

**BILL C-19: AN ACT TO AMEND THE
CRIMINAL CODE (STREET RACING) AND TO
MAKE A CONSEQUENTIAL AMENDMENT TO THE
CORRECTIONS AND CONDITIONAL RELEASE ACT**

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LEGISLATIVE HISTORY OF BILL C-19

HOUSE OF COMMONS

| Bill Stage | Date |
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N.B. Any substantive changes in this Legislative Summary which have been made since the preceding issue are indicated in **bold print**.

Legislative history by Peter Niemczak

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CRIMINAL CODE (STREET RACING) AND TO
MAKE A CONSEQUENTIAL AMENDMENT TO THE
CORRECTIONS AND CONDITIONAL RELEASE ACT*

BACKGROUND

A. Purpose and Legislative History of the Bill

Bill C-19, An Act to amend the Criminal Code (street racing) and to make a consequential amendment to the Corrections and Conditional Release Act, was introduced in the House of Commons by the Minister of Justice on 15 June 2006. Essentially, the bill addresses the street-racing problem by making four amendments to the *Criminal Code*⁽¹⁾ (the Code):

- it defines “street-racing”;
- it creates five new street-racing offences;
- for three of the new offences, it provides maximum prison terms longer than those currently provided for dangerous operation⁽²⁾ or criminal negligence in the operation of a motor vehicle;⁽³⁾
- it introduces mandatory driving prohibition orders for a minimum period of time, with the length of the prohibition increasing gradually for repeat offences.

* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both Houses of Parliament, receive Royal Assent, and come into force.

(1) R.S. 1985, c. C-46.

(2) Section 249 of the Code.

(3) Sections 220 and 221 of the Code.

While Bill C-19 is one of the present government's efforts to make the streets safer and strengthen the criminal laws, it is not Parliament's first attempt to combat street racing. During the 38th Parliament, the former government introduced Bill C-65,⁽⁴⁾ which also dealt with street racing. Unlike Bill C-19, however, Bill C-65 did not create new street-racing offences; instead, it dealt with taking part in a street race as an aggravating circumstance for the purpose of sentencing on one of four offences already set out in the Code: dangerous operation causing bodily harm,⁽⁵⁾ dangerous operation causing death,⁽⁶⁾ criminal negligence causing bodily harm⁽⁷⁾ and criminal negligence causing death.⁽⁸⁾

The strongest criticism of Bill C-65 centred on the fact that it did not provide for the length of a driving prohibition to be gradually increased for repeat offences.⁽⁹⁾ That provision had been part of the private Member's bill introduced by Chuck Cadman,⁽¹⁰⁾ at whose urging Bill C-65 was introduced. Mr. Cadman's bill, however, did not create new street-racing offences; rather, it dealt with street racing as a mandatory aggravating circumstance, as did Bill C-65

Both Bill C-65 and Mr. Cadman's bill died on the *Order Paper* when the 38th Parliament was dissolved on 29 November 2005.

To summarize: Bill C-19 includes both new street-racing offences (which were not included in Bill C-65 and Mr. Cadman's bill) and a gradual increase in the length of the driving prohibition for repeat offences (not included in Bill C-65).

(4) Bill C-65: An Act to amend the Criminal Code (street racing) and to make a consequential amendment to another Act, 1st session, 38th Parliament. See the legislative summary of Bill C-65 prepared by the Library of Parliament, <http://www.parl.gc.ca/LEGISINFO/index.asp?Language=E&query=4545&Session=13&List=ls>.

(5) Subsection 249(3) of the Code.

(6) Subsection 249(4) of the Code.

(7) Section 221 of the Code.

(8) Section 220 of the Code.

(9) See the position of the Conservative Party in the debate on second reading of Bill C-65, House of Commons, *Debates*, 18 October 2005, pp. 8650 *et seq.*, http://www.parl.gc.ca/38/1/parlbus/chambus/house/debates/136_2005-10-18/toc136-e.htm, and the opinion of Dona Cadman, widow of the late Member for Surrey North, Chuck Cadman (Ian Bailey, "Cadman's widow: Bills fall short," *The Province* [Vancouver], 27 October 2005, p. A14).

(10) Mr. Cadman introduced his bill three times: on 11 December 2002 (Bill C-338: An Act to amend the Criminal Code (street racing), second reading, 2nd session, 37th Parliament); 2 February 2004 (Bill C-338: An Act to amend the Criminal Code (street racing), second reading, 3rd session, 37th Parliament); and 20 October 2004 (Bill C-230: An Act to amend the Criminal Code (street racing), first reading, 1st session, 38th Parliament). The text of the bill was unchanged each time. On 5 November 2003, when Bill C-338 was given second reading (121 to 88), it was sent to the Standing Committee on Justice and Human Rights. The government members opposed the use of mandatory orders, as well as special treatment for repeat offenders.

B. The Street-Racing Problem

The proliferation of street racing during the 1990s⁽¹¹⁾ led to serious injuries and loss of life among both participants and spectators. The victims included bystanders and even police officers. While it is generally difficult to obtain precise figures about street racing,⁽¹²⁾ it is known that the practice is growing.⁽¹³⁾ In the United States, according to figures from the National Highway Traffic Safety Administration, street racing caused 125 deaths in 2004.⁽¹⁴⁾ These races have also claimed numerous victims across Canada, notably in Vancouver, Edmonton, Moose Jaw, Regina, Winnipeg, Montréal and Sackville. In the Toronto region, 35 people have died since 1999.⁽¹⁵⁾ There were an estimated 10 deaths from street racing in Canada in the first half of 2006.⁽¹⁶⁾

While this problem is also seen in rural areas, it is more widespread in urban centres, very often in less public locations or industrial zones.⁽¹⁷⁾ Street racing also occurs in the middle of urban traffic.⁽¹⁸⁾

To enhance the vehicles' performance, street racers rely on a host of modifications, such as an "engine swap" or tanks containing nitrogen oxide.⁽¹⁹⁾ The risk of a serious accident is therefore exacerbated. In addition, it is common for the drivers of these racing cars to be inexperienced thrill-seekers.⁽²⁰⁾ Although this dangerous activity generally

