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FORUM ON TOUGH ON CRIME LEGISLATION (PART 1)

**MICHAEL ENRIGHT** (Host): Good morning from Ottawa, and welcome to The Sunday Edition for March the 28<sup>th</sup>, 2010. My name is Michael Enright. We are here in Ottawa at the Gladstone Theatre for a public forum. Our topic this morning: tough justice. Is the Harper agenda a phoney war on crime? And we have a full house in the Gladstone Theatre tonight. It's a pleasure to have you all with us. And we have a distinguished panel. Now, the way it's going to work, of course, is the way our forums always work: one hour with the panel and one hour with you in our studio...theatre audience, not a studio audience, our theatre audience. Depending on whom you talk to these days or what you read or hear, Canada is in the middle of a crime wave. Or it isn't. We read that violent crimes are on the increase. Or they're not. We read that young offenders are more numerous and more vicious than ever before. Or they are not. We read that Canadians fear for their personal safety as never before...or they don't. It is a never-ending debate, a dialogue without a conclusion. On the one side, a government that wants to get tough on crime and is ready to enact a series of measures that will widen and deepen punishment of offenders. On the other, experts in the areas of law, criminology, sociology, behavioural psychology who say politicians are overreacting, that the crime rate is at a 30-year low, and that

such draconian measures as put forward by the government will simply make things worse. Caught in the middle of all this: us, you and me. But we are leaning to the tough justice side of the debate. Polls have shown that Canadians generally like the government's get tough program. An Angus-Reid poll last month revealed that 62 percent of us would like to see the death penalty restored for murder. Nearly 63 percent of us say that long prison terms are a good method of fighting crime, and 65 percent of us want mandatory minimum prison terms. So for the next two hours we're going to look at the idea of tough justice with our panel and with you here in the Gladstone Theatre. Among the questions we'll raise: how safe is Canadian society? Is the crime rate, especially violent crime, on the increase? Should we impose mandatory minimum sentences? Are young people committing more and more violent crimes? Do long prison terms deter criminals? And are we in the media responsible in part for the fear of Canadians about crime? The Justice Minister of the country, Rob Nicholson, says that he has the mandate of the Canadian people on his side. Is he right in that?

Our panel for the evening, from my left, Michael Jackson has been involved in teaching law and advocating for human rights for more than 30 years. He's a member of the bar in British Columbia and a member of the Faculty of Law at UBC. His areas of specialty include prisoners' rights, especially aboriginal prisoners' rights. He's the author of numerous submissions to the House of Commons and the Senate on criminal law reform. His most recent book is called "Justice Behind the Walls: Human Rights in Canadian Prisons". Charles Momy is the president of the Canadian Police Association. He's been a police officer for

nearly 25 years. He's done everything. He's done patrol, surveillance, detective work. After seven years running a polygraph unit with the Ottawa Police Force and being promoted to sergeant, he asked for a transfer to patrol work so that he could discover, in his own words, "how things have changed on the street". Next to him is Heidi Illingworth. She's the executive director of the Canadian Resource Centre for Victims of Crime. She has an honours BA in Law, with a concentration in Criminal Justice from Carleton University. She has appeared before Parliamentary committees on victims rights and has worked with victims and survivors at various stages in the criminal justice system. Dan Gardner, I'm sure you all know, is a columnist and senior writer with the Ottawa Citizen. He specializes in justice matters. In the past 15 years, he has won several national and international awards for his writing on law and justice issues. He's a graduate of York University and Osgood Hall Law School. In addition, he has an MA in History from York. His most recent book is "Risk: The Science and Politics of Fear". Next to him is Vince Westwick. He is general counsel to the Ottawa Police Service, but he is also with the Canadian Association of Chiefs of Police, and he's in that capacity tonight. He's a graduate of Queen's University with degrees in Law and Public Administration. He's worked with the RCMP, and in his capacity with the Association of Chiefs of Police, he's appeared before Parliamentary committees on justice issues some 40 times. In 2003, he was the first civilian to be appointed Officer of the Order of Merit of the police forces. And finally at the end of our table, Kim Pate. She's been executive director of the Canadian Association of Elizabeth Fry Societies since 1992. She's a lawyer and teacher by training, and is currently a part-time professor in the Faculty of Law at

the University of Ottawa. Last year she received the Canadian Bar Association's prestigious Touchstone Award in recognition of her achievement in promoting equality in the Canadian legal community. Ladies and gentlemen, your panel for the evening. (APPLAUSE)

All right, I want to start off with a question to each of our panellists, and I want to get from each of you your feelings, what you think when you hear the phrase "getting tough on crime". We'll start with Professor Michael Jackson.

**MICHAEL JACKSON** (Law Professor, University of British Columbia): When was it good to be called tough? When I grew up in a poor area of London, being labelled a tough meant that you used fear, threats and intimidation to get your way. The opposite of tough was being called "smart". We should be smart on crime. That means having criminal justice policies that are fair to victims and offenders, that respect human rights, that constitute effective corrections in helping offenders develop into law-abiding citizens, and that demonstrate, not proclaim ideologically, dividends when it comes to public protection, given the enormous expenditure of public funds.

**MICHAEL ENRIGHT:** You did that in just about 30 seconds. Thank you. Charles Momy, what do you think of when you hear the phrase "getting tough on crime"?

**CHARLES MOMY** (President, Canadian Police Association): Well, certainly from the Canadian Police Association's perspective, representing frontline police members right across the country, when we hear that, we hear the voice of many people across the country. We hear certainly, and have heard in the last six months to a year tough on crime issues. Tough on crime issues to us means

fairness. At the end of the day as police officers, we investigate those crimes as police officers, and at the end of the day what we're looking for is a judicial system that will provide fairness to all people.

**MICHAEL ENRIGHT:** Heidi Illingworth, what do you think of when you hear the phrase?

**HEIDI ILLINGWORTH** (Executive Director, Canadian Resource Centre for Victims of Crime): Tough on crime should mean as a society we hold those responsible for serious violent crime appropriately accountable for their actions. And in some cases, this does mean removing them from society for a long period of time.

**MICHAEL ENRIGHT:** Thank you. Dan Gardner?

**DAN GARDNER** (Columnist, Ottawa Citizen): For me tough on crime is a superb marketing slogan and nothing more. The suite of policies which go under that umbrella, they also are superb marketing slogans: adult time for adult crime, truth in sentencing, zero tolerance, three strikes. Fantastic marketing slogans. It's very hard not to like them. They were in fact devised by American politicians primarily in the 1980s precisely because they are such persuasive slogans. Unpack those policies, and they look a lot less delightful.

**MICHAEL ENRIGHT:** Thank you, Dan Gardner. Vince Westwick, what do you think about when you hear the phrase?

**VINCE WESTWICK** (Canadian Association of Chiefs of Police): When I hear that, I hear anger and frustration. Anger and frustration from members of the public, anger and frustration from the police community. What the Canadian

Association of Chiefs of Police think is that there should be a continuum in terms of the response to crime. On one hand there needs to be strict and serious enforcement, but on the other hand, there needs to be education and prevention. An example in Ottawa, for example, we have...on drugs, we have a street crime unit that uses all the techniques, but the chief is also strongly advocating for a residential treatment facility. So it has to cover the spectrum.

**MICHAEL ENRIGHT:** Thank you, Mr. Westwick. Kim Pate?

**KIM PATE** (Executive Director, Canadian Association of Elizabeth Fry Societies): When I hear tough on crime, I think of an answer looking for a problem. And I think of the fact that we have smart, concerned, compassionate Canadians, many of whom are here with us today, who are concerned about the increasing evisceration of social programs, healthcare, educational services, the pulling of fiscal resources out of our communities and putting them into putting people into jail for longer and more brutalizing periods, in a context where we expect to come back and somehow contribute to the community. And so I think we need to really think about being clearer that what we want to be is smart on crime, and that if in fact there are issues, and as we have economic downturn, as we have increased crime...people being put in prison, we have a downturn in the crime rate, and we need to be concerned about the lack of fiscal responsibility that is being shown by our Parliamentarians right now.

**MICHAEL ENRIGHT:** All right, I want to stay with Kim Pate for a moment. The next question: is, in your view, is crime a serious problem in Canada? And then I want to hear from Charles Momy.

**KIM PATE:** Crime is not a serious problem in Canada...

**MICHAEL ENRIGHT:** It is not?

**KIM PATE:** Not as a general thing. There are areas where it is, so if you look at issues like violence against women, if you look at issues about the number of people being violated who are on the street, the fact that we have increasingly our prisons being the default for a lack of a homeless strategy, lack of a mental health strategy, all of those sorts of areas, then the fact that we're using crime as a response to that, or the pretext of criminalizing people so they can get resources, then we have a problem. I think increasingly our crime policies and our criminal justice system are becoming one of our biggest social problems.

**MICHAEL ENRIGHT:** Charles Momy, what do the cops say? Is there a crime problem in this country?

**CHARLES MOMY:** Well, I think overall, you know, Canadians feel safe, and as police officers, I think we can say that we live in a pretty safe society. Now, do frontline police officers say that we have problem with crimes? Absolutely. We have a significant issue with gang problems right now across this country, especially in the urban areas within the big cities. We have a lot more gun crime occurring within this country in the last 20 years, and all you have to do is speak to those frontline officers that were here 30 and 40 years ago compared to today.

**MICHAEL ENRIGHT:** And they say it's worse.

**CHARLES MOMY:** It is worse.

**MICHAEL ENRIGHT:** All right, Michael Jackson, in 2007 the government issued a statement, a document called "A Roadmap to Strengthening Public Safety". You wrote a paper describing that as a very flawed document that was wrong on

almost every level and ignored human rights. What have you got against strengthening public safety? (LAUGHTER)

**MICHAEL JACKSON:** I have nothing against strengthening public safety. The fallacy and the flaw in the government's strategy, their so-called tough on crime policies, is that it perpetuates this zero sum proposition.

**MICHAEL ENRIGHT:** What do you mean by that?

**MICHAEL JACKSON:** Well, there's many aspects of it. You know, I'm glad Heidi's on the panel here. The idea somehow if you respect the human rights of prisoners, you take away from the human rights of victims; that's not the case. You can't have public protection in terms of long-term public protection without having an abiding respect for fundamental human rights. We are a society which is founded upon respect for human dignity. You cannot have criminal justice policies which derogate from that fundamental obligation.

