphy, I believe you're going first, so you have seven minutes.

**Mr. Brian Murphy:** Thank you, Chair.

Thank you, Minister and officials.

I want to draw my question from pages 170 through 181 of the supplementary estimates. I have some specific questions.

In passing, though, I can't help but give a bit of a remark back to you, Minister, that the government has been in power close to five years. To blame everything on the Liberal-dominated Senate...oh, wait a minute, that's not the case anymore. Or there's the changing of short titles that go way beyond the actual reach and even the effect of legislation that is a little mysterious and a little hyperbolic.

But let's not get caught up in political debate. Let's get down to the figures. You've been in office five years. You are now starting to appropriate money for some of your grand visions.

If you look at page 180, I appreciate, as a preface to the specific questions on expenses, that you had a separate allocation from the Treasury Board with respect to a campaign regarding victims of crime. I appreciate that it is separate, but within these figures can you tell me specifically with regard to the third item, "Funding to support victim services...to increase national support for missing persons investigations" and for the item two lines down, "Funding for increased support for victims of crime...for the creation and enhancement of the Child Advocacy Centres" that you refer to—those two sums are \$2.5 million and \$1.3 million—whether any of those sums allocated or appropriated are for advertising, for publicity, for promotion? That would be one question.

The second question, because I want to give you a lot of time to answer, Minister and Deputy Minister, is that I've been at Canadian Bar Association meetings at which you've made it very clear that transfers to provinces regarding legal aid are just that—transfers to provinces. Almost across the country, your fallback position is that you can do nothing with what provinces do with their allocation generally with respect to ensuring there's adequate legal aid in the provinces.

I think that's a constitutionally sound argument, Mr. Minister, but in this item under transfers, if I understand it correctly, you have transferred or taken a transfer of \$2 million "to provide immigration and refugee legal aid funding for provinces and territories". It seems to be exactly what you say that you do not do as a government, which is to transfer money directly to provinces for specific legal aid services.

I wonder if that's a breakthrough. I wonder if it's a good thing. I wonder if it's something that you're mandated to do as government under Citizenship and Immigration. I just wonder what it is, why it's such a large sum and, finally, why it's being transferred from Citizenship and Immigration. Did they do it before and cover it in their budget? Did they not do it before? Is this something new?

Those are three general expenditure questions, Minister.

**Hon. Rob Nicholson:** Mr. Chairman, that's a lot to answer.

**Mr. Brian Murphy:** I left you lots of time.

**Hon. Rob Nicholson:** My problem with you changing the titles of the bill is that it delays the bill. Everybody wants, I think, for the most part—I mean, I got it unanimously passed—to get rid of the faint hope clause. The bill—

**Mr. Brian Murphy:** That's not what you called it—

**Hon. Rob Nicholson:** —has already been passed by the Senate. If you make minor amendments to it, if you're uptight about the name of the bill, it means the matter will then have to go back to the Senate. That's the system of government we have.

So when I'm trying to explain to victims that there is a general consensus that we want to get rid of the faint hope clause, I have to tell them we have a couple of amendments now at the House of Commons that will delay the bill. That's the point I've made.

With respect to the increases, the money for advertising comes from separate funds. You mentioned, among other things, the child advocacy centres. That money is available for groups across Canada to make applications to put together a child advocacy centre, or to assist with one that may already be up and running. That's what the

money goes for. In addition, the money to support victim services against violence in aboriginal communities, again is new money that has been announced to assist in the pursuit of those who have victimized aboriginal women.

That being said, it's important to get that message out. That's not what this money is being used for, but I mentioned the education and the advertisements we're doing because we want victims and individuals to take up these programs and to become aware of what they are referring to.

Now, with respect to legal aid, yes, there are transfers to legal aid with respect to criminal...and, as you pointed out, with respect to the refugee system. Yes, we do that. Most of the questions that have been directed towards me with respect to the constitutional separation or the arrangements that have been made with the provinces and territories relate to civil legal aid.

As I indicated to them, prior to 1995 when I was an MP here in the early 1990s and I was the parliamentary secretary to the justice minister, I of course watched and looked each year to ensure that money was being transferred from the federal government for the purposes of civil legal aid. This would help people, for instance, on matrimonial disputes.