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- (11) In the United States, this practice goes back to the 1950s. See Kenneth J. Peak and Ronald W. Glensor, *Street Racing*, Problem-Oriented Guides for Police – Problem-Specific Guides Series, No. 28, U.S. Department of Justice, December 2004, p. 1, <http://www.cops.usdoj.gov/default.asp?Item=1418>. This document also refers to the Canadian problem.
- (12) Only certain police services and insurance companies keep statistics. Quite often, the data collected report only speeding or collisions caused by speeding. The situation is apparently similar in the United States (*ibid.*, p. 4).
- (13) *Ibid.*
- (14) There were 82 deaths in 2000, 143 in 2001, 142 in 2002 and 115 in 2003.
- (15) Jonathan Jenkins, "Street Racer Dies of Injuries, Raced with 2 Others on June 13," *The Toronto Sun*, 20 June 2006, p. 28. See also the Web site of the E.R.A.S.E. project ("Eliminate Racing Activity on Streets Everywhere"), which includes 12 police services and the Ontario ministries of Transport and the Environment, <http://www.yorkregionsavealife.com/Erase/ProjectErase.htm>.
- (16) See Doug Beazley, "Blame the Muscle Cars Spotlight's on Street Racing – As Motors Get More Powerful," *The Edmonton Sun*, 21 June 2006, p. 12; and Mark Hume, "Street Racing Blamed in Fatal Crashes," *The Globe and Mail* [Toronto], 28 June 2006, p. S1.
- (17) Peak and Glensor (2004), p. 5. Some races also take place in parking lots.
- (18) *R. v. Tang*, 2001 BCPC 62 (B.C. Prov. Ct.), para. 43.
- (19) The modifications can easily cost \$10,000 or more. The vehicles used are also commonly in poor condition (Peak and Glensor (2004), pp. 3 and 6).
- (20) Influential role models are found in films such as *The Fast and the Furious: Tokyo Drift* and video games such as *Need for Speed Most Wanted*.

attracts a relatively young demographic, there are participants from various age groups.⁽²¹⁾ In fact, participants can be classified, as a general rule, into one of three distinct demographic groups:⁽²²⁾

- young people aged 18 to 24, who usually live at home and in most cases have low incomes;
- individuals aged 25 to 40, who generally modify and use “muscle cars” such as Camaros, Corvettes or Mustangs; and
- individuals of varying ages, who drive imported vehicles such as late-model Acuras, Hondas, Mitsubishiis or Nissans.

In addition, some participants use stolen vehicles,⁽²³⁾ and it is suspected that some of them also engage in illegal activities to finance their hobby.⁽²⁴⁾

While some street races occur spontaneously –in response to a challenge – between drivers who do not know each other, others are well organized and take place before hundreds of spectators.⁽²⁵⁾ The event is announced, the length of the improvised track is defined,⁽²⁶⁾ and sometimes streets are even blocked. Someone is in charge of giving the starting signal and timing the race, while lookouts keep an eye out for the police, using laptops, cell phones, portable transceivers and radar detectors.

Although there are supervised locations where speed lovers can test their vehicles completely legally, street racing is still popular. People who take part in street racing are often looking for thrills, and some of them find more intense thrills on busy streets, in traffic, and in areas where they may encounter unexpected obstacles or a police patrol.

A variant of street racing has been invented – the “hat race” or “cannonball run.” Money is put into a hat, which is put in a location that is kept secret until just before the race starts, and the first participant to get there wins the money. No holds are barred: the drivers run red lights and ignore stop signs. These races reflect the general attitude of recklessness that prevails among street racing participants.

(21) Peak and Glensor (2004), pp. 1-3.

(22) *Ibid.*, pp. 2 and 3.

(23) *Ibid.*, p. 1.

(24) *Ibid.*, pp. 3, 5 and 6.

(25) In many cases, the spectators are very close to the competitors’ vehicles, and are thus exposed to a higher risk of injury (*ibid.*, p. 5).

(26) The length is generally about one-eighth or one-quarter of a mile (200 m or 400 m, respectively).

C. Overview of Legislation

1. Provincial Legislation

Every province and territory has its own statute relating to motor vehicles and road safety. In addition, provincial regulations govern motor vehicle equipment. For example, a driver of a modified vehicle – such as one with a gas tank in the trunk, or with tanks containing nitrogen oxide installed – commits an offence and is liable to penalties.

For street racing, provincial legislation applies, generally speaking, to less serious offences, as opposed to the offences of criminal negligence⁽²⁷⁾ or dangerous operation,⁽²⁸⁾ which are found in the Code.⁽²⁹⁾ In each case, all of the relevant circumstances will have to be taken into consideration in order to determine whether the offence is provincial or federal. Bill C-19 changes nothing in this regard.

In 2002, British Columbia enacted legislation⁽³⁰⁾ to allow the police to immediately seize and impound any vehicle that they have reasonable grounds to believe has been used for street racing. The initial 48-hour seizure⁽³¹⁾ may be extended to 30 days in the case of a subsequent offence committed within two years of the first offence.⁽³²⁾ In addition, an offender is liable to a maximum fine of \$2,000 or a maximum of six months' imprisonment,⁽³³⁾ or both. In Ontario, an offender is liable to a maximum fine of \$1,000⁽³⁴⁾ or a maximum of six months' imprisonment, or both. In addition, Ontario provides that an offender convicted of the

(27) Subsection 219(1) of the Code. If the criminal negligence caused death or bodily harm, s. 220 or s. 221 of the Code, respectively, will apply.

(28) Paragraph 249(1)(a) of the Code. If the dangerous operation caused bodily harm or death, ss. 249(3) or ss. 249(4) of the Code, respectively, will apply.

(29) On the question of the distinction between actual criminal offences and “public welfare” offences (also referred to as “statutory” or “regulatory” offences), see the decision of the Supreme Court in *R. v. City of Sault Ste-Marie*, [1978] 2 S.C.R. 1299, para. 45.

(30) *Motor Vehicle Amendment Act*, S.B.C. 2002, c. 49, entered into force on 28 June 2002.

(31) Subsection 242(1) of the *Motor Vehicle Act*, R.S.B.C. 1996, c. 318. In Alberta, new amendments came into force on 31 October 2005, enabling the police to immediately seize a vehicle used for street racing, for a 24-hour period (*Traffic Safety Amendment Act*, 2005 (Bill 39); s. 172 of the *Traffic Safety Act*, R.S.A. 2000, c. T-6).

(32) Subsection 243(1) of the *Motor Vehicle Act*, RSBC 1996, c. 318.

(33) These maximum penalties are provided for the offences of “careless driving” (s. 144 of the *Motor Vehicle Act*, RSBC 1996, c. 318) and “excessive speeding” (s. 148 of the *Motor Vehicle Act*, RSBC 1996, c. 318), committed while street racing. See sections 241 and 242 of the *Motor Vehicle Act*, RSBC 1996, c. 318, and s. 4 of the *Offence Act*, RSBC 1996, c. 338. For the offence of “careless driving,” the minimum fine is \$100. Demerit points will also be placed on the offender’s record: three points in the case of an “excessive speeding” offence, and six points in the case of a “careless driving” offence (*Motor Vehicle Regulations*, B.C. Reg. 26/58, s. 28.01, Schedule, Tables 2 and 3).