**MICHAEL ENRIGHT:** All right, but again, let me interrupt you there for a moment, if I might. If I break the law, if I break the criminal sanctions in this country, if I kill somebody or rape someone, don't I give up those rights? Don't I hand them over to the state and they're no longer mine?

**MICHAEL JACKSON:** For a long time in European and North American civilizations, yes. We had a concept called "civil death". Upon being convicted of a felony, you forfeited all your rights. If you had property, you'd forfeit it to the crown. That was abolished by the end of the 19<sup>th</sup> century. For 100 years now, we have recognized what the Supreme Court has said and what the Charter says, that upon imprisonment, you forfeit the right to walk the streets as a free person, but you do not forfeit your fundamental human rights. Some of them are

circumscribed, but they are not forfeited. That is a concept which is a century behind us.

**MICHAEL ENRIGHT:** Dan Gardner, you say that this, the idea of tough on crime is a slogan. I can remember the Nixon era, the Attorney General under Richard Nixon talked about tough on crime. The government's position is as follows, as I understand it: that it's to assure victims that justice has been rendered, and secondly, to assure that the time served by a criminal is proportional to the gravity of the offence. What's wrong with that?

**DAN GARDNER:** Nothing, in principle, but that's only part of it. Number one, we have to argue, we have to debate the question of whether in fact punishment is proportional to the gravity of the offence in Canada today. That's often taken to be an established fact, that it's somehow out of proportion, that we're handing out slaps on the wrist, as they say. But of course, there's the other component, which is...in favour of tough on crime, which is that by enhancing punishment, by becoming more punitive, we will in fact deter criminals and therefore reduce crime. And that in particular is a very attractive proposition to people and it's particularly wrong.

**MICHAEL ENRIGHT:** I should interrupt at this point to tell you and to tell our audience and the panel that we sent e-mail invitations to the following people: to the Minister of Justice, to his Parliamentary Secretary, to the chair of the House of Commons Committee on Justice, and to a number of government Members of Parliament. None responded to our invitation. (LAUGHTER) The government says that Canadians are onside. All four major parties have campaigned the last two elections on so-called tough on crime. We live in a democracy. Why not just

go ahead and enact these laws? Vince Westwick, and then Michael Jackson, please.

**VINCE WESTWICK:** I guess the first thing, Michael, after you rhymed off all those people that invitations were sent to, I guess this means that the audience has the B team tonight. (LAUGHTER) I feel a little insecure!

**MICHAEL ENRIGHT:** But you're doing very well so far. (LAUGHTER)

**VINCE WESTWICK:** Thank you, thank you very much! I guess a happy chief of police is a chief of police who has a safe community. A very happy chief of police is a chief that has a community that feels safe, and they're very different things, and I think why there's so much talk and so much rhetoric about tough on crime and responding to crime is that our citizens don't feel as safe as they may be. So the reality is perhaps not as important as the perception, although I don't mean to suggest that the reality's not important. When 62 percent want to see the death penalty brought back, and 65 percent are talking about longer sentences, I think it's telling us that people don't feel safe. And that is a very serious thing...

**MICHAEL ENRIGHT:** But then should the politicians follow those inclinations, or those polls? There are roughly – and you can correct me, and I'm sure you will – about 600 murders a year in this country. That hasn't changed very much over the last few years, but people want to bring back hanging. So what does the politician do? Dan, jump in.

**DAN GARDNER:** Well, listen, let's get some basic facts on the table. The homicide rate in this country peaked in the mid-1970s, and it's been declining...it declined quite considerably until about the year 2000, and it's been flat since.

That is the central fact which we have to focus on, and when was the last time you heard a politician say that? When was the last time you heard a politician say to people, “Look, perhaps your fears are actually out of alignment with reality. Perhaps we should calm down.”? We don’t hear that.

**MICHAEL ENRIGHT:** Does that matter?

**DAN GARDNER:** Absolutely it matters, because in fact we have a situation – and this is not uncommon, by the way. I should emphasize this point. On crime and risk perception research, there is routinely found to be a gap between people’s perception of the threat and the reality. That is absolutely common and routine. But the question is how do we deal with it, and what does a responsible, democratic leader do faced with that? Do they say, “Look, actually, you know, what we’re doing seems to be working reasonably well. Shall we continue?” Or do they turn around and say, “Guns, gangs, drugs! Everyone vote for me!”

**MICHAEL ENRIGHT:** Michael Jackson, and then Heidi, I want to hear from you.

**MICHAEL JACKSON:** I overheard my two grandsons the other day, one saying to the other, “You’re driving me crazy!” They’re four and two. (LAUGHTER) I have much the same reaction to the government’s response to the actual facts of crime. Now, we don’t say, “Let’s get tough on cancer!” We say let’s understand its root causes and develop resources to address it. (Inaudible)...

**MICHAEL ENRIGHT:** All right, I’m not going to argue statistics because you’ll kill me, but... (LAUGHTER) I want to throw one statistic at you, all right? In 1993 according to the police, the number of incidents reported to the police was 43 percent, violent incidents reported to the cops was 43 percent. In 2004, that

number was 34 percent. Is it not possible that the crime rate is static because people are afraid to go to the cops?

**MICHAEL JACKSON:** That may be the case in particular, in relation to gangs, perhaps, but I wouldn't have thought, generally speaking, that would be the case.

**MICHAEL ENRIGHT:** Well, it's down ten percent.

**DAN GARDNER:** No, in fact...can I just jump in...

**MICHAEL ENRIGHT:** Jump in, please. Dan Gardner.

**DAN GARDNER:** Look, Statistics Canada is very clear on this. The surveys are very clear. The single most common...people are asked why, if you have...if you are a victim of a crime, why haven't you reported it to the police. By far the most common response is "I didn't think it was serious enough."

**MICHAEL ENRIGHT:** Ok, Heidi, please, and then Charles.

**HEIDI ILLINGTON:** Police, the crime that's reported to police in this country does not reflect the actual amount of violence that is occurring in this country.

**MICHAEL ENRIGHT:** What do you mean by that?

**HEIDI ILLINGTON:** If we look at the general...at the general social survey on victimization in this country, you will see that only eight percent of people who are victims of sexual violence report that to the police.

**MICHAEL ENRIGHT:** Eight? Eight percent.

**HEIDI ILLINGTON:** Eight percent only. So the actual numbers of sexual violence in this country, and of it going unreported to the police are astounding.

**MICHAEL ENRIGHT:** Charles Momy.

**CHARLES MOMY:** Well, and as a frontline police officer, I just want to echo what Heidi is saying as well, is as a police officer who's been in this city, specifically in Ottawa for the past 25 years, or close to 25 years, I've seen myself, and certainly my colleagues have said this as well, reporting of crime has decreased significantly, and in fact your statistical information proves that, that we have seen a steady decline in the reporting of crimes, whether it's...whether it's the ones that Michael has stated in regards to property crime. We have seen property crime in this country decline significantly because people don't think in a lot of cases that it's important enough or that the police have the time or the resources to be able to do that.

**MICHAEL ENRIGHT:** Kim Pate, from Elizabeth Fry Societies.

**KIM PATE:** Well, it's interesting, the reporting of sexual assaults and sexual crimes, part of the reason it's so low is often it's happening in the family, and it's often, you know, something that's being hidden for all kinds of reasons that not just our criminal justice system, but our social systems, our school systems, even though we have mandatory reporting laws, is often hidden for all kinds of probably fairly obvious reasons to everybody here. Yet, we have women as the fastest growing prison population, so even as everybody's talking...

**MICHAEL ENRIGHT:** Women? Wait a minute, women are the fastest growing prison...

**KIM PATE:** Women are the fastest growing prison population, in this country and in most parts of the world. That is not indicative of a crime rate involving women...you know, I don't certainly hear about people being really concerned about waves of women going out and causing mayhem in the streets.

(LAUGHTER) But it is very much linked to, I would suggest, the cuts to social programs, healthcare, particularly mental healthcare, where historically we've seen women over-represented. So as we see cuts to services, as we see longer sentences, we see more and more of those who are most marginalized, so women, indigenous peoples, people with mental health issues...

**MICHAEL ENRIGHT:** Aboriginal women, particularly.

**KIM PATE:** Aboriginal women especially. I mean, a third of our federal jail population is now...

**MICHAEL ENRIGHT:** I don't know why we put people with mental illness in prison in the first place.

**KIM PATE:** That's right.

**MICHAEL ENRIGHT:** But yes, Charles, and then I want to hear from Vince.

**CHARLES MOMY:** Kim brings up an excellent point in regards to mental health issues and so on. Police services again over the past few decades have become social agencies. They, with mental illness, drug addiction, we are the...

**MICHAEL ENRIGHT:** Not their job.

**CHARLES MOMY:** It's really not our job, and there's a lot of areas that have fallen through the cracks, through the system, whether it's the health system or, you know, other social services that we ended up as police officers having to take over, almost.

**MICHAEL ENRIGHT:** Ok, but the other thing I've...and I've talked to cops and know some quite well. They object to being put in the position of being social workers with someone with mental illness. They also object to having to arrest

some 18-year-old kid with a joint in his shoe because of the crazy drug laws in the country. What do you say to that?

**CHARLES MOMY:** Well, you know, police officers have certainly the ability to deal with drug issues, and if we talk about specifically about drug issues and a joint, you know, police officers do have the ability to decide whether criminal charges are going to be laid in many cases, and I think that police officers, unfortunately, this day and age, have to make those types of decisions on not laying criminal charges, because there are so many other issues that need to be dealt with.

**MICHAEL JACKSON:** I hope that...

**MICHAEL ENRIGHT:** Vince, Vince first and then Michael.

**VINCE WESTWICK:** Yeah, on the mental health issue, right now as we speak there are police cars being driven around several cities in Canada that are occupied by a police officer and a mental health outreach worker, a program started in Ottawa, by the way. And the whole idea of that is that when these kinds of calls come in, that the mental health outreach worker is on the spot, on the scene, can link into the resources and divert the thing away completely from the criminal justice system and put it into the proper social agency. Just very difficult to deal with.

**MICHAEL ENRIGHT:** Speak to Kim Pate's point, though, about the disproportionate number of women in our jails, of people with mental illness in our jails, the marginalized, the poor, the disabled and so on.