Now, in 1995—I was not a part of that, as I'm sure you're aware—it was rolled over into the Canada social transfer. So what I've indicated when I have been at the Canadian Bar Association and other forums, is that I've said yes, I watch the budget every year and am pleased that each year the Canada social transfer has been increased, because I know, then, that the opportunity therefore exists for provinces to assist in the area of civil legal aid and indeed other worthwhile projects.

But it is sometimes put to me why I don't go back to having a line item, and as you could probably guess, a number of provincial jurisdictions aren't welcoming that and encouraging us in that direction.

● (1650)

**Mr. Brian Murphy:** I wasn't clear on your answer, actually. I am on the civil legal aid thing, and it's a point that you and I may agree on: that we should have dedicated civil legal aid funds. I think you set a good example by doing that with this type of transfer.

In any event, where I don't agree with you.... And just to be clear, I don't agree with you on very, very much, Mr. Minister. It's hard for me to understand from your answer what amount, of the two previous questions I asked.... I don't want to take too much time, but on the aboriginal community support for missing persons investigations and the child advocacy centres, it's very unclear to me in your answer whether any of those line items, \$2.5 million and \$1.3 million, are to be spent on advertising and promotion.

How much of \$1.3 million is actually going to bricks and mortar and staffing of child advocacy centres? How much of the \$2.5 million is actually going into aboriginal communities to hire investigators looking for missing people?

**Hon. Rob Nicholson:** I want it all to go in, Mr. Murphy. As a matter of fact, none of the money has been spent on child advocacy centres yet, because I only announced it about three weeks ago in Toronto. At the time, I encouraged those who are active in this area of child advocacy centres; yes, there will be applications, and I want them to take advantage of this, because this is the first time the federal government has been involved with something like that.

Up to this point, these child advocacy centres have been relying on municipalities, service groups, bake sales, and this sort of thing. I'm pleased that the federal government is coming forward with money. Again, in direct answer to you, none of that money has been directed to advertising. I don't want it to be part of advertising; I want it to be in terms of the applications of these individuals. As I indicated, advertising of the type that I did refer to—coming from my colleague the Minister of Health and other members—is something separate from that.

**The Chair:** Thank you.

We'll move to Monsieur Ménard for seven minutes.

[Translation]

**Mr. Serge Ménard:** Thank you.

Minister, our objective today is to deal with your requests under the Supplementary Estimates. However, I don't think I heard anything in your presentation related to the budget. I would like you to enlighten me on that subject.

I understand your legislative program. You are placing great emphasis on the comfort that victims would derive from the fact that the persons responsible for crimes committed against them would be accountable and serve longer terms. However, victims generally express quite different needs, and those needs represent costs.

In your budget, have you made any additional requests for the purpose of meeting needs other than the satisfaction of seeing criminals serve longer terms?

• (1655)

[English]

**Hon. Rob Nicholson:** Thank you.

I didn't mention too much about the budget. Believe it or not, Monsieur Ménard, when I've been here in the past over the last four years, most of the questions had nothing to do with the budget.

Mr. Comartin, you were an exception to that, but most of the questions are about general policy or specific issues that relate to the justice portfolio.

I'll give you an example that is specific to victims. The whole area of child advocacy centres, which, as I indicated, I made an announcement about three weeks ago, is part of the supplementary estimates.

I feel very strongly about that, because these child advocacy centres are set up to assist children who have been victimized,

children who will be witnesses within the criminal justice system. What the centres do is provide a safe, reassuring setting for children to make their case and so prepare them for either the questioning or the possible court course that will follow. I feel very strongly about it. As I indicated to you, I had a first-hand look at what they were doing in St. Catharines, Ontario, which is next door to my constituency. I was very impressed by that.

So yes, that is directly in the supplementary estimates, as is the support for victims services as they relate to aboriginal Canadians. You will know there was an allocation for that in the last federal budget, which is reflected in the supplementary estimates as well.