(34) Subsection 172(2) of the *Highway Traffic Act*, R.S.O. 1990, c. H.8. The minimum fine is \$200.

provincial street racing offence may have his or her driver's licence suspended for a maximum of two years.⁽³⁵⁾ As well, the *Remedies for Organized Crime and Other Unlawful Activities Act, 2001* (a civil remedies act)⁽³⁶⁾ allows the Superior Court of Justice, on application by the provincial Attorney General, to seize and dispose of property that is used to carry out an unlawful activity.⁽³⁷⁾ On 15 June 2006, two significantly modified vehicles that had been used for street racing were destroyed.⁽³⁸⁾

In Manitoba, the fine for a driver who participates in a street race may be as high as \$5,000.⁽³⁹⁾ In addition, the judge who passes sentence may suspend the offender's driver's licence for a maximum of one year.⁽⁴⁰⁾ In Quebec, the maximum fine is only \$600.⁽⁴¹⁾

These examples illustrate the extent to which measures to deter street racing may vary from one province to another.⁽⁴²⁾ The situation seems similar in the United States.

2. American Legislation

Countries such as New Zealand, the United Kingdom and the United States have examined the street racing problem and enacted legislation to deal with it. In the United States, laws vary from one state to another.⁽⁴³⁾

In California, for example, a conviction for street racing is punishable by a maximum fine of \$1,000 or a maximum of 90 days' imprisonment, or both. In addition, the vehicle in question may be impounded for 30 days, and a prohibition on driving may be imposed for up to six months. Moreover, a person who aids or abets any activity associated with street

(35) *Ibid.*

(36) S.O. 2001, c. 28.

(37) The Act was amended in December 2005 to allow for the destruction of seized property (San Grewal, "A Flat-Out-Street-Racing Fight; Modified Cars on Hit List; 'I know one thing ... these cars won't be back on the street again'; Police Seize Cars Under Crime Law; MPP Revs Up Push for Street-Racing Bill," *The Toronto Star*, 16 June 2006, p. B5).

(38) "Tories target street racers with tough new penalties," CBC News, 15 June 2006, <http://www.cbc.ca/story/canada/national/2006/06/15/street-racing.html>.

(39) Subsection 189(2) of the *Highway Traffic Act*, C.C.S.M. c. H60.

(40) *Ibid.*, para. 189(3)(a).

(41) The minimum fine is \$300 (ss. 422 and 512 of the *Highway Safety Code*, R.S.Q., c. C-24.2).

(42) The same is true for the statutes of the various territories. The statutes of the Northwest Territories and Nunavut provide for the same penalties: a maximum fine of \$5,000 or a maximum of six months' imprisonment, or both (ss. 236 and 338 of the *Motor Vehicles Act*, R.S.N.W.T. 1998, c. M-16, and of the *Motor Vehicles Act (Nunavut)*, R.S.N.W.T. 1998, c. M-16). In Yukon, on the other hand, street racing is an offence punishable by a maximum fine of \$1,000 or a maximum of six months' imprisonment (s. 187 and ss. 247(15) of the *Motor Vehicles Act*, R.S.Y. 2002, c. 153).

(43) The information that follows is from Peak and Glensor (2004), pp. 21-27.

racing is guilty of a misdemeanour. The City of Fremont, California, has gone so far as to ban all traffic between 10 p.m. and 6 a.m. on certain roads popular with street racers. Spectators' vehicles, as well as participants' vehicles, may be seized by the police.

In 2003, the City of San Diego was among the first to implement a system that allows for the permanent seizure of a vehicle used for street racing. Vehicles will be permanently seized when the offenders have prior convictions for a serious driving offence.⁽⁴⁴⁾ The City of Los Angeles soon followed San Diego's example, and also prosecutes street racing spectators, who are committing a misdemeanour. In Reno, Nevada, any spectator within 200 feet (61 m) of a street race is liable to a maximum fine of \$200.⁽⁴⁵⁾

In 2003, Texas enacted harsher penalties for both drivers and passengers in motor vehicles involved in street racing: a maximum fine of \$2,000 and a maximum of six months' imprisonment. In the case of a repeat offender, the penalties can be as high as \$4,000 and imprisonment for one year. Spectators are liable to a fine of up to \$500.

DESCRIPTION AND ANALYSIS

Bill C-19 contains eight clauses. Clause 1 defines street racing. Clause 2 deals with the new street racing offences and the maximum terms of imprisonment associated with them. Clause 3 imposes driving prohibition orders under a scheme by which the length of the order increases for repeat offences. Clauses 4 to 8 introduce consequential amendments to reflect the changes proposed in the previous clauses. This discussion will focus on the substantive amendments introduced by the first three clauses of the bill.

A. Definition of "Street Racing" (Clause 1)

Clause 1 of the bill defines "street racing" for the purposes of the *Criminal Code*.⁽⁴⁶⁾ The new definition, which will appear in section 2 of the Code, is virtually identical to the definition found in Bill C-65⁽⁴⁷⁾ and is similar to in substance to the definition in Mr. Cadman's bill.⁽⁴⁸⁾

(44) Examples are reckless driving and attempting to evade police.

(45) Street racers are liable to a maximum fine of \$1,000 and a maximum of six months' imprisonment.

(46) "Street racing" means operating a motor vehicle in a race with at least one other motor vehicle on a street, road, highway or other public place."

(47) Clause 1: "street racing" means operating a motor vehicle in a race with another motor vehicle on a street, road, highway or other public place."

(48) Clause 1: "street racing" means the operation of a motor vehicle in a race with another motor vehicle on a street, road, highway or other public place."

The definitions in the three bills require that two or more motor vehicles be involved. As did Bill C-65, Bill C-19 uses the expression “operating a motor vehicle in a race *with at least one other motor vehicle*” (emphasis added). The proposed definition therefore does not seem to include a race against the clock, in which only one motor vehicle is involved.⁽⁴⁹⁾

As well, the expression “motor vehicle” is already defined in section 2 of the Code,⁽⁵⁰⁾ and it might mean that a race between, for example, motorcycles, snowmobiles or all-terrain vehicles could be characterized as a “street race.” On the other hand, under the definition in the bill, the “race” must take place in a public place.⁽⁵¹⁾

Overall, the definition of street racing in the bill is stated in general terms, unlike the definition in the British Columbia statute, for example.⁽⁵²⁾ This could be because, among other things, the five new offences created by the bill require, in addition to involvement in street

(49) For example, a single driver trying to beat his or her own record, or more than one driver taking turns at the wheel of a single vehicle. Under s. 422 of the Quebec *Highway Safety Code*, “No person may drive a road vehicle in a race with another vehicle, *or for a wager or a stake*” (emphasis added). The statutes of the Northwest Territories and Nunavut use different terminology: “No driver shall drive his or her vehicle in a race or in a *contest of performance*” (emphasis added) (ss. 236 and 338 of the *Motor Vehicles Act* and of the *Motor Vehicles Act (Nunavut)*). The California law, on the other hand, appears to apply to a timed race involving a single motor vehicle (Peak and Glensor (2004), p. 21).

