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LEGISLATIVE SUMMARY

Bill C-48: An Act to amend the Criminal Code and to make consequential amendments to the National Defence Act (Protecting Canadians by Ending Sentence Discounts for Multiple Murders Act)

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Legislative Summary of Bill C-48

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Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

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LEGISLATIVE SUMMARY OF BILL C-48: AN ACT TO AMEND THE CRIMINAL CODE AND TO MAKE CONSEQUENTIAL AMENDMENTS TO THE NATIONAL DEFENCE ACT (PROTECTING CANADIANS BY ENDING SENTENCE DISCOUNTS FOR MULTIPLE MURDERS ACT)

1 BACKGROUND

Bill C-48, An Act to amend the Criminal Code and to make consequential amendments to the National Defence Act (short title: Protecting Canadians by Ending Sentence Discounts for Multiple Murders Act) was given first reading in the House of Commons on 5 October 2010. **It was passed by the House on 1 February 2011 and introduced in the Senate the following day.** The bill amends the *Criminal Code*[1] with respect to the parole inadmissibility period for offenders convicted of multiple murders. This is done by affording judges the opportunity to make the parole ineligibility periods for multiple murders consecutive rather than concurrent. The bill also makes consequential amendments to the *National Defence Act*.[2]

Consecutive parole ineligibility periods for multiple murderers will not be mandatory under the provisions of Bill C-48. Judges will be left with the discretion to consider the character of the offender, the nature and circumstances of the offence, and any jury recommendations before deciding upon whether consecutive parole ineligibility periods are appropriate. The bill will require that judges state orally or in writing the basis for any decision **whether or** not to impose consecutive parole ineligibility periods on multiple murderers.

1.1 THE CURRENT LAW

In 1976, Parliament repealed the death penalty and imposed a mandatory life sentence for the offence of murder.[3] Offenders convicted of first-degree murder[4] serve life as a minimum sentence with no eligibility for parole before they have served 25 years. For offenders convicted of second-degree murder, a mandatory sentence of life imprisonment is also imposed, with the judge setting the parole eligibility at a point between 10 and 25 years. Those serving a life sentence can only be released from prison if granted parole by the National Parole Board. Unlike most inmates who are serving a sentence of fixed length, e.g. 2, 10, or 20 years, lifers are not entitled to statutory release.[5] If granted parole they will, for the rest of their lives, remain subject to the conditions of parole and the supervision of a Correctional Service of Canada parole officer. Parole may be revoked and offenders returned to prison at any time if they violate the conditions of parole or commit a new offence. Not all lifers will be granted parole. Some may never be released on parole because they continue to represent too great a risk to re-offend.

One exception to the 25-year parole ineligibility period for first-degree murder or to a 15- to 25-year parole ineligibility period for second-degree murder is the so-called

"faint hope clause."[6] During the years following its initial introduction in 1976, the "faint hope" provision underwent a number of amendments, so that now the criteria for the possible release on parole of someone serving a life sentence are as follows:

- The inmate must have served at least 15 years of the sentence.
- An inmate who has been convicted of more than one murder, where at least one of the murders was committed after 9 January 1997 (when certain amendments came into force), may not apply for a review of his or her parole ineligibility period.
- To seek a reduction in the number of years of imprisonment without eligibility for parole, the offender must apply to the chief justice of the province or territory in which his or her conviction took place.
- The chief justice, or a superior court judge designated by the chief justice, must first determine whether the applicant has shown that there is a reasonable prospect that the application for review will succeed. This assessment is based on the following criteria:
  - the character of the applicant;
  - the applicant's conduct while serving the sentence;
  - the nature of the offence for which the applicant was convicted;
  - any information provided by a victim[7] at the time of the imposition of the sentence or at the time of the hearing under this section; and
  - any other matters that the judge considers relevant in the circumstances.
- If the application is dismissed for lack of a reasonable prospect of success, the chief justice or judge may set a time for another application not earlier than two years after the dismissal, or he or she may declare that the inmate will not be entitled to make another application.
- If the chief justice or judge determines that the application has a reasonable prospect of success, a judge will be assigned to hear the matter with a jury. In determining whether the period of parole ineligibility should be reduced, the jury should consider the five criteria outlined above. The jury's determination to reduce the parole ineligibility period must be unanimous. The victim(s) of the offender's crime may provide information either orally or in writing or in any other manner that the judge considers appropriate. If the application is dismissed, the jury may, by a two-thirds majority, either set a time not earlier than two years after the determination when the inmate may make another application, or it may decide that the inmate will not be entitled to make any further applications.
- If the jury determines that the number of years of imprisonment without eligibility for parole ought to be reduced, a two-thirds majority of that jury may substitute a lesser number of years of imprisonment without eligibility for parole than the number then applicable. The number of years without eligibility for parole that they may assign can range from 15 to 24 years.