**KIM PATE:** Well, in fact being on the other end of calls from police officers in just that situation, as you both talked about, and having them say, you know, “We’ve taken in this woman.” If it’s a slow night in a certain area of the country, they might have time to do this. “We’ve taken her to two psychiatric hospitals. They both refused her because she’s already been criminalized, so what are we left to do?” They drive her in the front of the car without restraints to the jail, because it’s the only place that can’t say, “Sorry, you don’t fit our mandate. Sorry, our beds are full. Sorry, we have a line-up. Sorry, we’ve got a waiting list.” And so the default is to criminalize, and often there is behaviour that can be criminalized. If someone’s having a psychotic episode on the street or just even aggressively panhandling, that can be criminalized if that’s the only resource. So if everything looks like a nail, then what we use is the hammer.

**MICHAEL JACKSON:** See, this is an example of...

**MICHAEL ENRIGHT:** Michael Jackson.

**MICHAEL JACKSON:** ...of how you can be smart. I mean, the Ottawa Police, in terms of that project of having a coordinated team, is being smart, and trying to divert and trying to develop resources. So why does the government – and this is another figure – almost double its prison construction budget as opposed to spending the \$320 million on developing in tandem with the police and mental health authorities the kinds of resources which will in fact not result in criminalization? I mean, that’s being smart. That’s public protection.  
(APPLAUSE)

**MICHAEL ENRIGHT:** Dan Gardner, please. Dan Gardner.

**DAN GARDNER:** There's another aspect to this that's very important to bear in mind. When it comes to mandatory minimum sentences, which are of course absolutely at the core of the tough on crime mentality, they're popular because we're taught, well, we'll have certain strong sentences against these terrible offenders. Well, one of the things that we know is that when you introduce mandatory minimum sentences, the very first people to be caught up on the street and shipped off to prison are in fact the mentally ill. In the United States, the experience is basically three decades of people being transferred from psychiatric hospitals into prisons.

**VINCE WESTWICK:** And just to add to that, Michael...

**MICHAEL ENRIGHT:** Vince.

**VINCE WESTWICK:** ...again in several jurisdictions, this time funded by the government, there are drug treatment courts going on, and what they've discovered – these are very, very resource intensive courts, very, very successful, but very expensive to run – but what they've discovered ever so quickly, which will come as a surprise to no one, is that substance abuse problems are often linked to some kind of mental health, linked to some kind of social problem. And these courts are very slowly starting to make some very significant progress.

**MICHAEL ENRIGHT:** I want to give you a quote from a man named Ian Brodie. Ian Brodie was for two years the chief of staff to Prime Minister Stephen Harper, and in a rather candid interview at McGill University last year, he talked about the tough on crime legislation, and he said that every time they raised the issue, the

government was attacked by criminologists, lawyers, psychiatrists, psychologists.  
“Politically it helped us tremendously to be attacked by these university types.”

**MICHAEL JACKSON:** Because we never had to deal...

**MICHAEL ENRIGHT:** Talk into the microphone, Michael.

**MICHAEL JACKSON:** The last thing he said, “Because of that, we never had to deal with the actual evidence of whether tougher on crime works.” I mean, it was a shocking abnegation of responsibility. There’s a lot of talk about taking responsibility, being accountable, and yet a chief advisor to the government says, “We don’t care about the evidence. The populous is on our side. That makes good public policy.” It doesn’t.

**MICHAEL ENRIGHT:** Yeah, but Heidi Illingworth, you speak for victims of all of this. We’re looking at the thing academically, in a way. What is the position of people who have been mugged, have been beaten up, have been raped, whose parents have been murdered? Don’t they deserve to be heard as well, as well as the statistics and the criminologists and all that?

**HEIDI ILLINGWORTH:** For sure. And it’s not, you can’t put victims of crime into one basket. You know, not everybody will be impacted in the same manner by a violent crime, but certainly the families that we work with, they do want to have their voice heard. They want to have a role within the criminal justice system. They want to be heard throughout the process, and some people do believe that there is a role for, especially when we’re talking about serious violent crime, that an offender should be sentenced to sometimes a mandatory minimum amount of time in prison.

**MICHAEL ENRIGHT:** What's wrong with that? What is wrong with that? Charles Momy, you represent police officers.

**CHARLES MOMY:** Well, you know, the one thing I do want to point out, though, with minimum sentences, because you know, this certainly is something that bothers us often as police officers, is minimum sentences work, and I'll tell you why they work. They work because we're talking about the most serious offenders out there in the communities. And when they spend time in jail, they're not on the street raping and robbing people in our communities. They're inside. So the reality is this: I truly believe, and we the CPA truly believe in rehabilitation, we believe in supporting victims and looking at fairness and looking at this from all different sides, but the reality, Michael, is this, is that when you have these individuals who are repeat violent offenders, and we can use bill C-15 last year as a prime example for minimum sentences on drug offences. When you're talking about organized crime, and when you're talking about the drug problems in this country, and Canada being one of the biggest drug producers, especially out in BC and exporting and using marijuana as a commodity and a trade for other drugs in the US and so on, and you're dealing with organized crime, they belong in jail, that's where they belong. Not in our streets, not in our communities, and continuing, you know, the criminal activities in our own backyards.

**DAN GARDNER:** But Mr. Momy...

**MICHAEL ENRIGHT:** Jump in.

**DAN GARDNER:** Can I jump in?

**MICHAEL ENRIGHT:** Dan Gardner.

**DAN GARDNER:** But what Mr. Momy didn't mention, organized crime, I say organized crime and you think Sopranos, right? (LAUGHTER) And of course, Tony Soprano should be in prison. Put him away for a long time. Terrific. What is the criminal code's definition of organized crime? I can't remember is it three or is it five?

**KIM PATE:** Three.

**DAN GARDNER:** Three? Thank you. It's three individuals in an ongoing criminal enterprise, which could mean three stoners growing pot in their basement. (LAUGHTER)

**CHARLES MOMY:** But Dan, do you want to tell me the last time you've actually reported on a case where two or three people were arrested for organized crime activity? And that's the reality. So the reality is that it might be in law – and you're correct, that I believe it's three or four people, you know, getting together and so on – but the reality is that in the real world, in the judicial system, that doesn't happen.

**DAN GARDNER:** Are judges foolish? You seem to be suggesting that judges are incapable of looking at a serious, violent criminal and saying, "You are a serious violent criminal," and sentencing them accordingly. It's the presumption of everything you're saying.

**MICHAEL JACKSON:** Don't mean to gang up on you, Charles, but we're talking reality, and you're talking about serious rapists, serious robbers. I mean, I represent some of those individuals, and in terms of parole applications, and they're doing very serious time. You know, the government about a phoney war, and the government's mantra is "serious time for serious crime". Well, the last

time I looked, we have a criminal code which has maximum sentences which are life imprisonment for robbery. Life imprisonment for sexual assault, aggravated sexual assault. So we already have the armoury and the artillery to do proper justice for people who are repetitively violent. We have indeterminate sentences. And judges are not shy of handing them out in an appropriate case where it's a proportionate punishment. The objection to minimum mandatories is it short circuits the investigation by a judge into what is a proportionate sentence, having regard to the gravity of the offence, the degree of responsibility of the offender, and Canadian judges have not, despite what politicians would say, they're not shy of holding people accountable in the currency of imprisonment. We have an incarceration rate higher than anyone in Western Europe apart from Great Britain.

**MICHAEL ENRIGHT:** That's Michael Jackson. He's an author and professor of law at the University of British Columbia. You're listening to a Sunday Edition public forum: Tough Justice. Is the Harper agenda a phoney war on crime? We're at the Gladstone Theatre here in Ottawa. Also on the panel, Charles Momy. He's president of the Canadian Police Association. Kim Pate, executive director of the Canadian Association of Elizabeth Fry Societies, Vince Westwick of the Canadian Association of Chiefs of Police, Dan Gardner, an author and columnist with the Ottawa Citizen, and Heidi Illingworth, executive director of the Canadian Resource Centre for Victims of Crime. I'm Michael Enright and this is The Sunday Edition on CBC Radio One across Canada, and Sirius satellite radio 137 across the United States. Craig Jones is the executive director of the John Howard Society in Canada, and has been involved in corrections for a number of

years. I guess the first question is why are you coddling prisoners?  
(LAUGHTER)

**CRAIG JONES** (Executive Director, John Howard Society): Well, that's a great set-up. Thank you for that. No, I really have to second Professor Jackson's point about if we're really serious about crime, then we have to get smart on crime. Tough on crime is just advertising. It goes nowhere, and I mean, we should take lessons from the United States and do, you know, whatever the Americans do, we should not do, because they have... (LAUGHTER, APPLAUSE) One out of four persons that is incarcerated on Planet Earth is incarcerated in the United States. They've achieved nothing like the decline in crime that they've spent.

**MICHAEL ENRIGHT:** The government is going to close the six prison farms that have been operating for 150 years, I think. The suggestion is that (BOOING) they're going to raise, they're going to use that land to build bigger prisons. What's wrong with that?

**CRAIG JONES:** Well, I mean, my question to the government is how much crime decline can you purchase at any price in a context of already declining crime rates? If you're going to spend that money, throw it into prevention. Put more people in police cars, fund the provincial healthcare systems, you know, put people on the street to address the real social problems that give rise to crime in the first place. That's a much better expenditure of money. (APPLAUSE)

**MICHAEL ENRIGHT:** All right, but somebody once said a Conservative is a Liberal who's been mugged, and... (LAUGHTER) Heidi, Heidi Illingworth is

talking about real situations involving real people and real violence. How do you deal with that, with gangs and drugs and all of that?

**CRAIG JONES:** Well, number one, we should have adjourned the war on drugs decades ago, and number two, we should properly fund our victims' services.

**HEIDI ILLINGWORTH:** Hear, hear!

**CRAIG JONES:** We're in the business of producing fewer victims. We're not coddling criminals, we're producing, or we're looking to produce fewer victims. But if you really want to get serious about crime, if you really want to do something meaningful and long-lasting, de-fund the war on drugs. (APPLAUSE)

**MICHAEL ENRIGHT:** Does that...does that mean you would legalize or decriminalize? There's a difference. Would you legalize marijuana, heroin, all of that?

**CRAIG JONES:** Actually, I prefer a third term, which is re-regulate. The fact is that illicit drugs are the only substance that we regulate by turning it over to the contest between cops and organized crime. There is no other substance that we regulate in that manner. It is dysfunctional. It is insane, and we should have gotten over it decades ago.