(50) “A vehicle that is drawn, propelled or driven by any means other than muscular power, but does not include railway equipment.”

(51) Clause 1 of the bill uses the expression “on a street, road, highway or other public place.” The same expression is found in ss. 259(1) and 259(2) of the Code, which deal with orders prohibiting driving. It may also be noted that s. 2 of the Code provides that the expression “highway” means “a road to which the public has the right of access, and includes bridges over which or tunnels through which a road passes.” The judge in a decision of the Court of Quebec held that a federated snowmobile trail was considered to be a public place (*R. v. Bossé*, 2005 CarswellQue 1008, para. 48).

(52) Definition: “‘race’ means circumstances in which, taking into account the condition of the road, traffic, visibility and weather, the operator of a motor vehicle is operating the motor vehicle without reasonable consideration for other persons using the highway or in a manner that may cause harm to an individual, by doing any of the following:

- (a) outdistancing or attempting to outdistance one or more other motor vehicles;
- (b) preventing or attempting to prevent one or more other motor vehicles from passing;
- (c) driving at excessive speed in order to arrive at or attempt to arrive at a given destination ahead of one or more other motor vehicles” (s. 241 of the *Motor Vehicle Act*, RSBC 1996).

racing, the same constituent elements (*mens rea* and *actus reus*) as do dangerous operation⁽⁵³⁾ and criminal negligence,⁽⁵⁴⁾ which are already described in the Code.

The definition of street racing can apply to a broad range of activities, and it relates both to organized street racing and to improvised events.

B. Street-Racing Offences (Clause 2)

The most notable difference between Bill C-19 and the earlier street-racing bills is the creation of street-racing offences. While Bill C-65 and Mr. Cadman's bill dealt with street racing as an aggravating circumstance, Bill C-19 introduces five specific street-racing offences into the Code:

- dangerous operation not causing bodily harm or death, committed while street racing (new subs. 249.4(1) of the Code);
- dangerous operation causing bodily harm, committed while street racing (new subs. 249.4(3) of the Code);
- dangerous operation causing death, committed while street racing (new subs. 249.4(4) of the Code);
- criminal negligence causing bodily harm, committed while street racing (new s. 249.3 of the Code);
- criminal negligence causing death, committed while street racing (new s. 249.2 of the Code).

At present, the courts that enforce the *Criminal Code* use the dangerous operation⁽⁵⁵⁾ or criminal negligence⁽⁵⁶⁾ provisions to punish street racers.

(53) Dangerous operation of a motor vehicle is described in para. 249(1)(a) of the Code: "Every one commits an offence who operates ... a motor vehicle in a manner that is dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might reasonably be expected to be at that place."

(54) Criminal negligence is described in subsection 219(1) of the Code: "Every one is criminally negligent who (a) in doing anything, or (b) in omitting to do anything that it is his duty to do, shows wanton or reckless disregard for the lives or safety of other persons."

(55) Section 249 of the Code.

(56) Sections 220 and 221 of the Code.

1. Constituent Elements of the Offences

The five new offences in the bill are new only in that they refer to street racing. They include offences that are already set out in the Code – dangerous operation and criminal negligence – with the addition of a material element (*actus reus*): street racing. The five offences only apply if the street racing can be characterized as dangerous operation or criminal negligence. In other words, street racing is not automatically considered to be a constituent element of the five offences created by the bill. For that to be the case, the conduct of the person involved in street racing must constitute criminal negligence or dangerous driving.

On a scale of seriousness, criminal negligence is higher than dangerous operation.⁽⁵⁷⁾ The distinguishing factor between the two offences is the degree of carelessness or recklessness. For the offence of dangerous operation, it must be proved beyond a reasonable doubt that the accused’s conduct amounted to a *marked departure* from the standard of care that a reasonable person would observe in the same situation.⁽⁵⁸⁾ For the offence of criminal negligence, the departure must be even more marked. A negligent driver must have shown “wanton or reckless disregard for the lives or safety of other persons.”⁽⁵⁹⁾

For both offences – dangerous operation and criminal negligence – there must be a causal connection between the street racing and the death or bodily harm⁽⁶⁰⁾ caused. While that connection must be more than minor (*de minimis*),⁽⁶¹⁾ racing with another vehicle may be enough to establish the causal connection, even where there was no direct collision with the victim.⁽⁶²⁾ Unlike the earlier street-racing bills, Bill C-19 also addresses the offence of dangerous operation not causing bodily harm or death. In practical terms, this difference will have an impact only on driving prohibition orders, because the term of imprisonment provided is still the same.

In addition, as indicated earlier, some of the rules to combat the street racing problem in the United States apply not only to the racers but also to organizers and spectators. In Canadian criminal law, a person who aids or abets a car driver may also be considered to have been a party to the offence.⁽⁶³⁾

(57) *R. v. Palin*, (1999) 135 C.C.C. (3d) 119 (Que. C.A.).

(58) *R. v. Hundal*, [1993] 1 S.C.R. 867, and *R. v. MacGillivray*, [1995] 1 S.C.R. 890.

(59) Subsection 219(1) of the Code.

(60) Section 2 of the Code defines “bodily harm” as follows: “any hurt or injury to a person that interferes with the health or comfort of the person and that is more than merely transient or trifling in nature.”

(61) *R. v. Ewart*, (1989) 53 C.C.C. (3d) 153 (Alta. C.A.).

(62) See *R. v. Olivier*, REJB 2002-31668 (Que. C.A.) and *R. v. Khosa*, (2003) 180 C.C.C. (3d) 225 (B.C.C.A.).

(63) Paragraphs 21(1)(b) and (c) of the Code.

2. Imprisonment

In comparison with the maximum prison terms currently provided for dangerous operation and criminal negligence under the Code, the bill provides for higher maximum terms of imprisonment in the case of three street racing offences: dangerous operation and criminal negligence causing bodily harm (14 years instead of 10) and dangerous driving causing death (imprisonment for life instead of 14 years). The maximum terms of imprisonment for dangerous operation not causing bodily harm or death (five years) and criminal negligence causing death (life) remain the same, regardless of whether they were committed while street racing.