  Once permission to apply for early parole has been granted, the inmate must apply to the National Parole Board to obtain parole. Whether the inmate is released, and when, is decided solely by the board based on a risk assessment, with the protection of the public as the foremost consideration. Board members

must also be satisfied that the offender will follow specific conditions, which may include restriction of movement, participation in treatment programs, and prohibitions on associating with certain people (such as victims, children, and convicted criminals).

A "faint hope" clause review, then, is not a forum for a retrial of the original offence, nor is it a parole hearing. A favourable decision by the judge and the jury simply advances the date on which the offender will be eligible to apply for parole.

The *Criminal Code* implicitly provides that all sentences shall be served concurrently unless a sentencing judge directs that a sentence is to be served consecutively or legislation requires that they are to be served consecutively. For example, subsection 85(4) of the *Criminal Code* requires that a sentence for using a firearm in the commission of an offence shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events. Section 83.26 mandates consecutive sentences for terrorist activities, other than in the case of a life sentence, and section 467.14 requires consecutive sentences for organized crime offences. One example of when a consecutive sentence may be imposed by a sentencing judge is where the offender is already under a sentence of imprisonment.[8]

In cases where more than one murder has been committed, therefore, the offender serves his or her life sentences concurrently. A sentence of a term of years imposed consecutive to a sentence of life imprisonment is not valid in law.[9] Life imprisonment means imprisonment for life, notwithstanding any release on parole. The consequence of this is that a consecutive life sentence could not take effect until the offender had died. The courts have held that Parliament cannot have contemplated this physical impossibility, which would tend to bring the law into disrepute.[10] Nor is the "faint hope clause" available, so long as at least one of the murders was committed after 9 January 1997.

The inability to impose consecutive life sentences, however, does not mean that parole ineligibility periods cannot be affected. A single parole ineligibility period for multiple murders can be increased when someone serving a life sentence receives an additional definite (as opposed to indeterminate) sentence. In such a case, the offender is not eligible for full parole until, beginning on the day on which the additional sentence was imposed, the offender has served any remaining period of ineligibility to which the offender is subject and the period of ineligibility in relation to the additional sentence. If the offender has reduced his or her period of ineligibility for parole by means of the "faint hope clause," the offender is not eligible for full parole until, beginning on the day on which the additional sentence was imposed, the offender has served the remaining period of ineligibility to which the offender would have been subject, taking into account the reduction, and the period of ineligibility in relation to the additional sentence.[11]

The general rule is that the maximum period of additional parole ineligibility is 15 years from the day on which the last of the sentences is imposed.[12] This is, however, made subject to section 745 of the *Criminal Code*, which mandates a parole ineligibility period for first-degree murder of 25 years. The additional parole ineligibility provisions apply to an offender serving a life sentence who has been

released on parole, as well as those in custody.[13] In summary, subsection 120.2(2) of the *Corrections and Conditional Release Act* mandates that, for the purpose of calculating parole eligibility only, the parole ineligibility period derived from any concurrent sentences should be treated as consecutive to the remaining parole ineligibility on the individual's life sentence.[14] In addition, it should be kept in mind that any parole ineligibility of more than 15 years resulting from the imposition of a life sentence for murder (such as 20 years remaining of an initial 25-year ineligibility period) will continue to affect the parole eligibility date.