So you're quite correct that greater funds are being allocated for victims in this country within the supplementary estimates. Again, that's appropriate, but of course that goes hand-in-hand with the programs that I've already indicated to you. I talked to you about the victims fund that we initiated in 2007 and that of course will continue for this year as well.

[Translation]

**Mr. Serge Ménard:** I don't have much time, and I see that your example once again concerns the judicial proceedings of victims. However, many victims need other things as well. By that, I don't mean that helping them institute legal proceedings is a bad idea. I simply want to know whether you are ensuring that victims get the psychological support they need to get through this difficult time.

[English]

**Hon. Rob Nicholson:** Maybe you misunderstood what I was saying. Helping children get through this and bringing in a wide range of support—everything from psychologists to others helping children get through this—is a very important part of our program to assist victims.

I would encourage you and others, if you're aware of groups that want to make applications under the victims funds that we have set up, to by all means come forward. There have been some very impressive applications that have come forward. Again, the whole area of child advocacy centres just happens to be the newest area, but I think these centres are very important, because they send out the right message, which is that we want to support those individuals who become involved in one way or the other with the legal system of this country.

In addition, quite frankly, I've been impressed over the years by provincial authorities in my discussions. They take this matter very, very seriously, and I don't have to tell you how involved provinces are with that in the health care profession or health care area. We have part of it, and a very important role to play, but again, I certainly commend the provinces, and in many cases the municipalities, for what they're doing.

In my own area of Niagara, the regional health department is very involved with reaching out to people and assisting them in any way possible.

[Translation]

**Mr. Serge Ménard:** You talk a lot about increasing minimum sentences. I believe you're aware that the consequence of these measures will be that a lot more people in Canada will be incarcerated and for much longer periods of time.

Before introducing these kinds of bills and thus imposing an additional financial burden, do you conduct studies to obtain even only an approximate idea of what they represent financially?

• (1700)

[English]

**Hon. Rob Nicholson:** We spend a lot of time worrying about the financial implications for victims of crime. I've been told it's approximately \$70 billion a year that victims in this country suffer... so I'm very much motivated by bringing in legislation that might get some of these individuals off the street who repeatedly victimize people. If you're asking me with respect to detaining these individuals, I of course rely on my colleague, the Minister of Public Safety, who has assured me on numerous occasions that we can and will meet the demands on the system.

That being said, part of what we did in getting rid of the two-for-one credit.... I had every provincial attorney general, every single one of them, tell me that the two-for-one system that had been in existence in this country was clogging up provincial resources. It was costing them money in terms of people delaying, people who were looking for a discount in their sentence.

The Attorney General of British Columbia told me that he had heard of a case where the guy didn't even want to have a bail hearing. I can hardly imagine that, practising law as I did in St. Catharines and Niagara Falls: a client who didn't want to have a bail hearing. Why? Because they were racking up two-for-one credits. I was very sensitive to that, and I told provincial attorneys general that I would do my very best to get rid of that practice of two-for-one, because I had all kinds of sympathy for them. Among other things, this was clogging up provincial resources, and it was costing them money.

Again, I'm hoping you'll discover, as I'm discovering, that this has been very well received, and it will benefit everyone within the criminal justice system, including our provincial counterparts.

**The Chair:** Thank you.

We'll move to Mr. Comartin for seven minutes.

**Mr. Joe Comartin:** Thank you, Mr. Chair.

Thank you, Mr. Minister and Deputy Minister, for being here.

With regard to the funding for the \$2.5 million for the investigation of missing persons, will any of that actually be spent in this fiscal period? In effect, what I'm asking, Mr. Minister, is this. Given the length of time, including the year-end break that we'll be having, will any of these agencies be able to get their applications in and approved and to actually begin to spend money before the end of March?

**Hon. Rob Nicholson:** It would certainly be my hope on that, Mr. Comartin. If you like, we will keep you apprised of those, because when my colleague Minister Ambrose made this announcement,

again, that was always my concern on these things. We want to get the money out the door as quickly as possible, to get that to great organizations that make those applications. I would be pleased, since you've raised an interest on that, to let you know when they are approved.