The provisions of the Code relating to dangerous operation and criminal negligence contain no minimum term of imprisonment, nor does the bill provide any for the five street racing offences. A person convicted of any of those offences may therefore serve his or her sentence in the community, if the judge believes that to be appropriate.⁽⁶⁴⁾ If Bill C-9⁽⁶⁵⁾ comes into force, however, conditional sentences of imprisonment will no longer be available for offences punishable by a maximum sentence of imprisonment for 10 years or more, such as street racing offences, with the exception of dangerous driving not causing bodily harm or death.

At present, imposing conditional sentences is a widespread practice, even for serious offences such as criminal negligence causing death.⁽⁶⁶⁾ The sentencing judge is required, under the Code, to consider all available penalties less restrictive than deprivation of liberty.⁽⁶⁷⁾

In *R. v. Khosa*,⁽⁶⁸⁾ the British Columbia Court of Appeal affirmed a conditional sentence of two years less a day. In that case, two young adults had been convicted of criminal negligence causing death. On 13 November 2000, they took part in an impromptu street race, which ended tragically in the death of a pedestrian who was completely uninvolved in the race. The Court took into consideration the fact that the offenders had no criminal record and that the race had not been organized.⁽⁶⁹⁾

(64) Section 742.1 of the Code.

(65) Bill C-9: An Act to amend the Criminal Code (conditional sentence of imprisonment), second reading, 1st session, 39th Parliament. See the legislative summary of Bill C-9 prepared by the Library of Parliament <http://www.parl.gc.ca/LEGISINFO/index.asp?Language=E&query=4702&Session=14&List=ls>.

(66) Clayton C. Ruby *et al.*, *Sentencing*, 6th ed., Butterworths, Markham, July 2004, p. 880, §23.505.

(67) Paragraph 718.2(d) of the Code.

(68) (2003) 180 C.C.C. (3d) 225 (B.C.C.A.).

(69) *Ibid.*, paras. 36 and 50.

On the other hand, some courts, having held that street racing was indeed an aggravating circumstance and that deterrence was an important factor to be considered, have imposed terms of imprisonment.⁽⁷⁰⁾ In *R. v. Tang*,⁽⁷¹⁾ for example, the judge, who was dealing with a street-racing case, handed down a sentence of four years' imprisonment to a person convicted of negligent driving causing death and failure to stop at the scene of an accident.⁽⁷²⁾ The British Columbia Court of Appeal has even affirmed an exemplary sentence imposed on a 17-year-old young offender involved in street racing.⁽⁷³⁾ After convicting him of negligent driving causing death and of impaired driving causing death,⁽⁷⁴⁾ the trial judge had ordered that he be placed in custody for a period of one year.

Unlike the case for driving prohibition orders, the bill does not provide for a system of longer terms of imprisonment for repeat offenders.

Table 1 provides a comparison between the various terms of imprisonment provided for by the Code, Bill C-19 and the earlier street racing bills.

(70) For example, *R. v. Tang*, 2001 BCPC 62 (B.C. Prov. Ct.), para. 45; *R. v. Rivard*, [2001] Q.J. No. 3357 (Que. C.A.) and *R. v. Lam*, [2003] O.J. No. 4127 (Ont. C.A.), para. 11. In the last case, the Ontario Court of Appeal held that in addition to street racing, the following factors were aggravating circumstances: consumption of alcohol or drugs, number of victims, duration of the careless driving, criminal record, bad driving record, attempt to evade police and leaving the scene of an accident.

(71) 2001 BCPC 62 (B.C. Prov. Ct.).

(72) Subsection 252(1.3) of the Code.

(73) *R. v. S. (S.)*, 2004 BCCA 94 (B.C.C.A.).

(74) Subsection 255(3) of the Code.

Table 1: Terms of Imprisonment

| Offences (committed while street racing) | <i>Criminal Code</i> | Bill C-19 | Bill C-65 | Bill C-230 (Mr. C. Cadman) |
|--|--|--|--|--|
| Dangerous operation (not causing bodily harm or death) | <p><i>On indictment:</i></p> <p>No minimum</p> <p>Maximum: 5 years</p> <p><i>On summary conviction:</i></p> <p>No minimum</p> <p>Maximum: 6 months and/or \$2,000 fine</p> | <p><i>On indictment:</i></p> <p>No minimum</p> <p>Maximum: 5 years</p> <p><i>On summary conviction:</i></p> <p>No minimum</p> <p>Maximum: 6 months and/or \$2,000 fine</p> | <p><i>On indictment:</i></p> <p>No minimum</p> <p>Maximum: 5 years</p> <p><i>On summary conviction:</i></p> <p>No minimum</p> <p>Maximum: 6 months and/or \$2,000 fine</p> | <p><i>On indictment:</i></p> <p>No minimum</p> <p>Maximum: 5 years</p> <p><i>On summary conviction:</i></p> <p>No minimum</p> <p>Maximum: 6 months and/or \$2,000 fine</p> |
| Dangerous operation (bodily harm) | <p>No minimum</p> <p>Maximum: 10 years</p> | <p>No minimum</p> <p><i>Maximum: 14 years</i></p> | <p>No minimum</p> <p>Maximum: 10 years</p> <p>Street racing is a mandatory <i>aggravating circumstance.</i></p> | <p>No minimum</p> <p>Maximum: 10 years</p> <p>Street racing is a mandatory <i>aggravating circumstance.</i></p> |
| Dangerous operation (death) | <p>No minimum</p> <p>Maximum: 14 years</p> | <p>No minimum</p> <p><i>Maximum: life</i></p> | <p>No minimum</p> <p>Maximum: 14 years</p> <p>Street racing is a mandatory <i>aggravating circumstance.</i></p> | <p>No minimum</p> <p>Maximum: 14 years</p> <p>Street racing is a mandatory <i>aggravating circumstance.</i></p> |

| Offences (committed while street racing) | <i>Criminal Code</i> | Bill C-19 | Bill C-65 | Bill C-230 (Mr. C. Cadman) |
|---|--|--|---|---|
| Criminal negligence (bodily harm) | No minimum Maximum: 10 years | No minimum <i>Maximum: 14 years</i> | No minimum Maximum: 10 years Street racing is a mandatory <i>aggravating circumstance.</i> | No minimum Maximum: 10 years Street racing is a mandatory <i>aggravating circumstance.</i> |
| Criminal negligence (death) | No minimum Maximum: life | No minimum Maximum: life | No minimum Maximum: life Street racing is a mandatory <i>aggravating circumstance.</i> | No minimum Maximum: life Street racing is a mandatory <i>aggravating circumstance.</i> |

While Bill C-19 provides for higher maximum sentences, the maximum sentence is generally reserved for cases in which the worst offenders commit the offence in the worst circumstances.⁽⁷⁵⁾ It is therefore rare for the maximum term of imprisonment provided in the Code to be imposed.⁽⁷⁶⁾

The effectiveness of the new maximum terms of imprisonment in practice may be doubtful. Given that it may be difficult, in some cases, to prove street racing, and that, it would appear, the courts will probably not impose the maximum sentences provided by the new offences in the bill, the Crown might prefer to use the existing offences in the Code – dangerous operation or criminal negligence.