1.2 Prevalence of Multiple Murders in Canada and the United States

Table 1 was compiled by Statistics Canada to show the number of incidents of homicide in a year in Canada compared with the number of victims in those incidents. As can be seen, the large majority of homicide incidents (on average 95%) involve a single victim.

Table 1 – Homicide Incidents by Number of Victims, Canada, 1998–2008

Number of Victims	Number of Incidents											
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total	Average 1999–2008[a]
1 victim	*476*	*492*	*483*	*540*	*510*	*568*	*594*	*540*	*529*	*553*	*5,285*	*529*
2 victims	26	21	26	15	18	25	25	17	19	18	210	21
3 victims	2	1	3	2	1	2	5	5	4	6	31	3
4 and more victims	1	2	2	1	0	0	1	3	3	1	14	1
2 and more victims	*29*	*24*	*31*	*18*	*19*	*27*	*31*	*25*	*26*	*25*	*255*	*26*
Total incidents	*505*	*516*	*514*	*558*	*529*	*595*	*625*	*565*	*555*	*578*	*5,540*	*554*
Total victims	538	546	553	582	549	624	663	606	594	611	5,866	587

Note: a. Numbers may not total precisely, due to rounding.

Source: Statistics Canada, Canadian Centre for Justice Statistics, *Homicide Survey*, December 2009 extraction.

The relationship between the accused and the victim in the case of multiple and single-victim homicides has also been studied. As can be seen in tables 2 and 3, in the case of multiple-victim homicides, the largest single category of relationship was that of "family," while in the case of single-victim homicides, the largest single category of relationship was that of "acquaintance."

Table 2 – Multiple-Victim Homicides by Accused–Victim Relationship, 1999–2008

Accused–Victim Relationship	Percentage of Total Number of Homicides										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	1999–2008 Total
Family	49	33	52	70	43	46	44	58	45	47	49
Other intimate	2	10	3	0	0	0	0	0	0	2	2
Acquaintance	47	40	32	25	43	39	22	35	34	28	34
Stranger	2	17	10	5	13	15	31	4	20	23	13
Unknown	0	0	3	0	0	0	2	4	0	0	1
Total	100	100	100	100	100	100	100	100	100	100	100

Source: Statistics Canada, Canadian Centre for Justice Statistics, *Homicide Survey*, December 2009 extraction.

Table 3 – Single-Victim Homicides by Accused–Victim Relationship, 1999–2008

Accused–Victim Relationship	Percentage of Total Number of Homicides										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	1999–2008 Total
Family	32	31	40	37	32	33	31	33	31	32	33
Other intimate	5	5	3	4	3	5	4	4	5	7	4
Acquaintance	44	45	42	42	49	46	49	45	49	45	46
Stranger	17	17	14	16	14	15	16	18	16	16	16
Unknown	1	1	1	2	2	0	0	0	0	0	1
Total	100	100	100	100	100	100	100	100	100	100	100

Source: Statistics Canada, Canadian Centre for Justice Statistics, *Homicide Survey*, December 2009 extraction.

The number of multiple victims of homicides in the United States is higher than it is in Canada, as can be seen in Table 4, showing data gathered by the Federal Bureau of Investigation in the publication *Crime in the United States, 2008*.