**Mr. Joe Comartin:** Just for the record, Mr. Chair, can we have the department give us the result some time after the end of March as to how much of the funds were spent, and if they weren't all spent, how much is remaining?

**Hon. Rob Nicholson:** I would be glad to do that. It's a very reasonable request.

**Mr. Joe Comartin:** Minister, if it doesn't get spent, what happens to these budgetary items? Do they just fall off the table at that point?

**Hon. Rob Nicholson:** Well, again—

**Mr. Joe Comartin:** I'm sorry, but what I'm asking is, can you spend them in the 2011-12 period?

**Hon. Rob Nicholson:** Again, we'd have to cross that bridge when we get to it. My determination is that we will spend the money that's allotted to us.

**Mr. Joe Comartin:** Do you expect to have a similar amount allocated? I'm going to ask what's going to be in the budget. That's what I'm asking now. Do you expect—

**Hon. Rob Nicholson:** I'm just trying to get past these estimates here.

**Mr. Joe Comartin:** I understand the problem you have. Will you be seeking a similar amount from the finance minister for 2011-12?

**Hon. Rob Nicholson:** Well, again, the Minister of Finance, I'm sure, will hear, very loud and clear, about my concern for victims right across the board and that will be part of the upcoming budget discussions we will have with him.

Deputy Minister...?

**Mr. Joe Comartin:** If you think it will have any impact on him, I think you can assure him that the rest of the members of this committee would be supporting you in that regard.

**Hon. Rob Nicholson:** That's good.

**Mr. Myles Kirvan (Deputy Minister of Justice and Deputy Attorney General of Canada, Department of Justice):** I might just add, Mr. Chairman, that the budget 2010 figure, the \$10 million, was over a period of two years. There are certain funds, as you and the minister were just discussing, that are for this fiscal year only. Those are the funds that are set aside for the aboriginal organizations looking at public legal education and so on. The bulk of it, the \$10 million, is over a two-year period.

**Hon. Rob Nicholson:** I think the point you were trying to make was, would it lapse if it doesn't get out by March 1? It will not.

**Mr. Joe Comartin:** Okay.

There were a couple of newspaper articles saying that funds—I think this would be part of that \$10 million—were not allocated. I think they said that 43% had not yet been allocated, and that much of the 43% would not likely be allocated. I don't know if you saw those or if you've done any analysis on them. Were those articles accurate?

• (1705)

**Hon. Rob Nicholson:** I hesitate to say. I didn't see every article about every aspect of ours...but the money is there, it's committed, and we want to see all of it spent in assisting the whole area of missing and murdered aboriginal women.

**Mr. Joe Comartin:** It wasn't just on this. It was funds for victims of crime generally—

**Hon. Rob Nicholson:** Oh, I see.

**Mr. Joe Comartin:** —including some of the other programs.

**Hon. Rob Nicholson:** The money is solid and will be available for this coming fiscal year with respect to victims of crime. Sometimes, in some of the programs, the money is not completely utilized. Part of what we are with doing in terms of advertisements is getting the message out to people, asking them to please make applications, to please become aware of this. Indeed, that is one of the matters that I raise with my provincial counterparts when I meet them on a regular basis: to do anything they can to make sure victims are aware that these funds are available, just for the reason you've said.

**Mr. Joe Comartin:** Mr. Minister, over this last year as we were doing the work on organized crime, the committee heard—I think in B.C., I know in Manitoba, and I believe a bit in Alberta—that a number of the agencies are finding it very difficult with regard both to dollars for crime prevention and to dollars for assistance victims of crime, in that the accounting, the accountability process they have to go through to spend these moneys, is beyond the scope and capabilities of a large number of them, the smaller agencies especially.

I have two questions. One, have you heard the same complaints? Two, if so, are you prepared to reassess how much monitoring is going to be required for the spending of these funds?

**Hon. Rob Nicholson:** We have to be very careful any time we spend funds. I have to tell you that the feedback I have had has been very positive. As part of the announcements, I was down in Prince Edward Island, for instance, and I was there forming working arrangements with the provincial government in terms of what they are doing.