**MICHAEL ENRIGHT:** Thank you, sir. (APPLAUSE) Craig Jones, Craig Jones is the head of the John Howard Society. All right, from the victims' point of view, Heidi Illingworth, is the system broken and can it be fixed?

**HEIDI ILLINGWORTH:** Oh, for sure, I would say there are big problems, there are big issues. For victims, there's just a huge imbalance in the justice system between the rights afforded to the offender, or the accused person...

**MICHAEL ENRIGHT:** Too many to the accused, and too few to the victim?

**HEIDI ILLINGWORTH:** Little if any for crime victims. Our agency would like to see guaranteed rights for victims in this country. We have a basic statement of principles of justice for victims of crime in Canada, but that is totally not enforceable. It's just a statement about what victims should have, how they should be treated. So something that other countries have done, like France and different countries around the world...

**MICHAEL ENRIGHT:** What has France done? What did they do?

**HEIDI ILLINGWORTH:** Well, victims have standing in criminal court. They can present their concerns to the judge.

**MICHAEL ENRIGHT:** But we have victim impact statements, do we not?

**HEIDI ILLINGWORTH:** Yeah, but that's a different, that's completely different. That's at sentencing if somebody is convicted eventually.

**MICHAEL ENRIGHT:** Ok. All right, Kim Pate, and then Vince Westwick.

**KIM PATE:** It's important to know that France is an inquisitorial system, so the whole idea is that victims have a role in that process, have a voice. Our system is based on a concept where the victim is a witness to the breaching of a law. And so, you know, that may sound all technical, but it means a very different approach, and it means that if we wanted to have a different approach, we need to fundamentally look at are we wanting to change our entire justice system? And that may be so, but I don't hear people saying that. And for the most part, a lot of people think the system works well, but when you have our Prime Minister saying last week, for instance, "We want people who are convicted of murder to

serve a mandatory minimum sentence, at least one day in jail,” I’m thinking I don’t know of any murderers in this country who have never spent one day in jail. If you’re convicted of murder, it is a mandatory minimum. If it’s first degree, it’s life, no parole eligibility for 25 years. If it’s second, it’s life, no parole eligibility for at least ten and sometimes up to 25 or more. So you know, that kind of rhetoric promotes the misinformation that feeds the agenda that we’ve been talking about.

**MICHAEL ENRIGHT:** Have we gone overboard? Has the pendulum swung too far in the direction of offenders’ rights?

**MICHAEL JACKSON:** Well, let me put it in this context. I began work in this area 35 years ago, at a time in Canada, some people in this audience may remember, where riots and hostage takings and violent incidents in Canadian penitentiaries happened every month. It was a time when prisoners had no rights. There was no Charter of Rights. The correctional authorities had huge discretion over the lives of those incarcerated. In the 35 years we’ve had the Charter, we’ve had a new correctional regime which sets out rights and responsibilities and proscribes the limits on the rights of offenders, as well as the extent of them. And we’ve seen violence decline in prison. We’ve seen correctional management develop trying to have some respect for human dignity. It’s been a hard, hard sell, and events like what happened in the prison for women have demonstrated how fragile it is, our commitment to human rights. What we need is a re-invigoration of that commitment, not an abdication. And the government’s proposals for prison in this report I critiqued, 200 pages of government plans, a roadmap for the future, not a single paragraph, not a single

sentence about the importance of respect for human rights. It's not something we can simply abandon. We have the experience of other countries where, for example, Canada sends advisors to Afghanistan to help the Afghans develop a just and fair and effective prison system. How do we do that if we plan a roadmap for our own prison system which disregards it?

**MICHAEL ENRIGHT:** We're almost running out of time in our hour before we go to our audience here at the Gladstone Theatre in Ottawa. I'd like to ask each of you a kind of closing question, because I get the sense, the sense of the house, if you will, that you think the current government is on the wrong track in a number of levels. I think each of you had a particular criticism of the way the government has been introducing these various pieces of legislation, or trying to introduce them, say, for prorogation. I wonder if we could go down the table, and I want to ask you, is there one thing the government should do to correct or to try and fix a system that is, if not broken, certainly in disrepair, and is there one particular thing you'd like to see happen? I want to start with Kim Pate, Elizabeth Fry Societies.

**KIM PATE:** Well, I think if we could honestly say what these new bills are aiming to do, that would be one thing, and if the government was required to provide the fiscal and charter accountability of what these bills are going to cost Canadians in terms of rights, human rights, social costs, and fiscal costs, that would be one big thing.

**MICHAEL ENRIGHT:** So you're talking about what the Prime Minister has often talked about, is transparency, I think. That's his word.

**KIM PATE:** That's correct. (LAUGHTER) That's correct. We're very lack of...huge lack of transparency around this, the fact that it's called cabinet to confidence, to not even know what these are going to cost, should be a huge concern to Canadians, irresponsible. The other piece is not to keep tacking on everything to the criminal justice system. I have a tremendous amount of respect for the work that the police are doing trying to address these needs, but every time we tack on something to the criminal justice system, we actually grow it, and so we increase the likelihood that those most marginalized, those most victimized are also going to be criminalized as well.

**MICHAEL ENRIGHT:** Vince Westwick, one thing.

**VINCE WESTWICK:** Complexity. Complexity and the delays of the process. I don't think this is an issue about rights. I'm certainly not arguing, the CACP is not arguing that we want to take away rights. We want to get rid of the complexity.

**MICHAEL ENRIGHT:** Dan Gardner.

**DAN GARDNER:** We absolutely must have a royal commission on illicit drugs.

**MICHAEL ENRIGHT:** Ah! (APPLAUSE)

**DAN GARDNER:** If I can echo Craig Jones' point, if the evidence – the problem, of course, is that the nexus between drugs and crime and other social ills is incredibly complex. The evidence is incredibly complex, but I am absolutely convinced that if we sat down and properly assembled that evidence and discussed it rationally, we would come to an agreement that in fact the status quo's a disaster.

**MICHAEL ENRIGHT:** Is that given the record of success of royal commissions (LAUGHTER) and the implementation of their recommendations?

**DAN GARDNER:** Merely assembling the evidence would be a triumph of rationality. (LAUGHTER)

**MICHAEL ENRIGHT:** Heidi Illingworth, please.

**HEIDI ILLINGWORTH:** We just do not do enough to repair the harm caused by a crime in this country. Crime victims bear an enormous cost. In fact they, in 2003, statistics show that crime cost \$70 billion in Canada, and 67 percent of that cost was borne by victims directly through pain and suffering, stolen property...

**MICHAEL ENRIGHT:** 67 percent.

**HEIDI ILLINGWORTH:** 67 percent of that. So \$47 billion. Loss of income, productivity, health services, so yeah, we just, we need to do a better job helping people recover from crime.

**MICHAEL ENRIGHT:** Charles, you represent Canadian cops. One thing.

**CHARLES MOMY:** I can't give you one thing, because I think it's too difficult. What I do want to say, certainly though, is I don't think the federal government could do it alone. We all have these concerns. We all have these issues, whether it's from police or from victims' groups or so on. We have to somehow all get together to be able to figure out what is the real solution. There's not just one single solution to this massive problem. You know, funding is a big issue in this country certainly for police. You know, the more we're being asked, the more our members are being asked to do, the more impact it has on other

services as well, but you know, the whole social services, health services are being impacted as well.

**MICHAEL ENRIGHT:** I want to hear from Michael, but I do have to ask you one question. In your experience as a police officer and a representative, have you ever heard of a police budget being cut? (LAUGHTER)

**CHARLES MOMY:** Not often. (LAUGHTER)

**MICHAEL ENRIGHT:** Thank you. Michael Jackson.

**MICHAEL JACKSON:** One thing. And this builds upon what Charles just said. This is very complex. It's multi-faceted. The one thing I would demand of the government is that they acknowledge what the Supreme Court of Canada has said is the staggering injustice of the overrepresentation of Aboriginal peoples in the prisons of this country. (APPLAUSE) Now, to do that one thing requires addresses the causes of that, the systemic social and economic dislocation, the history of colonialism, the limits of criminal justice policy. It requires all the agencies of good public policy to address that one issue. That would also be the kind of process which would address all the other issues. The thing that really does drive me crazy about the government's agenda is that it so misses the boat. It so is misdirected. (APPLAUSE) So much money!

**MICHAEL ENRIGHT:** Thank you. Thank you. That's Professor Michael Jackson. That wraps up this first hour of our public forum, Tough Justice. Is the Harper agenda a phoney war on crime? It's taking place in the Gladstone Theatre here in Ottawa to a full house. Our panellists tonight, Charles Momy, president of the Canadian Police Association, Kim Pate, executive director of the Canadian Association of Elizabeth Fry Societies. Vince Westwick is with the

Canadian Association of Chiefs of Police. Dan Gardner is an author and columnist with the Ottawa Citizen. Michael Jackson, whom you just heard from, is an author and he's with the University of British Columbia School of Law. Heidi Illingworth is the executive director of the Canadian Resource Centre for Victims of Crime. We're going to take a short break now for latest news and weathers, and then we come back and it will be your turn here in Ottawa to question our panellists, to ask something that perhaps you've...that has come up in the course of the first hour or something you've been nursing over the last few days and weeks, and our panellists will be glad to answer your questions. My name is Michael Enright. You are listening to The Sunday Edition here on CBC Radio One across Canada, and across the United States on Sirius satellite 137. Don't go away. (APPLAUSE)

**ENRIGHT:** Hello again, and welcome to the second hour of *The Sunday Edition*. My name is Michael Enright. We are conducting a public forum here in Ottawa at the Gladstone Theatre. This is the second hour of our forum. The topic? Tough Justice: Is the Harper agenda a phoney war on crime?

**Our panel:** Charles Momy is president of the Canadian Police Association; Kim Pate is executive director of the Canadian Association of Elizabeth Fry Societies; Vince Westwick is with the Canadian Association of Chiefs of Police; Dan Gardner is a writer, author and columnist for the Ottawa Citizen; Michael Jackson is author and professor of law at the University of British Columbia; Heidi Illingworth is executive director of the Canadian Resource Centre for Victims of Crime. And this is our panel, distinguished as they are.

[Applause]

Now, this hour it's your turn, the folks here in the Gladstone Theatre. There are two microphones set up and we'll go to microphone number one. Yes, ma'am?