Table 4 – Murders by Victim/Offender Situations, 2008

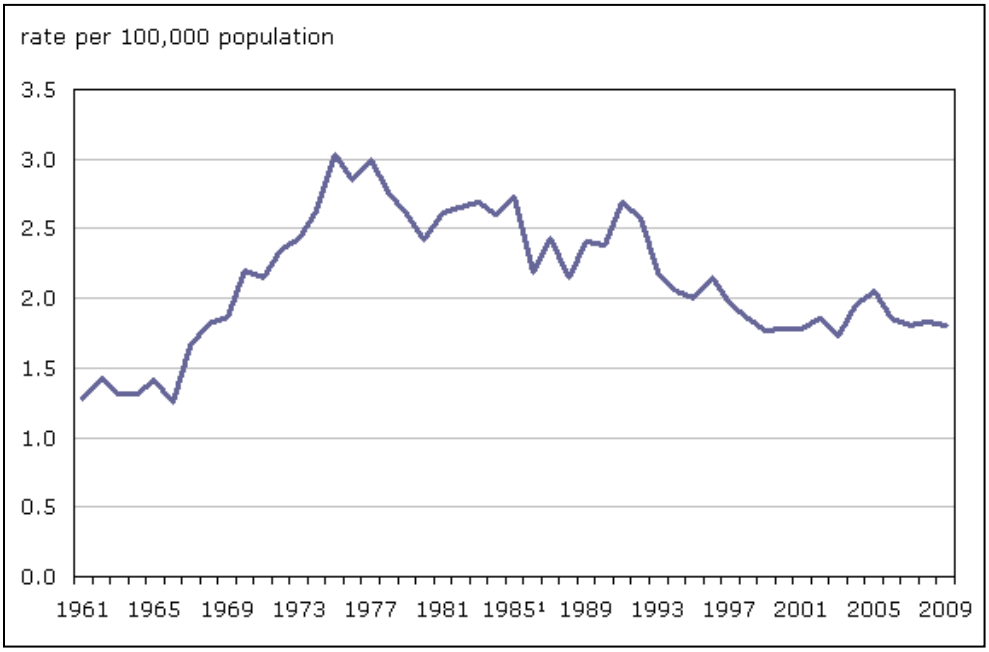
Situation	Number	Percentage
Single victim/single offender	6,940	48.9
Single victim/unknown offender or offenders	4,222	29.8
Single victim/multiple offenders	1,658	11.7
Multiple victims/single offender	738	5.2
Multiple victims/multiple offenders	259	1.8
Multiple victims/unknown offender or offenders	363	2.6
Total	14,180	100.0

Source: United States Department of Justice, Federal Bureau of Investigation, *2008 Crime in the United States*.

1.3 Murder Rates and Sentences in Other Countries

In its publication "Homicide in Canada, 2009," Statistics Canada has tracked the rate of homicide in Canada from 1961 to 2009. As shown in Figure 1, it has found that, between the mid-1960s and mid-1970s, Canada experienced a sharp rise in its homicide rate. The rate more than doubled over this period, from 1.25 homicides per 100,000 population in 1966 to 3.03 in 1975. The homicide rate generally declined over the next 25 years, dropping 42% between 1975 and 1999. Since 1999, despite some annual fluctuations, the rate has remained relatively stable.

Figure 1 – Canada's Homicide Rate, 1961–2009

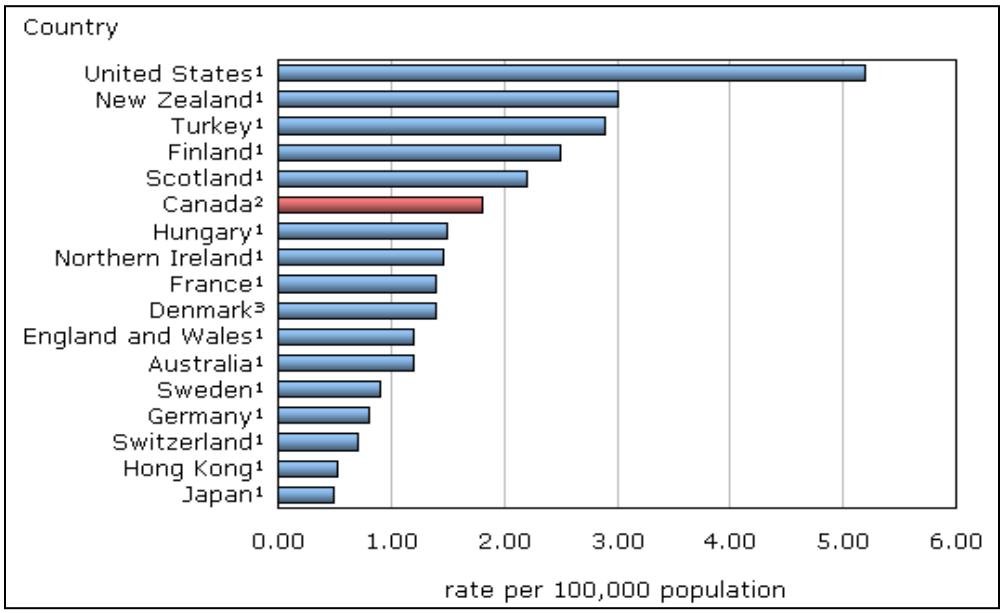


Note: Excludes 329 victims killed in the Air India incident.