(75) Clayton C. Ruby *et al.* (2004), pp. 25 and 26, para. 2.14. See *R. v. Reimer*, (1990) 59 C.C.C. (3d) (Man. C.A.) in which the life sentence was reduced to six years on three counts of negligent driving causing death.

(76) Allan Manson, *The Law of Sentencing*, Toronto, Irwin Law, 2001, p. 106.

Considering street racing to be a mandatory aggravating circumstance, as was the case in Bill C-65 and Mr. Cadman's bill, had the advantage of leaving sentencing to the discretion of the judge while clearly informing the judge that he or she should impose a longer sentence in a street-racing case. While the provisions of Bill C-19 also leave the sentence to the discretion of the judge by providing only for a maximum sentence, they are not as clear in terms of the message sent to the courts to impose longer sentences in street racing cases. Maximum terms of imprisonment often do establish the objective seriousness of the offence,⁽⁷⁷⁾ and they will indicate to the judge that street racing offences (in fact, three such offences⁽⁷⁸⁾) should result in longer terms of imprisonment than are imposed for dangerous or negligent driving. However, dangerous operation not causing bodily harm or death is punishable by the same term of imprisonment under both the present offences in the Code and the new offences in the bill. Does this mean that street racing that does not cause bodily harm or death should receive the same term of imprisonment as would have been imposed under the present dangerous driving offence?

By providing for identical terms of imprisonment, the bill puts street racing that constitutes dangerous operation and street racing that constitutes criminal negligence on the same footing. On the one hand, both dangerous operation and criminal negligence causing bodily harm are punishable by a maximum of 14 years' imprisonment, while on the other hand, dangerous driving and criminal negligence causing death are both punishable by a maximum of life imprisonment. As we noted earlier, however, criminal negligence is objectively more serious than dangerous driving.

C. Driving Prohibition Orders (Clause 3)

Under the existing provisions of the Code, a judge who sentences a person convicted of dangerous operation or criminal negligence may, but is not required to, make an order prohibiting the offender from driving.⁽⁷⁹⁾ The order is therefore discretionary. Subclause 3(2) of the bill, like the provisions regarding orders in drinking and driving cases,⁽⁸⁰⁾

(77) Clayton C. Ruby *et al.* (2004), p. 25, para. 2.13.

(78) Dangerous driving and criminal negligence causing bodily harm and dangerous operation causing death.

(79) Subsection 259(2) of the Code.

(80) The orders are mandatory in drinking and driving cases not involving bodily harm or death (subs. 259(1) of the Code).

requires that the judge make the order – which makes it a mandatory order. Accordingly, when a person is convicted of street racing, the judge will be required to prohibit the offender from driving in a public place for a specified time.

While the earlier street-racing bills also included mandatory driving prohibition orders, Bill C-19, unlike those other bills, provides for this type of order for all street-racing offences, including dangerous operation not causing bodily harm.

Another change made by the bill is the introduction of a minimum period of prohibition on driving. The minimum is one year, in the case of a first offence, for each of the five street-racing offences.

The maximums and minimums for driving prohibition orders increase gradually each time a subsequent street-racing offence is committed. That system, which is not in the Code and was not in Bill C-65, is modelled on Mr. Cadman's bill and the rules governing driving prohibition orders in cases of drinking and driving.⁽⁸¹⁾

The types of orders and the various times provided in the Code and in the three bills are set out below in Table 2.

(81) Subsection 259(1) of the Code.

Table 2: Orders Prohibiting Driving of Motor Vehicle

| | <i>Criminal Code</i> | Bill C-19 | | | Bill C-65 | Bill C-230 (Mr. C. Cadman) | | |
|--|-------------------------------------|---|--|--|--|--|---|--|
| | | 1 st offence | 2 nd offence | 3 rd and subsequent offence | | 1 st offence | 2 nd offence | 3 rd and subsequent offence |
| Type of court order | Discretionary | <i>Mandatory</i> | <i>Mandatory</i> | <i>Mandatory</i> | Mandatory <i>Except: discretionary for dangerous driving not causing bodily harm or death</i> | Mandatory <i>Except: discretionary for dangerous driving not causing bodily harm or death</i> | Mandatory <i>Except: discretionary for dangerous driving not causing bodily harm or death</i> | Mandatory <i>Except: discretionary for dangerous driving not causing bodily harm or death</i> |
| Dangerous operation (not causing bodily harm or death) | No minimum Maximum: 3 years | <i>Minimum: 1 year</i> <i>Maximum: 3 years</i> | <i>Minimum: 2 years</i> <i>Maximum: 5 years</i> | <i>Minimum: 3 years</i> <i>Maximum: life</i> | No minimum Maximum: 3 years | No minimum Maximum: 3 years | No minimum Maximum: 3 years | No minimum Maximum: 3 years |
| Dangerous operation (bodily harm) | No minimum Maximum: 10 years | <i>Minimum: 1 year</i> <i>Maximum: 10 years</i> <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum: 2 years</i> <i>Maximum: 10 years</i> <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum: 3 years</i> <i>Maximum: life</i> <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum: 1 year</i> <i>Maximum: 10 years</i> | <i>Minimum: 1 year</i> <i>Maximum: 3 years</i> <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum: 2 years</i> <i>Maximum: 5 years</i> <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum: 3 years</i> <i>Maximum: life</i> <i>If caused death on a previous offence, Minimum: life</i> |