**SPEAKER 1:** Thank you. My question is for Michael Jackson. Michael, you're referred to often as the professor and of course you do spend a number of hours each week in the classroom at UBC, and a lot of people perhaps don't realize that the hours you spend in the classroom are far, far outnumbered by the thousands of hours that you've spent in the worse penitentiaries in this country working with people who many would regard as among the most dangerous people in this country.

I'd be interested in your comments. You've seen the best, you've seen the worst, and are there particular things that have struck you in dealing with these people?

**ENRIGHT:** Michael Jackson

**JACKSON:** This actually relates to the perception this government would have you have of prisons. That prison, like the rest of the criminal justice system, is kind of soft; that it doesn't meet out a just measure of pain; that the punishment is not proportionate to the harm. I spend a lot of time in prison and the idea that we have in Canada, a Club Fed approach to prisons, is so far from the truth that it hurts. Prisons hurt. The fact of imprisonment, of deprivation of liberty, of being taken away from your loved ones, of having every aspect of your life controlled from the time you get up to the time you leave, is inherently deprivation.

And I would address to Heidi and some of the victims' advocates. There is nothing that can ever give back to the victims what's been taken from them. To try and evaluate our prisons by do they hurt as much as the victims hurt is an unanswerable question, because it can never hurt as much as the victims when

the victims are the victims of the most serious crime. The measure of a just prison system is not does it punish sufficiently to appease and equate with the harm of a victim. It is is it a just measure of punishment having regard to the standards of a decent society, having regard to the concept we have that people can redeem themselves, that they can re-establish themselves as productive individuals.

And it is possible to do that. Being smart on crime would be providing the facilities and the resources to do that, not locking more and more people up for longer and longer times under harsher and harsher conditions.

[Applause]

**ENRIGHT:** Thank you, Michael. The gentleman at microphone number two.

**SPEAKER 2:** Hi there. My name is Justin Piché from Carleton University and I'm currently researching new prison construction in Canada. My question is for all of the panellists. There are currently twenty-two new prisons and eleven additions to existing facilities being built in Canada at a cost of \$2.8 billion in construction. So my question is, With this money what would you do if you're concerned with public safety? How would you reinvest this \$3 billion if I cut you a cheque right now and stopped prison construction?

**ENRIGHT:** All right, Kim Pate, please, and then Dan Gardner.

**PATE:** Well, it's interesting that one of the things that young people involved in our organization came up with last year was a poster that says "Healthy communities equals effective crime prevention". And what they suggested is that we actually take – it's an experiment that was actually done in Massachusetts in the '70s – and take person for person, money for money, the money to go

actually into the community that would be spent on keeping someone in jail to benefit not just that individual but the entire community. And I would suggest the numbers you're talking about are probably very much under representative of what the costs are going to be of all these new laws and all these... and the changes in policies too. So if that money was instead invested in the communities in health care, educational services, social services, housing, we would see a far different approach (inaudible) services.

**ENRIGHT:** Dan Gardner, please

**GARDNER:** Well, I would just remind people that, you know, government spending... of course if we're spending this money on prisons that doesn't mean it has to stay within the criminal justice envelope. Government spending of any kind is a zero sum game. If you spend a dollar in one priority, it's not available for other priorities. Ask yourself: On the list of government priorities that you have, is this right up there? Does this defeat the other priorities that you hold near and dear, including, by the way, I should have mentioned, tax cuts? If that's your thing, this is money coming from tax cuts.

[Applause]

**ENRIGHT:** Thank you. Yes, sir. Microphone number one.

**DON DAVIES** (NDP Critic for Department of Public Safety): My name is Don Davies. I'm a member of Parliament and I'm the New Democrat critic for public safety. So I'm here tonight... I didn't get an invitation so I must be on the C list.

**ENRIGHT:** Then get out! No.

[Laughter]

**DAVIES:** I just wanted to reassure Canadians and this audience that there are politicians in Parliament who are challenging the government on their false statistics on crime. We do point out that crime rates are falling, we are fighting for the preservation of prison farms, and we are opposing mandatory minimum sentences where they don't make sense.

But my question for the panel is this: Seventy percent of people who enter our prison system have not finished high school; 80 percent of people in the federal correctional system have addictions; and two out of three youth entering our youth justice system have been diagnosed with mental illnesses. And, you know, my theory is that we've got to get tough on illiteracy, we have to get tough on substance abuse and treatment, and we have to get tough on dealing with mental illness. And I'm just wondering what the panel thinks about investing money in those areas as opposed to in prisons and severe punishment? Because I don't think you can punish your way into a safe society.

[Applause]

**ENRIGHT:** Go ahead, Charles. Not a hardball question, but go ahead.

**MOMY:** I think the amount of money has to be spread evenly, whether it's in mental health, education, literacy, as you say, but not to put aside law enforcement as well. Because it is a key component.

**ENRIGHT:** The government wants to save money by killing the gun registry. The cops in this country are in favour of it. Is that right?

**MOMY:** Absolutely.

[Applause]

**MOMY:** We're absolutely in favour and... we're absolutely in favour, and I'll give you a very easy statistic to remember. We all agree that the 1 to 1.2, some mention \$2 billion, that have been spent on the gun registry so far. Now, that money has been spent. Today in fact we... if the long gun registry were abolished, there would be a savings of \$3 million a year. That's it. Three million a year savings when it comes to the long gun registry if it's abolished, and it would be in fact a crime if it were abolished as far as the CPA is concerned.

**ENRIGHT:** Wow! Okay.

[Applause]

**ENRIGHT:** Dan Gardner, then Vince Westwick, please.

**GARDNER:** Yeah, I just want to note that while it's certainly true that certain members of the NDP caucus are saying good and sensible things on these issues – I'd single out Libby Davies, for instance – it's very important to realize, and I think because this illustrates something about the political dynamics that is really driving this, that the leadership of the NDP hasn't exactly covered itself in glory.

I would remind you that in the summer of 2005, when the... you all remember the summer of the gun in Toronto. There was a big spike in gun homicides, this culminated in the Boxing Day murder of Jane Creba. This was an enormous issue right in the middle of a federal election. And what happened? Of course the Conservatives said, well, we will institute tough mandatory prison sentences because that's what they do. The Liberals quickly said me too and so did Jack Layton. And this is the essential point to remember. The reason why this stuff

progresses is not because it is supported by evidence but because when the sensational incident occurs politicians don't have the guts to push back.

[Applause]

**ENRIGHT:** All right. Now, wait a minute, I'm going to get to you in a minute. Mr. Gardner and I and some others are in the media. This is our profession, I don't think it's a profession but it's our craft, it's a trade. Are we responsible then...

**GARDNER:** Oh, we are so responsible.

**ENRIGHT:** ...for terrifying and scaring the crap out of Canadians?

**GARDNER:** Absolutely we are responsible. Media coverage... [Applause] The first thing you have to know about media coverage of crime is that it is grossly distorted. Basically we look for the sensational, the gory, the worst possible thing, we blow that up. The ordinary crime, that just never gets mentioned. And as a result you have this collective image of crime which is grossly distorted.

The other thing... and, actually, to go back to the Boxing Day murder of Jane Creba, during that federal election, that of course, as I said, culminated the summer of the gun in which there was a huge wash of media attention towards homicides in Toronto. Toronto was out of control. Everybody in Toronto was ducking because there were stray bullets in the air, right? This is the image that we had. Does anybody remember what happened in 2006? In fact, what happened is gun-related murders declined 46 percent. It went virtually unmentioned in the media.

[Applause]

**ENRIGHT:** Dan Gardner, thank you. Microphone number two, a woman wearing a sweater that says Save Our Prison Farms.

**SPEAKER 4:** Right. About a year ago the government was forced to reveal that they have a plan to close the six prison farms that are across Canada. Two of the six are within the boundaries of the city of Kingston and there are about 30 people here tonight from the Kingston area. We think that the prison farms offer an effective program of rehabilitation, therapy, and if nothing else they are producing food for themselves and for other prisoners. And we can't get an answer from Public Safety people or Corrections on why they want to do... we don't buy their answers that they're giving us. What can we do about a government that's turning Corrections Canada into Punishment Canada?

**ENRIGHT:** All right, Vince, do you want to take this? Mr. Westwick?

**WESTWICK:** You know, I think anybody who has spent any time in the criminal justice system is in favour of rehabilitation. There's no question about that. It's a tough concept, it's a difficult one. The concern I have with, I'll say medium facilities, is the selection process. Who goes there? And I sometimes question the decision-making that has been made and sometimes it hasn't been, I don't think, the smartest from a public perception when people that have a track record of horrific crimes find themselves in those kinds of facilities.

But I think that may be just the management of it. I lived in Kingston for years, supported them then, support them now. I see no reason why they should close.

**ENRIGHT:** Let me ask Heidi Illingworth. You speak for victims. What do you think about this issue?

**ILLINGWORTH:** Well, I think something that we have to help victims realize is that most offenders are coming back to society eventually and that these sort of programs that exist within prisons like the farms, they are very important to

helping people perhaps, you know, find employment when they come back to society, to learn how to conduct themselves in a pro-social manner. So, yeah, we would agree that those prisons shouldn't be closed.

**ENRIGHT:** Briefly, Michael Jackson.

**JACKSON:** Yeah, in relation to the prison farm issue there's a real paradox here. The government's roadmap to the transformation of Canadian prisons has as one of its main planks providing greater employment, meaningful employment, for prisoners. Here you have a program which is green; you have a program which is demonstrably working, effective, those who participate have lower recidivism rates; it's providing a public service; it's developing sustainability...

**ENRIGHT:** But they're not going out to be farmers. They're not training farmers.

**JACKSON:** That's not... that's not the issue.

**ENRIGHT:** No, no, but the issue... I mean, they're creating dairy... they're... products... we're not there to (inaudible) farmers.

**JACKSON:** But the skills which the prisoners learn in taking charge of their lives, of providing a community public service, is a lesson in life. That's all we can help to do in prison: give people lessons in life that when they come out they will be law abiding, they won't see getting a criminal value system back in operation as the way to make it.