Source: Sara Beattie and Adam Cotter, "Homicide in Canada, 2009," *Juristat*, Vol. 30, No. 3, October 2010, p. 7.

Figure 2 shows the Statistics Canada comparison of the murder rate in Canada (610 homicides in 2009 or a rate of 1.81 per 100,000 population) to that of a selection of other countries.

Figure 2 – Homicide Rates for Selected Countries



Notes: 1. Figures reflect 2008 data.
2. Figures reflect 2009 data.
3. Figures reflect 2007 data.

Source: Sara Beattie and Adam Cotter, "Homicide in Canada, 2009," *Juristat*, Vol. 30, No. 3, October 2010, p. 6.

A 1999 international comparison of the average time served in custody by an offender with a life sentence for first-degree murder showed that Canada exceeds the average time served in all countries surveyed, including the United States, with the exception of US offenders serving life sentences without parole. The estimated average time that a Canadian convicted of first-degree murder spent in prison was 28.4 years.

Table 5 – Average Time Spent in Custody

Country	Time in Custody (years)
New Zealand	11.0
Scotland	11.2
Sweden	12.0
Belgium	12.7
England	14.4
Australia	14.8
United States	
Life with parole	18.5
Life without parole	29.0
Canada	28.4[a]

Note: a. Department of Justice Canada, "Fair and Effective Sentencing: A Canadian Approach to Sentencing Policy," Backgrounder, October 2005.

Source: Daniel Beavon, Unpublished data, Performance Measurement, Correctional Service of Canada, Ottawa, 1995.

In England and Wales, the Ministry of Justice has published more current statistics on the average time served by those given life sentences.[15] The statistics indicated that the amount of time served by life sentence prisoners varies considerably. In addition to being released on life licence (parole), life sentence prisoners can be discharged for other reasons, such as successful appeals, or transfers to other jurisdictions or to psychiatric hospitals. The mean time served by mandatory lifers – i.e., murderers – first released from prison in 2008 on life licence was 16 years, no change from the previous year. For other lifers – those convicted of non-murder crimes but given "life" – the mean time served also remained constant at 9 years.

In Scotland, in 2008–2009, 31 offenders were released from life sentences. Of these 31 offenders, 11 or 35% had served time in custody greater than 14 years. The remaining 20 offenders had spent less than 14 years in custody.[16]

In Ireland, recent statistics show that those released since 2004 by the Minister for Justice, Equality and Law Reform following a recommendation from the parole board had been imprisoned for over 17 years on average. This statistic, however, may be misleading. It does not include those who were not granted parole, many of whom had spent long years in prison, but whose length of imprisonment is not reflected in the statistic because they had never been granted temporary release.[17]

According to the New Zealand Parole Board, inmates sentenced to life imprisonment become eligible for release on parole after 7 years if sentenced prior to 1 August 1987, or after 10 years if sentenced after that date, unless a minimum term was imposed by the court. The most recent published statistics, which cover the period from 1 July 2002 to 30 June 2003, indicate that the average number of years served in custody by this class of inmates was 12.1 years.[18]

In the United States, a recent study found that 140,610 individuals are serving life sentences, representing one of every 11 people (9.5%) in prison. Twenty-nine percent (41,095) of the individuals serving life sentences have no possibility of parole.[19] While every state provides for life sentences, there is a broad range in the severity and implementation of the statutes. In six states – Illinois, Iowa, Louisiana, Maine, Pennsylvania, and South Dakota – and the federal system, all life sentences are imposed without the possibility of parole. Only Alaska provides the possibility of parole for all life sentences, while the remaining 43 states have laws that permit sentencing most defendants to life with or without parole.