But if there are individual cases where people say the application is either not being expedited or is being slowed down, please feel free to contact my office. I would be glad to look into that. Because I have no stake in making sure these things get bogged down. We want them to get out and help people, because that's what they're there for.

But again, most of the feedback I get is positive.

**Mr. Joe Comartin:** It's not so much the application process; it's the deployment of the services. Too much time and financial resources intended for prevention or victims are being used on having to monitor the spending of the fund.

**Hon. Rob Nicholson:** I'll ask the deputy to comment on that.

**Mr. Myles Kirvan:** With respect to spending money on what it was intended for, we're doing a number of things. One of them has to do with simplifying accountability processes. In doing that, as the minister said, we want to reduce the administrative burden on the accountability front while making sure we have the information we need. We are trying to make some efforts to see what we can do to assist on the accountability front.

**Mr. Joe Comartin:** The problem I'm hearing from some of these agencies is that as much as 20% to 25% of this money is spent on administrative staff, in preparing accounting reports and doing budgetary and financial accounting. It seems to me that there has to be some way of reducing that to 5% or 10%. We should be spending over 90% of these dollars on direct services rather than on accounting.

**Hon. Rob Nicholson:** The deputy tells me that he's not aware of which agencies we're talking about. If you forward that to me, I would be glad to check into it. We don't want them to be spending all their time filling out forms or reporting, as opposed to doing program delivery.

**The Chair:** Thank you.

Monsieur Petit, I believe you're splitting your time with Mr. Dechert.

[*Translation*]

**Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC):** I'm going to share my speaking time with Bob Dechert.

Thank you for coming, minister.

There is one thing that draws my attention. Following the explanation of all the bills that we intend to introduce, you mentioned one very important thing, information for victims. We know that you have established the Office of the Federal Ombudsman for Victims of Crime, a major success for the Conservative Party. However, I would like you to tell us a little more about the victim information program you mentioned in the last part of your presentation.

I have represented the government in various organizations such as the OneChild group in Ontario and another child advocacy group. I've noticed that the problem is always a lack of information to assist either groups or children. For example, children may see an ad on television stating that they can dial a telephone number and report those who abuse them.

Could you further explain to us the current state of this program and the goals you are targeting?

• (1710)

[English]

**Hon. Rob Nicholson:** Well, we've come a long way, Monsieur Petit, even in my legal career, in terms of handling children. I mean, some of the presumptions into the criminal system with respect to children...the presumption, for instance, that they're lying, or that they can't be relied on. I think we've come a long way.

Our job is of course to assist victims, to reduce victimization among children, to assist children who get into the criminal justice system, and to give them all the services they need. I firmly believe that this idea of child advocacy centres.... There are about five of them across Canada at this point and there are one or two in the works. It really is my sincere hope that this will become the norm in communities across this country, and that they will be that refuge, that resource, to assist children who become victims of crime.

We hear stories all the time of people who say they have been victimized, how terrorized they are, how unfamiliar they are with the system, how foreign this is to them, and how difficult it is. Many times you'll hear years later that people are still scarred by the system they went through when they were children, so it seems to me that with these child advocacy centres, this takes direct aim at the challenges faced by children who are involved with the criminal justice system.

Like it is for any new idea, the question of funding is always a challenge. I congratulate and thank those municipalities or other levels of government that have provided some assistance to these. But for the most part, they tell me that it is a bit of a hit-and-miss process, that a municipality may give them a grant for one year, but then not the next, and this sort of thing. Having some sort of stability in that area I think is a great step forward.

So again, I was very, very proud and very pleased to indicate a few weeks ago that the federal government would be providing funding worth over \$5 million in this particular area. It's a step in the right direction: getting the federal government involved with these advocacy centres. They're perfectly consistent with our overall approach in this area and they address a particular need. So yes, I'm quite excited about that. Again, it's certainly my hope that these will become the norm in Canada and that we won't be limited to these five or six that currently exist.