**ENRIGHT:** Thank you, thank you, Michael. Yes, sir.

[Applause]

**SPEAKER 5:** Ten days ago Bruce Cheadle reported to the Canadian Press that Prime Minister Harper flatly and explicitly stated that his government does not accept peer-reviewed research on criminal matters. [Laughter] And he

denounced research-based justice policies, accusing their proponents of policies of trying to pacify Canadians with statistics. This is clearly an attack on the eggheads and what does it bode for the criminological profession when the head of government says that his gut instincts outrank the centuries of criminological expertise in our universities and correctional services? Start with Michael Jackson, please.

**ENRIGHT:** Well, I'll start with Kim Pate actually and then go to Michael Jackson.

**PATE:** That kind of sentiment is one that most Canadians don't accept. The fact that it's not being challenged, as has been already stated, whether it's in Parliament, whether it's by the media, is one of the huge issues that I think we need to deal with. And I think we need to walk with our feet. So when someone says what can we do, well, I think we can elect a different government for sure...[Applause]... and we can demand... and we can demand accountability. And we should be demanding that accountability of all those levels. So...

**ENRIGHT:** Michael, briefly please.

**JACKSON:** It's irresponsible. I mean, we send our kids to school and to universities to learn how to think based upon the best evidence. How do you responsibly as the Prime Minister say I don't care about what the evidence shows, my public policy is based upon popular sentiment? That's good enough for me.

**ENRIGHT:** Isn't popular sentiment something to do with democracy, though? Isn't it part of it?

**JACKSON:** It's something to do with democracy in the sense that governors are to take account of the public will, tempered by fundamental charters of rights and freedoms.

**ENRIGHT:** Yes, ma'am?

**SPEAKER 6:** I want to ask about a particular population. We've talked about education. I've worked with teachers who are training to be second language teachers and one of the high school teachers was saying that we have a lost generation of immigrant kids who are coming in and we place them in schools according to their age and not their ability in second language, and some of the kids would have had years of interrupted education if any at all. And so these kids are coming in at 14, 15, 16 and arriving in high schools where there's precious little second language support. And so I'm beginning to understand what this teacher is saying, is that we lose these kids. These are part of our dropouts and these are part of the kids that are going to form gangs. And I'm just wondering if you are seeing this on the streets? Is this something that you have identified as an issue? And where could we spend... is there money that we could spend on education?

**ENRIGHT:** As a police officer, Charles?

**MOMY:** Well, and certainly from Ottawa specifically, and I know Vince could talk about this, we have many, many officers that are involved in the educational process with schools. Police officers in this city are second to none when it comes to being involved with youth in the community and in the school system.

**ENRIGHT:** Can I ask you a question, Charles? Because it bothers me that if you go to New York or Washington or any major city in Europe, you see cops on

the street. You see them standing on the corner giving directions or talking to tourists. Here, in Toronto, Montreal, sometimes you see them on bicycles, mostly they're in cars. Why can't we put the cops back on the street?

**MOMY:** Well, in fact...

**ENRIGHT:** Is it the union? They don't want their policemen...

**MOMY:** In fact I would disagree with you, Michael. I think certainly in the downtown core, in Mechanicsville...

**ENRIGHT:** Do they walk a beat? Does the beat cop exist?

**MOMY:** The beat cop exists today, absolutely. In fact, Vern White reintroduced in this city beat cops. And I can tell you that I regularly speak to frontline members, to those beat cops, and the communities are telling us as well that it is making a difference.

**ENRIGHT:** Yes, sir.

**SPEAKER 7:** My question I suppose could be directed towards Mr. Jackson or Mr. Gardner or Miss Pate or all three. Setting aside the United States, what about other models? What's happening in other jurisdictions which appear to actually bring about positive results and which could be worth considering in Canada? And does the current government even care?

**ENRIGHT:** Dan Gardner, you've looked elsewhere.

**GARDNER:** Yeah. I mean, I've looked elsewhere in terms of punitiveness, does it work? There is lots that's done elsewhere that indicates that becoming less punitive does not in fact result in rising crime. I did a lengthy look at Finland's transformation from a very punitive society to one that was much more punishing and it had no influence on public safety.

**ENRIGHT:** Michael or Kim?

**JACKSON:** We already have some of the seeds of better visions of how we deal with the problems of crime. Restorative justice is something which the Correctional Service of Canada has embraced. It's something many judges have embraced. The Supreme Court of Canada has said, and under the Criminal Code, restorative justice is an important alternative and a better alternative in many cases to punitive justice.

The problem is the amount of resources which the government is prepared to commit to that alternative vision. It's not as if the vision is not available. It's not as if its contours are not known. It's just that the government chooses to spend its dollars in a direction which is not productive. And so it is a question of political will, not a question of lack of imagination on the part of those... The police are great supporters of restorative justice, victims are great supporters of re... I mean, in some ways this panel would agree on that alternative vision. If we got the \$3 billion and I think if we worked with communities without a predetermined agenda that you've got to demonstrate you're tougher than the next guy, this panel could come up with an agenda which we could all sign on to to make our communities safer.

**ENRIGHT:** All right, Michael, I'm sorry. If everyone who's sitting on the steps wants to ask a question, we're going to have to skip along sprightly. Yes, sir.

**SPEAKER 8:** Okay, I'll be as quick as I can. Something I didn't hear in the first hour is why do we put people in prison? What's the objective of putting them there? And clearly the Harper government sees the objective of prison as punishment, period. I understand that the objective policy prior to now as being

to put the criminals in an institution with the goal of at some point reintegrating them into society so they're not a threat to society. Now, the problem is – you say it yourself – the public likes the punishment thing. The challenge is how do we go about influencing public opinion so that they can move away from the punishment towards the former goals?

**ENRIGHT:** All right, Dan Gardner, you influence public opinion one way or another.

**GARDNER:** (Laughs) Really? How delightful a thought! Well, it's interesting. Well, first of all, in regard to the purposes of punishment, I would note that in the 1990s the Criminal Code was revised to include "these are the purposes of punishment", and that list of purposes of punishment includes everything you can possibly imagine, you know, including some things that seem to be mutually contradictory. So these are not decisions which I think politicians want to make. That said, you know, I look at the Corrections and Conditional Release Act, which came out of work from the Progressive Conservative government of Brian Mulroney, and I think to myself, you know, that's a pretty constructive piece of legislation. Where did that come from? Well, it actually didn't come from public education in a mass upswell of public concern for constructive corrections. It came from some sensible people beavering away behind closed doors and producing good legislation. Frankly, I suspect – and I hate to say this as somebody who writes for a public audience – that the only time the public is going to be interested in the issue of crime and criminal justice policy is after a spectacular and horrible crime. And in those moments you are not going to get rational thought.

**ENRIGHT:** Thank you, Dan Gardner. We have a question here, briefly.

**SPEAKER 9:** Yeah, just my question is is that it's been mentioned about disability and a lot of people with mental illness being in prison. People on disability pension can barely afford to survive. Are we surprised that they end up in jail? And then when they end up in jail, what skills can they do? Work on a farm, because they don't have the social skills, they haven't learned what they need to. Now our government is closing it down. My question is, What do you think this will accomplish by taking these tactics in a Canadian society?

**ENRIGHT:** Thank you, ma'am. Kim Pate, please.

**PATE:** Well, I think we're already seeing what it's achieving. It's more and more people, the most marginalized. That's why women are the fastest growing group, aboriginal peoples as well, people with mental health issues and disabling mental health issues. And so I think that grows the prison system. That means fewer people have access to programs. It means decisions like the ones that are being taken. And I think we do have to challenge and make sure it gets rolled... not just rolled back but that we take different approaches. Because the reason parole was developed in this country was because it worked and because it was recognized that a structured integrated reintroduction to the community is the best way to keep, not just for the individual coming back, but to keep the community safe, to ensure that that exists. And we need to ensure that those mechanisms aren't removed and I think we need to also ensure, quite frankly I think, that we don't continue to develop mental health services in prisons. I know that's not the most popular position...

**ENRIGHT:** But the question is also of poverty. The ODSP for people, it's the Ontario Disabilities Pension...

**PATE:** Oh, absolutely. I mean, we've had the feminization and we talk about the feminization and criminalization of poverty. That's part of why we're seeing so many women in as well.

**ENRIGHT:** Yes, ma'am.

**SPEAKER 10:** My question will be very brief. It's basically tied in again with the restorative justice. I remember a number of years ago I believe Justice was in fact looking at the possible other system that was used by the aboriginals, which was the healing circles. I don't know beyond that timeframe, and that was maybe five, six, seven years ago, was it in fact examined and if so was it put into play or was there a reason not? Perhaps funding or something else?

**PATE:** Well, there are... certainly a healing lodge was first envisioned for aboriginal women. There is one and there are seven for men, so there are eight in total in the country right now. What's interesting though is what never has really been untied is that the discriminatory nature of the classification scheme which is influenced by the fact that many aboriginal people plead guilty, they don't plead down so they end up in jail for offences that look way more problematic or more dangerous or violent than the behaviour may have actually been. It means that many of those aboriginal people never get access to those resources. And they're the ones who are ending up being classified as the higher security, often not getting out until the end of their sentence, released right to the community.

**ENRIGHT:** Yes, sir, microphone one.

**SPEAKER 11:** Well, thank you. This can be to anybody who wants to handle it. But I'm an ex-offender that served ten years in the federal system and cascaded down and worked at the prison farm. And I keep hearing the same thing, that not everybody is going to be a farmer when they come out. From my experience, when I see a farmer it's a man of jack-of-all-trades. There's more than just doing on the farm. I'm almost been out twenty years now... [Applause]... I believe a lot of those tools... Thank you. But I'm still utilizing all the tools that I've been taught today and I have been in welding shops and etcetera and working on heavy equipment. So I just want to know what the panel believes. If we have a positive reintegration then we have a public safety that's being worked on and I just wondered what the panel thought about that.

**ENRIGHT:** Charles, Charles Momy.

**MOMY:** Well, certainly I have to say that, you know, first of all congratulations. It's always positive to see those types of circumstances happen. And maybe we don't hear about those circumstances often enough and maybe there's an opportunity for us as well to be educated. Because as I said tonight, I'm here educating you hopefully, but I'm also here to be educated myself.

**ENRIGHT:** Yes, sir, microphone number two.

**SPEAKER 12:** Quick question for Dan Gardner. In Portugal all recreational drugs have been legalized. In the Netherlands marijuana has been largely legalized. My question is this: Is it conceivable that any flavour of a Canadian government might move in this direction? And if it did, would it have the strength to stand up for the resistance that would come from the United States?