In the case of life sentences with the possibility of parole, the range of time that must be served prior to eligibility for release varies greatly, from under 10 years in Utah and California to 40 and 50 years in Colorado and Kansas. The median length of time served prior to parole eligibility nationally is in the range of 25 years. However, eligibility does not equate to release and, owing to the reticence of review boards and governors, it has become increasingly difficult for persons serving a life sentence to be released on parole.[20]

2 DESCRIPTION AND ANALYSIS

Bill C-48 consists of 11 clauses. The following description discusses the most important of these clauses.

2.1 CLAUSE 2: ADDITION OF SUBSECTION 675(2.3) TO THE *CRIMINAL CODE*

Section 675 of the *Criminal Code* sets out the matters which an accused convicted of an indictable offence may appeal to a court of appeal. One example of such an appeal is that of a person convicted of second-degree murder who may appeal against a period of parole ineligibility that is in excess of the mandatory 10 years. New subsection 675(2.3) will specify that the person against whom a consecutive parole ineligibility period order has been made (as opposed to a concurrent order) may appeal to the court of appeal against this order.

2.2 CLAUSE 3: ADDITION OF SUBSECTION 676(6) TO THE *CRIMINAL CODE*

Section 676 of the *Criminal Code* is similar to section 675 in that it sets out the matters that may be appealed to a court of appeal, but this time by the Crown. One example of such an appeal is that of cases of second-degree murder, in which the Crown can appeal the length of the parole ineligibility period if it is less than the maximum 25 years. New subsection 676(6) will specify that the Crown may appeal to the court of appeal against the decision of a court not to make parole ineligibility periods consecutive, rather than concurrent, where sentence is being imposed for more than one murder.

2.3 CLAUSE 4: ADDITION OF SECTION 745.21 TO THE *CRIMINAL CODE*

Section 745.2 of the *Criminal Code* concerns a jury's recommendation as to the parole ineligibility period after it has found an accused person guilty of second-degree murder. The judge presiding at the trial is required to ask the jury if it will recommend whether the parole ineligibility period should be increased from the required 10-year period to the maximum of 25 years. A jury's recommendation, if made, will be taken into consideration by the judge when imposing sentence.

New section 745.21 will apply where a jury finds an accused guilty of murder and the accused has previously been convicted of murder. In the case of multiple murders, the trial judge will be required to ask the jury if it will recommend whether the parole ineligibility period to be served for the murder before it should be served consecutively to the parole ineligibility period for the previous murder. As with the current section 745.2, the jury is not required to make a recommendation but, if it does, this will be taken into consideration by the judge. The new section will not be applied retroactively but, rather, to murders committed on a day after the day on which Bill C-48 comes into force. It will also apply to murders for which the offender is sentenced under the *Criminal Code*, the *National Defence Act*, or the *Crimes Against Humanity and War Crimes Act*.[21]

2.4 CLAUSE 5: ADDITION OF SECTION 745.51 TO THE *CRIMINAL CODE*

New section 745.51 of the *Criminal Code* will provide trial judges with another option when sentencing an offender who has been convicted of committing more than one murder. Taking into consideration the character of the offender, the nature of the offence and the circumstances surrounding its commission, and any jury recommendation made pursuant to new section 745.21, the trial judge may order that the parole ineligibility periods for each murder conviction are to be served consecutively. **Whethe**r the judge does **or does** not make these ineligibility periods consecutive, he or she must give reasons for this decision. Once again, this new section makes it clear that it will not be applied retroactively but, rather, to murders committed on a day after the day on which Bill C-48 comes into force. It will also apply to murders for which the offender is sentenced under the *Criminal Code*, the *National Defence Act*, or the *Crimes Against Humanity and War Crimes Act*.

2.5 CLAUSES 6 TO 9: AMENDMENTS TO THE *NATIONAL DEFENCE ACT*[22]

Part III of the *National Defence Act* sets out the Code of Service Discipline. This Code applies to members of the Canadian Forces, and to certain other persons, and sets out some offences unique to the armed services (such as mutiny or desertion) as well as the procedure for the holding of courts martial. By the terms of section 130 of the Act, an act or omission that is punishable under the *Criminal Code* or any other Act of Parliament is an offence under the Code of Service Discipline. All provisions of the Code of Service Discipline in respect of a punishment of imprisonment for life – the mandatory minimum penalty for murder – apply.