| | <i>Criminal Code</i> | Bill C-19 | | | Bill C-65 | Bill C-230 (Mr. C. Cadman) | | |
|-----------------------------------|-------------------------------------|--|--|--|---|---|---|--|
| | | 1 st offence | 2 nd offence | 3 rd and subsequent offence | | 1 st offence | 2 nd offence | 3 rd and subsequent offence |
| Dangerous operation (death) | No minimum Maximum: 10 years | <i>Minimum:</i> 1 year <i>Maximum:</i> 10 years <i>If caused death or bodily harm on a previous offence, Minimum: life</i> | <i>Minimum:</i> life | <i>Minimum:</i> life | <i>Minimum:</i> 1 year Maximum: 10 years | <i>Minimum:</i> 1 year <i>Maximum:</i> 3 years <i>If caused death or bodily harm on a previous offence, Minimum: life</i> | <i>Minimum:</i> life | <i>Minimum:</i> life |
| Criminal negligence (bodily harm) | No minimum Maximum: 10 years | <i>Minimum:</i> 1 year <i>Maximum:</i> 10 years <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum:</i> 2 years <i>Maximum:</i> 10 years <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum:</i> 3 years <i>Maximum:</i> life <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum:</i> 1 year Maximum: 10 years | <i>Minimum:</i> 1 year <i>Maximum:</i> 3 years <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum:</i> 2 years <i>Maximum:</i> 5 years <i>If caused death on a previous offence, Minimum: life</i> | <i>Minimum:</i> 3 years <i>Maximum:</i> life <i>If caused death on a previous offence, Minimum: life</i> |

| | <i>Criminal Code</i> | Bill C-19 | | | Bill C-65 | Bill C-230 (Mr. C. Cadman) | | |
|-----------------------------|---------------------------------|--|-------------------------|--|--|---|-------------------------|--|
| | | 1 st offence | 2 nd offence | 3 rd and subsequent offence | | 1 st offence | 2 nd offence | 3 rd and subsequent offence |
| Criminal negligence (death) | No minimum Maximum: life | <i>Minimum:</i> 1 year <i>Maximum:</i> Life <i>If caused death or bodily harm on a previous offence, Minimum: life</i> | <i>Minimum:</i> life | <i>Minimum:</i> life | <i>Minimum:</i> 1 year <i>Maximum:</i> life | <i>Minimum:</i> 1 year <i>Maximum:</i> 3 years <i>If caused death or bodily harm on a previous offence, Minimum: life</i> | <i>Minimum:</i> life | <i>Minimum:</i> life |

Bill C-19 establishes a system for gradually increasing the prohibition period for repeat offenders that is an improvement over the system in Mr. Cadman's bill. Mr. Cadman's bill reduced the maximum period in some cases⁽⁸²⁾ and established a maximum for a first offence of criminal negligence causing death. In all cases, Bill C-19 provides for prohibition periods of the same length as or longer than the periods now provided in the Code. All maximum periods established by the bill are of the same length as the periods provided in the Code for first offences.

Unlike Mr. Cadman's bill, the treatment of repeat offenders applies to all street racing offences, including dangerous operation not causing injury or death. In that case, the increased prohibition periods are identical to the periods provided for *Criminal Code* drinking and driving offences.⁽⁸³⁾

The bill also incorporates the provisions of Mr. Cadman's bill for special treatment of repeat offenders who have caused the death of a person while street racing. Except where the street racing offences commit constitute dangerous operation not causing physical injury or death, everyone who commits a subsequent offence that causes the death of a person or who committed a previous offence that caused death will be subject to a mandatory life prohibition on driving (new subsection 259(3.4) of the Code.

The question of repeat offences causing bodily harm remains, however. The bill is not clear on this point. For example, a person may be convicted of a street-racing offence characterized as dangerous operation causing bodily harm, and subsequently convicted of a street racing offence characterized as criminal negligence causing bodily harm. In that case, is the maximum prohibition period two years (the offence of criminal negligence causing bodily harm is regarded as a second offence) or only one year (the criminal offence of negligence causing bodily harm is then regarded as a first offence)? It appears that subsection 259(3.2) of the Code must be interpreted the first way, which is in fact the approach that was clearly taken in Mr. Cadman's bill.⁽⁸⁴⁾

(82) From 10 to 3 years for a first offence of criminal negligence causing bodily harm or dangerous driving causing death or bodily harm. From 10 to 5 years for a second offence of criminal negligence or dangerous driving causing bodily harm.

(83) Subsection 259(1). However, if the impaired driving offence caused bodily harm (subs. 255(2) of the Code) or death (subs. 255(3) of the Code), the prohibition order is discretionary and there is no special system for repeat offenders (subs. 259(2) of the Code). The minimum and maximum prohibition periods in those cases are: impaired driving causing bodily harm – no minimum, maximum of 10 years; impaired driving causing death – no minimum, maximum of life.

(84) See para. 259.1(1)(c), as proposed in Bill C-230.

To conclude, these are not terms of imprisonment, but orders prohibiting the driving of a motor vehicle. These orders are in addition to any other sentence imposed by the court. The period of the prohibition on driving will therefore come after any period of imprisonment.

Driving during a prohibition period is a hybrid offence punishable by a maximum of five years' imprisonment.⁽⁸⁵⁾

An offender may appeal a driving prohibition order⁽⁸⁶⁾ and the National Parole Board may cancel or vary the order.⁽⁸⁷⁾

As noted above, legislation in the provinces and the United States provides for the seizure and impounding of vehicles used for street racing. Under the Code, a peace officer may seize such a vehicle without warrant.⁽⁸⁸⁾ The vehicle could be detained until the end of the criminal proceedings⁽⁸⁹⁾ and may be forfeited upon conviction.⁽⁹⁰⁾

COMMENTARY

Generally speaking, the bill has received support from police services in regions that are particularly hard hit by street racing, such as Toronto, British Columbia and Saskatchewan.⁽⁹¹⁾ While the bill is not perfect, and it may be difficult to prove street racing in court,⁽⁹²⁾ these measures may save a life. No price can be put on keeping the streets safe, and any effort to do that should therefore be welcomed.

(85) Subsection 259(4) of the Code.

(86) Paragraph 675(1)(b) and subparagraph 813(a)(ii) of the Code; see clauses 6 and 7 of the bill.

(87) After five years, if the length of the prohibition exceeded that period, or after 10 years, if the prohibition was imposed for life (section 109 of the *Corrections and Conditional Release Act*, S.C. 1992, c. 20; see also clause 8 of the bill).

(88) Paragraphs 489(2)(b) and (c).

(89) Section 490 of the Code.

(90) Subsection 490.1(1) of the Code.

(91) "Tories target street racers with tough new penalties," CBC News, 15 June 2006; Maurice Bridge, "Police Hail Ottawa's Street-Racing Bill," *Vancouver Sun*, 16 June 2006, p. A1; The Canadian Press, "Tories Plan to Put Brakes on Street Racers," *The Daily Gleaner* (Fredericton), 16 June 2006, p. A11; Veronica Rhodes, "City Would Welcome New Law," *The Leader – Post* (Regina), 16 June 2006, p. B1.