**ENRIGHT:** Dan Gardner, and then I want to hear from Heidi on this.

**GARDNER:** Yeah, that's a really interesting question and of course it's very, very difficult to answer. Is it conceivable? Yes. I mean, in California today, one of the most punitive jurisdictions on the planet, they're seriously discussing the legalization of marijuana, largely because they are driven to the edge of bankruptcy, which is apparently conducive to some good policies.

[Laughter]

But beyond that, I mean, one of the reasons why I am so passionate about the idea of a Royal Commission on Illicit Drugs – and perhaps I'm the only person in Canada who can say I'm passionate about having a new I Commission – but the reason why is precisely because the research from experience such as what happened in Portugal has to be brought together. People don't know it. The public dialogue, the public discourse on these issues is really badly informed. There are factoids, there are semi-facts, there's nonsense floating about. We need a good source to bring this together so that we can at least agree on what the facts are. And then we can go from there.

**ENRIGHT:** But forty years ago we had the Le Dain Commission.

**GARDNER:** The Le Dain Commission was, number one, it was narrow; number two, unfortunately reported at a time of surging crime; and number three, unfortunately the Prime Minister of the day, a man named Trudeau, decided that the politics did not warrant any such effort.

If the circumstances are right – again, it depends upon the political circumstances and nobody can possibly predict that – but if the political circumstances are right, it is entirely conceivable that we could move on this. Human beings are capable of being rational about drug policy.

**ENRIGHT:** Heidi Illingworth, do your people want to legalize drugs?

**ILLINGWORTH:** Well, drugs is not usually a topic that we comment about, but certainly we're concerned about the violence that is associated with the drug trade. And I think that it's come up again and again throughout this forum, but there needs to be more focus on crime prevention and steering youth away from gangs and, you know, the proliferation of drugs in that manner.

**PATE:** Well, I think the other thing to remember is the reason we ended prohibition of alcohol was to end some of the organized crime issues that went along with it.

**ENRIGHT:** Yep. I came across a quote the other day. It said that that which is prohibited cannot be regulated. Yes, sir?

**SPEAKER 13:** Hi. And I think it goes along with the same question, that when we're talking about getting smart on crime we have to talk honestly and seriously about ending drug prohibition. Mr. Jones made a good point that what we have currently now is the market left to fight over with crime and police. He forgot to mention that in between that is our communities and so often our young people. My question is to anyone and it's if you agree with the following statement: That our drug policies create more harm to our communities and to users than the drugs themselves.

**ENRIGHT:** Michael Jackson.

**JACKSON:** One of the low visibility areas that the public doesn't know about is that the government has ramped up the war against drugs in the prisons. Drugs in prisons are a problem. they create a climate of violence, and so everyone can

agree that it's important to try and keep drugs out of prisons. But you can't keep drugs out of prisons any more than you can keep them out of society.

What the government has chosen to do is to emphasize, to the point of exclusion of everything else, the idea of deterrence, and they've ramped up and spent millions and millions of your dollars on more security, more ion scan machines, more drug dogs. There's a drug dog on service – you should know this – every moment of every shift of every federal penitentiary. Are the drugs slowing down? No, they're not. Have the dollars been increased for prevention? No, they have not. Is harm reduction a priority of the government in Canadian prisons? No, it's not.

So rather than pushing in the direction of good public policy in trying to address the multi-faceted issue of drugs in society, the government has focused exclusively on the idea of greater interdiction, at the cost of decreasing the contact visits with families, of increasing the fear of ordinary citizens going in to visit their loved ones, and you're not helped, your safety is not enhanced.

**ENRIGHT:** All right, what about Canadian police, Charles? And then Vince.

**MOMY:** Well, when it comes to drug issues certainly in this country, you know, we have to look at a three- or four-pronged approach, and we've heard this from other groups before. But I think the wrong way to go about this, though, is to actually start handing... Whether you believe in the crack pipe program, whether you believe in supervised injection sites, you know, that is one component of the major drug issues in this country. But opening up an injection site, a supervised injection site like there is in Vancouver, and just doing that alone is not going to work.

**ENRIGHT:** But isn't it that case that when the police have a huge drug bust, and you see all the dope on the table and the guns, that makes the drug dealers exquisitely happy, doesn't it? Because it drives up the price of the product. The more you crack down on the drugs, the happier the dealers are.

**MOMY:** But then what's the solution? And I guess that's what we're all asking here tonight as a panel, is what are the solutions? And I hear a lot of problems here tonight, I hear a lot of questions. This gentleman in fact asked a very good question, which none of the panellists I don't think really answered. So it boils down to, and a lady earlier spoke to me about, you know, the thought of putting all our minds together and coming up with solutions. You know, I haven't heard from this panel tonight, certainly from the academics, about what is the solution in other countries? Are there not other solutions? I'm not an academic, I'm a cop. That's what I am. What are the solutions in other countries? If there's none, well, why is there not?

**GARDNER:** Well, Mr. Momy, does that mean then that we can have you on the record supporting a Royal Commission on Illicit Drugs? [Laughter and applause] Because that is precisely what a Royal Commission's job is to do, is to bring the evidence together so that we can all look at it and we can all discuss it rationally. Do you agree?

**MOMY:** I...

**WESTWICK:** I don't agree. I'll say I don't agree.

**ENRIGHT:** Why don't you agree, Vince?

**WESTWICK:** Yeah, first of all, I hate this debate. I liked it better when we were being asked to spend \$3 billion. That was much more fun. [Laughter] The

problem I have with this debate is we get it at both ends of the continuum. The problem we have is substance abuse. The problem we have is a social problem and we're using a criminal solution. As I understand the argument, then the argument is is that we'll legalize it or decriminalize it or whatever you came up with, Craig, about re-regulating or whatever the expression was. I think we should be putting our efforts into dealing with the substance abuse problem. When we know how... when as a society we can deal with those issues, then we can get around...

**ENRIGHT:** But we do...

**WESTWICK:** ... to...

**ENRIGHT:** But there are groups like Alcoholics Anonymous dealing with alcohol, which is advertised by governments and is a great revenue producer. There's Al Anon, there are drug facilities. I mean, we are dealing with it at that level, are we not?

**WESTWICK:** I would agree and I applaud their efforts hugely, but I think what we have to do as a society is to make that work much, much broader in its application. Much broader in the educational... in the educational field. It has to be multi-pronged. To narrow down the debate to whether or not it should be legalized or not legalized, I think is taking a complex societal problem and making it overly simplistic.

**GARDNER:** Look, let's not cast this in cartoon terms. Okay? First of all, the multi-pronged...

**UNIDENTIFIED:** Are you going back to grossly distorting, Dan?

**GARDNER:** No, that's the media's job. Look, the multi-pronged approach, the four pillar approach and so on – there are various terms for it – has been around for decades. If you go and look at Richard Nixon's drug policy, for goodness sake, that's what it was. And when people tell you that somehow we should reform by doing what we have been doing for decade upon decade upon decade, they are not actually supporting reform, are they? And I don't want to simplify it either. It is complex and I'm not saying that we should be selling heroin in corner stores. What I am saying is that perhaps we might gather the evidence, discuss it rationally, and look at various regulatory models of which there are many.

**ENRIGHT:** Thank you, Dan Gardner. Yes, sir? Ma'am? Sorry.

**SPEAKER 14:** I'm Kate Johnson and I'm employed by the Religious Society of Friends, or Quakers, in a variety of roles with prisoners including working with families. So I'd like to ask Heidi a sort of a two-pronged question, sort of separate issues. The first is, you talk about how complex it is to represent a victim's voice, and in part that's because so many families are themselves victims, right? As much as 97 percent of violent crime. And some of those families want to retributive approach and others... I can personally name three families who are advocating for their... the person serving a life sentence for murdering their family member to be out of jail. So that's how complex that issue is. Right? So I'd like you to talk to that if you could.

And I'd also like if you could talk about how we know that the greatest recidivism reducer for both the men or women in jail and the children of that family is to maintain a stable, healthy, or build a stable, healthy family relationship. And how

are longer sentences and less family-friendly prison environments going to prevent more victims being created?

**ENRIGHT:** All right. Heidi Illingworth please?

[Applause]

**ILLINGWORTH:** Definitely we see that in our work every day that crime happens within families. And just so you know, usually at our centre we're not... we're dealing with families that are no longer supportive of that offender, somewhat more of a retributive sort of feeling towards everything that's happened. And I think that it's important for some families or some victims, as you say, feel that when you take a life you should spend the rest of your life in prison. And I think there are a lot of people in the public that agree with that sentiment.

And saying that also we know that many lifers are going to eventually come back and our centre strongly believes that rehabilitation of those offenders and, as you say, having strong support networks is crucial so that there aren't more victims when they do come out again.

**ENRIGHT:** All right. I want to get as many questions... we're running out of time and I want to go to microphone number two. Sir?

**SPEAKER 15:** Mr. Enright, at the end of the first section you asked the panel for each member to say one thing. Now, Vince said the complexity of the system. It doesn't make any difference whether it's justice, the social system, financial system, you make it complex enough and you'll break it. I think that's what's happened here. I would like to hear... Vince said that he had a piece of the legislation which is so confusing that it's almost incomprehensible, at least from my point.

**ENRIGHT:** What is your question? About the process?

**SPEAKER 15:** About the process and the complexity of it and what can be done to improve it without making it more complex.

**WESTWICK:** Yeah, the point I'd like to make is that so often in the legislation that's drafted attempting to achieve an objective, it becomes so complex that the objective is lost. Because of the time I won't read this but we see it time and time again and it has literally been a refrain that the Canadian Association of Chiefs of Police makes each and every time it appears before parliamentary committees. Make it more straightforward. Make it simpler. Remember that these are police officers and members of the community that have to apply this law. Try to make it reasonable and understanding... and understandable.

**ENRIGHT:** Why do you keep asking that? I mean, we can't even make the tax code comprehensible and you keep banging your head against this wall.

**WESTWICK:** Well, I try my best.

**ENRIGHT:** Dan Gardner.

**GARDNER:** This is actually a really interesting and very frustrating problem. And I'll illustrate with the Criminal Code itself. It's actually a crime to produce and sell a comic book with an undue emphasis on crime. There is a long list of absolutely absurd crimes still in the Criminal Code because of course, like a river delta, it has just sort of accumulated sediment year after year, decade after decade. And everybody who has ever read the Criminal Code knows that it is badly in need of reform, but no politician will touch that because then you would have to stop and ask yourself what fundamentally is it that we hope to accomplish? What should stay in and what should go out?