Section 140.3 of the *National Defence Act* concerns the imposition by a court martial of a punishment of imprisonment for life. Subsection 2 makes it clear that the *Criminal Code* provisions concerning the imposition of a life sentence apply, including the recommendations that may be made by juries. Clause 6 of the bill takes into account the addition of section 745.21 by expanding the language of subsection 745.21(1) to include a jury recommendation as to consecutive parole ineligibility periods in the case of multiple murders. The reference to a jury in the *Criminal Code* is here deemed to be a reference to the panel of a General Court Martial.

Section 149 of the *National Defence Act* states that, where a person is under a sentence imposed by a service tribunal that includes a punishment involving incarceration and another service tribunal subsequently passes a new sentence that also includes a punishment involving incarceration, both punishments of incarceration shall, after the date of the pronouncement of the new sentence, run concurrently, but the punishment higher in the scale of punishments shall be served first. Clause 7 of the bill will make this provision subject to the new section 745.51 of the *Criminal Code*. This new section will allow the trial judge to order that the parole ineligibility periods for each murder conviction in a multiple murder situation are to be served consecutively, not concurrently.

Sections 230 and 230.1 of the *National Defence Act* concern the rights of appeal to the Court Martial Appeal Court of every person subject to the Code of Service Discipline and of the Minister of National Defence, respectively. Clauses 8 and 9 of

Bill C-54 amend these provisions in a manner similar to the amendments made in the *Criminal Code* concerning the right of appeal. Both sides may appeal to the Court Martial Appeal Court a decision to make or refuse to make an order that parole ineligibility periods for multiple murders be served consecutively and not concurrently.

3 COMMENTARY

Vigorous debate has surrounded both Bill C-48 and its predecessor, Bill C-54, concerning the extension of the parole ineligibility period for multiple murders. This section of the legislative summary attempts to present the points of view on these matters as they have been expressed, with particular emphasis on media reports.

Sharon Rosenfeldt, a founder of the group Victims of Violence, has applauded Bill C-54. In referring to its application to serial killers, she has said that, while the bill would apply to a small number of perpetrators, these are the killers that "cause the greatest amount of fear, controversy and unrest in our judicial system and the Canadian public – mainly because of the horrendousness of their crimes" and the number of lives they can take before being apprehended.[23]

One editorial has said that the bill is very reasonable, stating that the bill will acknowledge that the lives of all of a killer's victims are equally valuable and merit separate sentences of equal length. According to the editorial, the bill recognizes that some criminals are unredeemable and should never be let out of prison, but it does leave hope for some offenders, thus respecting the tripartite mandate of incarceration – punishment, public safety, and rehabilitation.[24] This editorial goes on to say that not all killers are unredeemable and the hope of making parole offers them a tremendous incentive to rehabilitate themselves, making for a much safer atmosphere for the corrections officials who work among them.

Professor Doug King of Mount Royal University has stated that it is unlikely that tougher parole rules will have any deterrent value. He has said that the measure may prove to be popular, but it is doubtful that it will make us safer. Professor King also points out that, while punishment is one component behind sentencing, it is not the only reason why people are placed in prison.[25]

NOTES

1. R.S.C. 1985, c. C-46.
2. R.S.C. 1985, c. N-5.
3. Culpable homicide is defined as murder in section 229 of the *Criminal Code*:

   (*a*) where the person who causes the death of a human being

   (i) means to cause his death, or

   (ii) means to cause him bodily harm that he knows is likely to cause his death, and is reckless whether death ensues or not;

> (*b*) where a person, meaning to cause death to a human being or meaning to cause him bodily harm that he knows is likely to cause his death, and being reckless whether death ensues or not, by accident or mistake causes death to another human being, notwithstanding that he does not mean to cause death or bodily harm to that human being; or
>
> (*c*) where a person, for an unlawful object, does anything that he knows or ought to know is likely to cause death, and thereby causes death to a human being, notwithstanding that he desires to effect his object without causing death or bodily harm to any human being.