(92) Campbell Clark and Tenille Bonoguoire, "The Street-Racing Crackdown: Federal Bill Aims to Make Street Racing a Criminal Offence and Calls for Tougher Sentences for Drivers – Law Won't Deter People from Racing, Experts Say Harsher Penalties Could Even Encourage Culture of Dangerous Driving Police Warn," *The Globe and Mail* [Toronto], 16 June 2006, p. A4; Janice Tibbetts, "Street Racers on Gov't Radar: Ottawa Introduces Tough New Legislation Aimed At Slowing Drivers," *The StarPhoenix* (Saskatoon), 16 June 2006, p. C13; Susan Ruttan, "Street Racing Law 'Politically Motivated': Proposed Legislation Makes It Harder for Crown to Win its Case, Experts Say," *Edmonton Journal*, 17 June 2006, p. A7.

Support has also come from individuals who have been directly or indirectly affected by street racing. The Attorney General of British Columbia, John Les, has expressed support for the bill.⁽⁹³⁾ Michael Fougere, a city councillor in Regina, believes that the bill will have a positive impact on his city.⁽⁹⁴⁾ Firms that specialize in selling equipment to modify motor vehicles are divided on the economic impact the bill may have on their businesses.⁽⁹⁵⁾ A Vancouver company that sells a system for detecting a vehicle's speed remotely has applauded the bill.⁽⁹⁶⁾ Christopher Ng, father of Const. Jimmy Ng, who died in 2002 when his patrol car was struck by a vehicle involved in a street race, believes that this is a step in the right direction.⁽⁹⁷⁾ Dona Cadman, widow of Chuck Cadman, is delighted with the longer prison terms.⁽⁹⁸⁾ Nina Rivet, sister of Irene Thorpe, an innocent pedestrian who was killed in 2000 as a result of a street race, supports the longer prison terms,⁽⁹⁹⁾ but says that the driving prohibitions are pointless.⁽¹⁰⁰⁾ She is calling for concrete action such as destroying the vehicles or auctioning them off to compensate the victims of street racing.⁽¹⁰¹⁾

A survey of 654 people conducted by the *Calgary Sun* found that 85% of the respondents believed that the sentences provided for in the bill were reasonable.⁽¹⁰²⁾

Critics of the bill – like Josh Weinstein, a Winnipeg criminal lawyer and member of the Criminal Law Section of the Canadian Bar Association⁽¹⁰³⁾ – argue, in general terms, that the various provincial laws and the existing provisions of the *Criminal Code* already apply to street racing, and that those provisions are sufficient for prosecuting and effectively punishing street racers.⁽¹⁰⁴⁾

(93) Ian Bailey, “Deadly Driver Wants to Return to Canada,” *The Province*, 16 June 2006, p. A7.

(94) Rhodes (2006).

(95) Wendy Leung, “Some Specialty Auto Shops Expect Fallout from Street-Racing Legislation,” *Vancouver Sun*, 16 June 2006, p. A2.

(96) *Ibid.*

(97) Bailey (2006).

(98) *Ibid.*

(99) *Ibid.*

(100) Bridge (2006).

(101) *Ibid.*

(102) *Calgary Sun* Poll, *The Calgary Sun*, 17 June 2006, p. 2.

(103) Clark and Bonoguore (2006).

(104) CBC News (15 June 2006); Charles Moore, “Harsh Laws No Answer to Street Racing,” *The Daily News* (Halifax), 19 June 2006, p. 10; Chris McCormick, “Not So Fast, Furious, Steve ... an Open Letter to PM,” *The Daily Gleaner* (Fredericton), 22 June 2006, p. B8.

Some people – including David MacAlister, an assistant professor of criminology at Simon Fraser University,⁽¹⁰⁵⁾ and Tammy Landau, an associate professor of criminal justice at Ryerson University⁽¹⁰⁶⁾ – believe that the new street racing offences and prison terms will not deter street racing participants, particularly young people seeking thrills. Street racing often occurs on impulse and the participants do not stop to consider the consequences of their acts. As well, Brian Bowman of the Toronto police says that the higher the risk, the more attracted some people will be to the activity.⁽¹⁰⁷⁾

In fact, the actual effectiveness of the bill to combat street racing is questioned. Some people believe that this is really a strategy to win political capital in regions where the Conservative Party needs more votes.⁽¹⁰⁸⁾

Some people claim that the new provisions will have little impact in practice. The only notable change is the increase in the maximum prison terms, which will probably not mean longer prison terms. As well, courts will probably never impose the maximum prison terms,⁽¹⁰⁹⁾ let alone when it means life imprisonment. Consideration must also be given to the parole rules, which generally allow an offender to be released, subject to conditions, after serving a third of his or her sentence.⁽¹¹⁰⁾ These rules will not be changed in the case of street racing.

Some people think that the new street-racing offences will increase the number of criminal cases, and thus lead to higher costs for the justice system and taxpayers.⁽¹¹¹⁾

The Minister of Justice, however, argues that even if they are not applied, the new maximum prison terms will send a clear message to the public that street racing will not be tolerated.⁽¹¹²⁾ The mere fact that a national prohibition system is being adopted, by incorporating the new offences into the *Criminal Code*, will certainly educate Canadian society about the unacceptable risks that street racing carries with it. There are people who believe, however, that

(105) Sandra McCulloch, “Street Racing Blamed in Teen Girl’s Death,” *Time Colonist* (Victoria), 28 June 2006, p. C1.

(106) Sharon Ho, “Street ‘Symbolism’ – And Cynicism Prof: No Deterrent in Fed Racing Law and Overworked Courts Will End Up Paying Price,” *The Toronto Sun*, 16 June 2006, p. 2.

(107) Clark and Bonoguoire (2006).

(108) Ruttan (2006); Beazley (2006).

(109) Dan Gardner, “Street Racing Legislation Will Do Nothing,” *The Windsor Star*, 29 June 2006, p. A8.

(110) See s. 120 of the *Corrections and Conditional Release Act*.

(111) Ho (2006).

(112) Clark and Bonoguoire (2006).

the bill is inadequate and that a public awareness and education program, similar to the campaigns against drinking and driving,⁽¹¹³⁾ should also be put in place.⁽¹¹⁴⁾ What needs to be done is not to ban street racing, but to direct the people who engage in it to legal tracks provided for that purpose⁽¹¹⁵⁾ and to make them aware of the terrible tragedies that racing on city streets can lead to.

(113) See the position taken by Catherine Bell, New Democratic Party M.P., in: Jonathan Fowle and Emily Chung, “2 Merritt Men Killed, 2 Others Injured in Street Racing,” *Time Colonist* (Victoria), 28 June 2006, p. C2.

(114) Clark and Bonoguoire (2006).

(115) Moore (2006).