**Mr. Bob Dechert:** Thank you, Mr. Chair.

Minister, thank you for telling us a little bit more about the criminal justice legislation that you've introduced in Parliament. You mentioned Bill S-6, the repeal of the faint hope clause, which this committee dealt with last week. I think it's interesting that just today Clifford Olson, one of Canada's most notorious murderers, again appealed for parole. We know that a few years ago he was denied the right to appeal under the faint hope clause; however, he can still apply because he's gone beyond the 25-year life sentence ineligibility period.

The parents of two of his victims, Sharon Rosenfeldt and Raymond King, were quoted in the media today about the trauma they go through every time they have to appeal at one of these parole hearings. Can you tell the committee how the families of victims

have expressed their displeasure to you with respect to the faint hope process?

**Hon. Rob Nicholson:** Well, there certainly is unanimity among these victims who speak with me. They tell me they start dreading it. When the 15 years starts to roll around, they start reliving it; they tell me that the trauma they have experienced never goes away. There is the idea and the fear that the individual might be released after 15 years. I can appreciate there are statistics which say that for the most part they don't get out at 15 years, but these victims all tell me the same thing: it's the terror, the horror, the thought, that the individual may be back out on the street. Then, as soon as they're over that process, they're at the 17-year mark, and of course the 19-year mark—over and over again.

Some of them tell me, for instance, that they believe the convicted murderer knows he's not going to get out, that he's not going to pass the test under the faint hope clause. They believe this is his way of victimizing them all over again and to get one more shot at them. They are victimized over and over again. Again, my heart goes out to them. I say that if the individual is convicted of premeditated murder, they should be waiting 25 years.

But yes, I do meet with them. You mentioned Sharon Rosenfeldt. She is an outstanding example of somebody who is fighting to change some of the laws of this country that victimize people. It's not easy. I want to see this passed into law, for once.... It will be applauded by all those who unfortunately have had to go through this process.

• (1715)

**The Chair:** Thank you.

We'll go to Ms. Jennings for five minutes.

**Hon. Marlene Jennings:** *Merci.*

Thank you very much for your presence here today, Minister, and thank you for bringing forth this bill.

In discussions with some of my colleagues, both in my own caucus and in other caucuses, and with former colleagues in the legal profession, there seems to be agreement. When the death penalty was first abolished, and life sentences with no possibility of parole before 25 years were brought in, in 1996, Parliament probably did not consider the possibility of multiple murderers and whether it would be appropriate to allow the judge the discretion to order that the parole ineligibility be served consecutively in the case of convictions for more than one murder.

I think this piece of legislation is timely. However, I do find it unfortunate—and perhaps you can explain—that while this bill was first tabled in 2009, it sat at first reading for 64 days, and then the Prime Minister prorogued at the very last day of 2009, I believe it was; and we sat through an 81-day prorogation before the throne speech took place on March 23, 2010, and then you and your government did not retable the bill for 216 days.



I think it's unfortunate that for whatever reason—and you may be able to provide this committee and families of victims with the reasons for these delays—second reading was not moved in the last session of Parliament rather than leaving it there for 64 days, and then, once prorogation was over, that you waited 216 days before retabling it. I'm glad that when you finally did table it, you moved second reading fairly quickly and it's been able to come before this committee quickly.

**The Chair:** I would remind you we aren't discussing Bill C-48 specifically. We're talking about the supplementary estimates—

**Hon. Marlene Jennings:** You're correct, Chair, but—

**The Chair:** I will allow general questions. We generally do.

**Hon. Marlene Jennings:** Chair, we weren't discussing Bill S-6 and you allowed complete latitude with no recall to the other members, so.... And—

**The Chair:** I will just remind you because you referred to a bill and there's no bill before us. We have the supplementary estimates before us.

**Hon. Marlene Jennings:** —the minister himself referred to other bills. The parliamentary secretary and another member of the Conservative Party referred specifically to Bill S-6 and continued many questions on it. Therefore, I think my points are not at all inappropriate. They're in direct relation to statements that the minister himself has made here.

Now, I have a question. It's about your response on Bill S-6 and the issue of, if I can use your exact words, the terror and horror that families of victims relive over and over again when convicted multiple murderers apply for the faint hope clause every two years, or every two years from the previous application and refusal.