**UNIDENTIFIED:** Exactly.

**ENRIGHT:** Question over here, microphone number two. And we really are rushed for time.

**SPEAKER 16:** Okay, my first question is for you, Michael. When can you come back and we can do this again?

**ENRIGHT:** Anytime. Just invite me. Go ahead.

**SPEAKER 17:** Next is to Dan. This statistic of 62 percent favouring the death penalty in Canada, I'm wondering if you could deconstruct those data, you know, how they get more complicated the closer that you look? And, finally, a few years ago I was talking to an aboriginal person, an elder, I'm a criminologist, and I kept talking about the justice system, and after twenty minutes he said, Stop, Professor. You keep talking about the justice system. We don't have a justice system in Canada. We have a legal system. So I'd like to know what you think about that.

**ENRIGHT:** Dan Gardner.

**GARDNER:** Well, I'm not a philosopher, so let me stick to deconstructing the number.

**ENRIGHT:** This is the Angus Reid poll last month.

**GARDNER:** Right, right. And in fact you find these reactions.... This is true not just of Canada, incidentally. It's true of jurisdictions almost anywhere. If you ask people, Do you think punishments are tough enough?, Would you like tougher punishments?, they almost invariably say, Not tough enough, I'd like them to be tougher. For example, conditional sentences, which are sentences in which the offender is permitted to stay outside the prison under certain conditions. If asked

the unvarnished question, the overwhelming majority of Canadians say, I'm opposed. However, when you give them information and when you actually engage them in a discussion – here is what a conditional sentence is, have a look at this, what do you think? – suddenly opinions flip and a large majority supports them. And that's actually true across the board. On criminal justice issues people are thoughtful if they engage the issue. The problem is precisely that we have, A) a media that reports on the issue in shallow terms, and B) politicians that use it as a hot button, they use it as an electoral mechanism.

**ENRIGHT:** Yes, sir. Microphone number one, and we're really running out of time.

**SPEAKER 17:** I've heard many diverse opinions tonight and it's a shock considering, like, the media and the way that we attain our information. Do we hear this... would we hear this discourse when it comes down to legislation? You know, this is an opinion issue now, but when it does come down to legislation do we have this diverse group of professionals working on this issue?

**JACKSON:** Let me respond to that.

**ENRIGHT:** Michael Jackson.

**JACKSON:** This is where civic and political responsibility comes in. The leader of the opposition, the leader of the NDP, both are fully briefed on these kinds of issues. They have the information. It's not as if they live in ignorance. They have the information. It's time for the politicians who have that information to stand up and address squarely this issue. I started with it. It's not about being tough or soft on crime. It's about being smart. It's about being responsible. It's about being accountable. It's about reflecting basic Canadian values of decency

and fairness. And they have to stand up and address head on that this government is pushing us in a direction which is regressive, it's going to cost us enormous amounts of money, and it will not in fact serve the public. Someone has to say that. Not the academics, not the police officers, not the victims' rights. Politicians have to stand up for what in fact the evidence shows, what fundamental values in Canadian society have supported since we've had a Confederation.

**ENRIGHT:** I think you covered that rather well. Vince?

[Applause]

**WESTWICK:** I'd just like to be a little bit more specific for a moment and speak to our friend from the NDP who was good enough to come here earlier, and say that I hope you'll take the message back that we'd like politicians to be smart on these issues and more specifically for the NDP caucus to vote in favour of retaining the Canadian Firearms Program as it currently exists.

**ENRIGHT:** I think we've got time for one more question. Is there a question over here at microphone number two? And then I'm going to go and ask the panel for their final remarks. Sir?

**SPEAKER 18:** Thank you. I have a question. My name is Daniel Nougé(sp?) and I'm a criminal defence lawyer here in Ottawa. I practise in other jurisdictions as well. Something that I didn't hear a lot about until just a few moments ago was this issue about defining crime. As a criminal defence lawyer, I make a living out of defending people against things that I don't think should be crimes. We've talked about drugs. I don't propose to revisit that issue, but other crimes, for example... And I've never actually... I have read the Criminal Code but I

haven't read this provision Mr. Gardner was alluding to about the comic book. That's very novel, I hadn't heard that before. But, for example, I defend a lot of women charged with solicitation for the purpose of prostitution. Prostitution isn't actually a crime in Canada. Soliciting is. And I'm wondering what's the logic of throwing these women in prison for soliciting for something like that? And I could give you other examples, but I just want to... I know we're running out of time so I just want to get anyone's comments on that.

**ENRIGHT:** Yeah, what is the logic in that? Charles?

[Laughter]

**MOMY:** No, but I think Dan brought up a point. You know, you've got the Criminal Code and police are there to enforce the Criminal Code. You know, whether you find police officers who agree or disagree with the issue of solicitation, that's another issue for another day. But...

**ENRIGHT:** How long does it take to change these things? Because there used to be an offence in the Criminal Code called attempted suicide. I mean, that was a criminal offence. You go to jail for that. Now, they got rid of that. How long is it going to take? Mr. Gardner.

**GARDNER:** Well, this is the extraordinary thing. And prostitution is a fantastic example of it. The Supreme Court ruled on solicitation that the law is about time and place regulation. It's not forbidding the activity, it's a time and place regulation.

**ENRIGHT:** What does that mean?

**GARDNER:** Well, when is the time and when is the place? Well, there's no time and there's no place. Well, clearly what we have is an utterly incoherent public

policy. Nobody, whether you're on the left or the right, can or will defend that public policy. But also no politician will reopen it and say, you know what? The Criminal Code is a mess, let's go back to first principles and ask ourselves, What should be forbidden? What should be permitted? How should the laws be constructed? This is a disastrous situation that we find ourselves in.

**PATE:** Well, the Law Reform Commission did try and look at that but they were dismantled, of course.

**ENRIGHT:** They got rid of the Law Reform...? [Laughter] Thank you. I think that we're just about out of time. I'm going to ask our panel if they could just sum up briefly before we bump into the news what you've heard tonight from our audience and the points you've tried to make. Just very briefly if you can, where do we go from here? We have I think said the system is broken. There's some suggestions on how to fix it. What is the next step? Michael Jackson and then I'm going down the panel.

**JACKSON:** This has become an issue of wedge politics in which the government is trying to play to the spectre of public fear and trying to develop policies which take us down a disastrous path. Those of us who disagree with that have to appeal to our politicians to stand up and be counted. It's a political...

**ENRIGHT:** All right.

**JACKSON:** ...issue, it has to be addressed politically.

**ENRIGHT:** Thank you. Charles Momy, please.

**MOMY:** I think at the end of the day the public needs to be more engaged. I look at the audience here tonight. I thought I was going to actually show up here and have maybe twenty or thirty people show up in the audience. So

congratulations to the audience itself, but I think the public needs to be more engaged in all of these issues that we've discussed tonight.

**ENRIGHT:** Thank you. Heidi Illingworth.

**ILLINGWORTH:** The... again, all the issues tonight and the talk of reforming the Criminal Code, unfortunately these are huge complex issues and, like people have said, politically they're not easy to tackle because they're long-term issues and politicians think, you know, in the very short term while they're in office. But hopefully victims of crime will continue to be an important part of the equation going forward and we'd really like to see increased crime prevention strategies in Canada, some funding to go into those strategies to reduce criminal victimization in Canada.

**ENRIGHT:** Dan Gardner, if you could answer without talking about a Royal Commission... [Laughter]

**GARDNER:** Let me scratch that off my notepad. I would urge people to understand that perceptions often diverge from reality, even the perceptions of very clever people like those who are listening to me. Question your perceptions. Question the policies that seem to make sense to you. When a politician proposes a change, ask for evidence. That is the single most powerful thing you can do.

**ENRIGHT:** Thank you. Yes, Vince Westwick.

**WESTWICK:** It's been a memorable night for me because I find myself agreeing both with a defence lawyer and a member of the media. So... [Laughter] The issue that I want to remind you about is the one of complexity and why the

process and the substantive criminal law is just overwhelming the system and overwhelming the police.

**ENRIGHT:** Thank you. Finally, Kim Pate.

**PATE:** Thank you. Canadians are smart, compassionate, caring people, and I think that with the evidence people will make the right decisions. And I think every time you hear some new “sounds too good to be true”, it probably is, and think about who will benefit from the perspective that’s being put forth and who won’t. And I think if you ask those questions and then vote with that in mind, you’ll make some good decisions.

I think also, to answer some... the question that was... that actually Charles said, what works? Well, there are lots of examples of things that work. It’s hard to give you in a pithy statement one or two things, but when we know that they’re following the States and the States are backing up at a rapid fire to get rid of some of the mandatory minimums they’ve done, when we know that the state of California was ordered, because they were on the verge of bankruptcy, to release over 40,000 prisoners last year, partly because there were so many with mental health issues, more than were in mental health institutions, by the way, that they couldn’t afford to keep them and they couldn’t afford to run the health care and education systems in the state of California, then I think we know we don’t want to go there. And I’m relying on all of you to be part of making sure that’s the solution we’re following.

**ENRIGHT:** Thank you. That’s Kim Pate.

[Applause]

**ENRIGHT:** I want to thank the other members of our panel tonight. Charles Momy, Vince Westwick, Dan Gardner, Michael Jackson and Heidi Illingworth, for their participation tonight. It's great to have you with us.

None of this, of course, would be possible without the assistance of our colleagues here in Ottawa: Neil Morrison, our network producer Tom New, Joanne Steventon, our sound engineers Paul McInnes and Michel Champagne, and Steve Martin and his staff here at the Gladstone Theatre in Ottawa. And a special thanks to the folks who gave me cough drops during the course of the evening. I apologize.

In our next hour we turn from a world of political intrigue here in Ottawa to another world of political intrigue – the court of Henry VIII. Coming up, my conversation with Hilary Mantel. Her novel, *Wolf Hall*, is a winner of both rave reviews and literary prizes. It is a blockbuster.

I'm Michael Enright. You are listening to The Sunday Edition here on CBC Radio One and Sirius Satellite Radio 137 from Ottawa, and I thank you all for taking part in our forum tonight. Thank you so much.

[Applause]

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