4. First-degree murder is defined in section 231 of the *Criminal Code*. This type of murder encompasses murder that is planned and deliberate, murder where a police officer (and other law enforcement officials) is murdered while acting in the course of his or her duties, where the murder is caused in the course of committing various offences, and where the murder is committed in the context of terrorist or organized crime activities. All murder that is not first-degree murder is second-degree murder.

5. Statutory release requires federally sentenced offenders to serve the final third of their sentence in the community, under supervision and under conditions of release similar to those imposed on offenders released on full parole. Offenders serving life or indeterminate sentences are not eligible for this type of release. Offenders on statutory release are inmates who either did not apply for release on parole, or who were denied release on full parole. Statutory release can be denied, if a detention hearing determines that the offender will likely commit an offence causing serious harm or death, a sexual offence involving a child or a serious drug offence. *Corrections and Conditional Release Act*, S.C. 1992, c. 20, ss. 127–134.

6. *Criminal Code*, ss. 745.6–745.63.

7. Subsection 722(4) or the *Criminal Code* defines *victim* in this context as the spouse or common-law partner of the murdered person, any relative of that person, anyone who has in law or fact the custody of that person or is responsible for the care or support of that person or any dependant of that person.

8. *Criminal Code*, s. 718.3(4).

9. *R. v. Sinclair* (1972), 6 C.C.C. (2d) 523 (Ont. C.A.).

10. Ibid. The Ontario Court of Appeal cited the maxim *lex non intendit aliquid impossible* (“The law does not intend that which is impossible”).

11. *Corrections and Conditional Release Act*, section 120.2:

> 120.2(2) Where an offender who is sentenced to life imprisonment or for an indeterminate period receives an additional sentence for a determinate period, the offender is not eligible for full parole until the day on which the offender has served, commencing on the day on which the additional sentence was imposed, (*a*) any remaining period of ineligibility to which the offender is subject; and (*b*) the period of ineligibility in relation to the additional sentence.
>
> 120.2(3) Where, pursuant to section 745.6 of the *Criminal Code*, subsection 140.3(2) of the *National Defence Act* or subsection 15(2) of the *Crimes Against Humanity and War Crimes Act*, there has been a reduction in the number of years of imprisonment without eligibility for parole of an offender referred to in subsection (2), the offender is not eligible for full parole until the day on which the offender has served, commencing on the day on which the additional sentence was imposed, (*a*) the remaining period of ineligibility to which the offender would have been subject, after taking into account the reduction; and (*b*) the period of ineligibility in relation to the additional sentence.

12. *Corrections and Conditional Release Act*, section 120.3:

> 120.3 Subject to section 745 of the *Criminal Code*, subsection 140.3(1) of the *National Defence Act* and subsection 15(1) of the *Crimes Against Humanity and War Crimes Act*, where an offender who is serving a sentence receives an additional sentence, the day on which the offender is eligible for full parole shall not be later than the day on which the offender has served fifteen years from the day on which the last of the sentences was imposed.

13. *Dimaulo* v. *Canada (Correctional Service)*, 2001 FCT 1230.

14. *Cooper* v. *Canada (Attorney General)*, 2001 FCT 1329.

15. Ministry of Justice [UK], "*Offender Management Caseload Statistics 2008*," 31 July 2009, p. 144.

16. *The Parole Board for Scotland Annual Report 2008–09*, December 2009.

17. *The Parole Board Annual Report 2008* [Ireland], June 2009.

18. New Zealand Parole Board, *Report of the New Zealand Parole Board for the year ended 30 June 2003*.

19. Ashley Nellis and Ryan S. King (The Sentencing Project), *No Exit: The Expanding Use of Life Sentences in America*, July 2009.

20. Ibid., pp. 4–5.

21. S.C. 2000, c. 24.

22. R.S.C. 1985, c. N-5.

23. Kathleen Harris, "Killing hope of killers: Bill aims to ensure Canada's worst never see freedom," *The Calgary Sun*, 29 October 2009, p. 22.

24. Editorial, "Rebalancing the scales of justice," *Calgary Herald*, 11 November 2009, p. A10.

25. Janice Tibbetts, "Killers could lose chance at parole," *Calgary Herald*, 29 October 2009, p. B5.