Would you be able to provide this committee with a reason why your members would have voted against an amendment to Bill S-6 that would have required a mandatory notification to the relatives of victims when an offender did not apply for early parole under the faint hope clause and, under the new legislation, would not be eligible again for five years?

That notification would also give the family of those victims a notification that the offender did not apply under the deadline and that the next earliest opportunity would not be until a date five years hence, in order specifically to allow those relatives to live a certain amount of time without that stress, without that anxiety that you so well and accurately described.

• (1720)

**Hon. Rob Nicholson:** First of all, as just a slight correction in what you said, the faint hope clause is not available for people convicted of multiple murders.

**Hon. Marlene Jennings:** I understand that.

**Hon. Rob Nicholson:** It's one murder.

**Hon. Marlene Jennings:** Yes, I understand that. I may have misspoken.

**Hon. Rob Nicholson:** I'll tell you my problem with your amendments. To be fair, I guess you were quite honest. You said you wanted to keep the door open for some possible future government that you might be a part of and that you would like to

reintroduce that. I read your comments. You said, "We'll be honest". That's fine. That's your business to do that. But here's the effect of this. If you change the name of the bill and you change the number of days, it has the effect of holding up the bill.

On the one hand, you started off by saying, "Doesn't the government want to get these things passed?" Yes, I want to get them passed. If you keep amending them, if it goes back to the Senate and you have some of your colleagues down there make an amendment because they want a small change on it, the thing will never get passed.

I'm trying to get these pieces of legislation through. I'd like to get them into the law of this country before Christmas, but if I get four or five amendments.... On the one hand, you can tell people that you're supportive of it, but that you have a lot of amendments, that we need a lot of studying of these things.... It's very difficult, you know, Madam Jennings—

**Hon. Marlene Jennings:** Minister, could you—

**The Chair:** Thank you.

We're going to go to Monsieur Lemay.

**Hon. Marlene Jennings:** On a point of order, I would just like to point out that the minister did not address the specific question about the notification to the relatives of victims of murder.

**The Chair:** Hold on. First of all, that's not a point of order.

**Hon. Marlene Jennings:** That was not answered, and I would like, through the chair—

**The Chair:** You're already well over six minutes.

**Hon. Marlene Jennings:** No, but I would like, through the chair, a request to the minister to provide—

**The Chair:** We want to make sure everyone gets a chance to ask questions—

**Hon. Marlene Jennings:** —his answer in writing.

**The Chair:** —because we do have votes coming up.

Monsieur Lemay.

**Hon. Marlene Jennings:** Chair, this is a point of order.

**The Chair:** It is not a point of order.

**Hon. Marlene Jennings:** Chair—

**The Chair:** Is it a procedural matter?

**Hon. Marlene Jennings:** It is a procedural matter.

**The Chair:** All right. What is that procedural matter?

**Hon. Marlene Jennings:** It is a procedural matter. I have the privilege of asking the question.

**The Chair:** Yes, you do.

**Hon. Marlene Jennings:** The minister did not respond to the specific question. I'm therefore asking that you, as chair, ask the minister to provide his response to the specific question that I asked about the amendment requiring a mandatory notification to the relatives of victims of murder—

**The Chair:** Ms. Jennings, it's not a point of order.

**Mr. Brian Murphy:** He wants to answer—

**Hon. Marlene Jennings:** It's a request to you. Will you—

**The Chair:** We are taking time away from other members, because we have a vote coming up in less than five minutes.

**Hon. Marlene Jennings:** Will you ask the minister—

**The Chair:** No, I will not.

I'm going to go to Monsieur Lemay now and he's going to have his five minutes.

[Translation]

**Mr. Marc Lemay:** Thank you.

Good afternoon, minister. I heard everything you said. It is quite clear we will never be able to support this. That's why we're in favour of certain amendments. I'm especially referring to the short titles that are not consistent with what the bill states.

For example, the short title of Bill C-16 is "Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act". That's not what the bill refers to. We voted against Bills S-6 and C-22 for the same reason. Your good parliamentary secretary came to my constituency to say that we had voted against it. However, that's not true; we voted against the short title, which is completely unrelated to the bill.

If you want to discuss the real issues, we'll do that. On page 180, the total amount of Funding to support victim services and violence prevention in aboriginal communities and to increase national support for missing persons investigations for votes 1 and 5 is \$2,449,000. This is a request from aboriginal women. I know that because I sit on the Standing Committee on Indian and Northern Affairs.

Will these amounts be paid directly to the aboriginal communities or will they be allocated to police departments to help increase searches? The problem is victim searches. What do those amounts represent?

• (1725)

[English]

**Hon. Rob Nicholson:** Well, they'll do a number of things, Monsieur Lemay.

First of all, with respect to the short titles, you must have the same thing with people. When people say "Bill C-48" or "Bill C-15", they don't know what you're talking about, so the short titles of bills, I mean, again, you can make a career out of fighting these things, and that's your business—

[Translation]

**Mr. Marc Lemay:** You're very good, minister, and I respect you enormously, but I would like to get an answer to my question. I have two minutes left. And I have another one to ask you.

[English]

**Hon. Rob Nicholson:** Fair enough.

Okay. Among other things, this will set up a new national police support system for missing persons that will make it possible for every police officer to have the particulars of missing persons reports at hand. They will assist communities to develop community safety plans. That will be another aspect of it, to increase the safety of aboriginal women and children. It will help communities in compiling a full list of promising practices that communities can adapt rather than starting from scratch.

There will be funding for provinces to adapt and develop culturally appropriate victims services for aboriginal Canadians as well as funding for aboriginal organizations themselves, and groups, to address the unique needs of families of missing aboriginal women. As I said to Monsieur Comartin, this will be an ongoing thing, and I would be glad to inform you as to any application that is successful.

[Translation]

**Mr. Marc Lemay:** Are these amounts currently available, or will they be as soon as we've given our support?

[English]

**Hon. Rob Nicholson:** They are currently available, yes; they're in the supplementary estimates. You're right. If the government is defeated and—

**Mr. Joe Comartin:** [Inaudible—Editor]

[Translation]

**Mr. Marc Lemay:** No one here wants an election.

[English]

**Hon. Rob Nicholson:** That's less attractive today than perhaps it was yesterday, Monsieur Comartin, but again, I don't want to get into that.

**A voice:** We'll go anytime.

**Voices:** Oh, oh!

[Translation]

**Mr. Marc Lemay:** No one wants there to be an election, apart from certain individuals here.

I imagine the same is true for the Funding for increased support for victims of crime through the Federal Victims Strategy for the creation and enhancement of Child Advocacy Centres across Canada. I would like to know whether, in Quebec, for example, these amounts will be allocated to the youth centres or to other agencies such as the Centre d'aide aux victimes d'actes criminels, or CAVACs. Who will receive that amount? It is extremely important for victim assistance.

[English]

**Hon. Rob Nicholson:** Yes, it's the child advocacy centres themselves that will be able to make that application directly to the federal government for direct funding. It's not funding that goes through the province, as sometimes happens, and then people apply to the province. If there is a child advocacy centre that wants to get started up in your riding, or if there is an existing one, it can make the application, and we want to make that as quick as possible.

**The Chair:** Thank you.

You have before you the estimates. There are four votes that are customarily called on this.

Would someone like to make an omnibus motion to deal with all four of them in one?

Mr. Dechert, that would be for votes 1b, 5b, 30b, and 35b under Justice.

JUSTICE

Department

Vote 1b—Operating expenditures.....\$9,323,836

Vote 5b—The grants listed in the Estimates and contributions – To authorize the transfer of \$2,000,000 from Citizenship and Immigration Vote 5, *Appropriation Act No. 2, 2010–11* for the purposes of this Vote and to provide a further amount of.....\$6,861,000

Courts Administration Service

Vote 30b—Program expenditures.....\$2,997,853

Office of the Director of Public Prosecutions

Vote 35b—Program expenditures.....\$1

(Votes 1b, 5b, 30b, and 35b agreed to on division)

**The Chair:** Shall I report the supplementary estimates (B) 2010-11 to the House?

**Some hon. members:** Agreed.

**The Chair:** Thank you.

We're adjourned.





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