



Public Safety  
Canada

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# Corrections and Conditional Release in Canada

## A GENERAL PRIMER

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## **I. Roles & Responsibilities in Federal Corrections**

There are essentially 4 main government agencies involved in federal corrections:

1. Public Safety Canada (PS)
2. Correctional Service of Canada (CSC)
3. National Parole Board (NPB)
4. Correctional Investigator (CI)

Public Safety Canada (PS) (“the Department”) provides advice and support to the Minister in a public policy leadership role in corrections and criminal justice, in the direction of the Correctional Service of Canada, and in accountability to Parliament for the National Parole Board. It is headed by a Deputy Minister of Public Safety Canada who is appointed by the Prime Minister. The Deputy Minister is frequently called upon to coordinate activities among the other agencies.

The Correctional Service of Canada, headed by the Commissioner who is appointed by the Prime Minister, is responsible for managing penitentiaries which house federal adult offenders serving sentences of two years and more. CSC is also responsible for the delivery of programs, the preparation of cases and making recommendations to the National Parole Board for parole consideration. CSC staff carries out the actual supervision of offenders while they are in the community.

With a budget of \$1.8 billion, CSC operates across Canada with institutions in each region of the country and parole offices in most major communities. As of March 31, 2007, CSC had 13,171 inmates in institutions plus an additional 6,926 offenders in the community under supervision.

The National Parole Board is an independent administrative tribunal responsible for independent parole release, suspension and revocation decisions, as well as detention when warranted. In making its decisions, it will impose appropriate conditions for release, bearing in mind public safety considerations. The NPB determines release



conditions for those offenders subject to Long Term Supervision Orders. It is also responsible for the Canadian pardons program. It is led by the Chairperson, appointed by the Prime Minister, who is responsible for the management of all matters related to the National Parole Board. Its other members are selected by the Government based upon their professional qualifications and merit.

As an independent administrative tribunal, the NPB is established and guided by the *Corrections and Conditional Release Act (CCRA)* and the *Criminal Records Act*.

The Correctional Investigator, appointed by the Prime Minister as well, is responsible for an office of about 25 employees and investigates offender complaints concerning CSC either within institutions or in the community. While they may review recommendations made to the NPB, they have no jurisdiction on matters that are the exclusive authority of the NPB, including decisions on conditional release.

## **II. Correctional Service of Canada - Rehabilitation Programs**

The Correctional Service of Canada (CSC) has developed a range of programs to assist offenders in returning to the community and living crime-free lives. As a result, substance abuse, violence prevention and other programs are prescribed for a large portion of CSC's offenders.

### **Substance Abuse Programs**

Almost 80% of federal offenders have histories of alcohol and drug abuse. CSC provides a comprehensive range of substance abuse programs designed to meet the needs of offenders:

- Internationally accredited high, moderate and low intensity programs (National Substance Abuse Programs) as part of a programming model that includes a pre-release booster component and continuous intake maintenance in the institution and the community;
- The Women Offender Substance Abuse Program to address the specialised treatment needs of women offenders;
- An Aboriginal Offender Substance Abuse Program to address the needs of male, Aboriginal offenders.

### **Violence Prevention Program**

About 70% of offenders are serving sentences for a violent offence. The Violence Prevention Program is an intensive cognitive-behavioural reintegration program for incarcerated federal offenders. It is based upon current theory and research, and delivered by a mental health professional and a program officer.

### **Family Violence Programs**

A number of offenders arrive in penitentiary with histories of violence carried out against their partners or children. In order to address these dangerous tendencies, CSC offers two levels of *family violence rehabilitation programs*:

- High Intensity Family Violence Prevention Program (HIFVPP)
- Moderate Intensity Family Violence Prevention Program (MIFVPP).

Offenders are referred to the programs based on their level of risk and demonstrated pattern of violence. The programs are based on a social learning model that sees violence against women as a learned pattern of behaviour that can be modified.

The programs teach participants to understand the dynamics of their abusive relationships. It then teaches them cognitive-behavioural techniques that will allow them to identify their abusive behaviours and replace them with alternative skills and behaviours. In this fashion, it helps them to form positive non-abusive relationships. The programs are multi-faceted and rely on several different treatment approaches, including education, skills training, relapse prevention instruction, and individual counselling. Both programs were accredited by an international panel of corrections experts in March 2001.

### **Living Skills Programs**

Living skills programs contain a number of specific programs that assist offenders with their thinking about choices in behaviour and appropriate attitudes to criminal behaviour. They include the following specific programs:

- Reasoning and Rehabilitation
- Cognitive Skills Maintenance Program
- Anger and Emotions Management Program
- Anger and Emotions Management Maintenance Program
- Parenting Skills Training Program
- Leisure Skills Program

- Community Integration Program

### **Sexual Offender Programs**

Seventeen percent of male offenders have committed sexual offences. CSC's Sexual Offender Programs are primarily focused on these offenders, identified as a result of their offence history. Two program types are available that are focused on the degree of risk that the offenders pose:

- Moderate Intensity Sex Offender Program (NMISOP)
- Low Intensity Sex Offender Program (NLISOP).

### **Aboriginal-Specific Programs**

While Aboriginal people make up about 3% of the Canadian population, they represent 19% of CSC's population. As a result it was considered essential that a number of programs be developed specifically for Aboriginals. By speaking directly to Aboriginal offenders in ways that are most familiar to them, they are most responsive and the effectiveness of these programs is greatly increased.

Services and initiatives targeted towards the safe and successful reintegration of Aboriginal offenders include:

- Aboriginal Treatment and Healing Programs: Pathways, In Search of Your Warrior, sex offender treatment;
- Aboriginal Healing Lodges (currently 8 across Canada);
- Halfway Houses for aboriginal offenders (currently 24 across Canada);
- Gangs Reintegration Project



### **III. Sentencing and Sentence Calculation**

#### **Introduction**

Parliament established the sentencing principles and frameworks for sentencing in sections 718 to 718.2 of the *Criminal Code*. The rules for calculating total sentence length are contained in the *Corrections and Conditional Release Act (CCRA)*.

The Correctional Service of Canada (CSC) administers the sentence set by the court.

The National Parole Board (NPB), as an independent administrative tribunal, makes release decisions based on criteria established in law.

CSC and NPB have no authority to either shorten or lengthen the sentence set by the court. This can only be done by appeal or the exercise of the Royal Prerogative of Mercy.

#### **The Legal Framework**

The *Criminal Code of Canada* contains sentencing principles, maximum and some minimum sentence lengths. It also sets out parole eligibilities for offenders serving life sentences as well as Dangerous Offenders.

The CCRA generally spells out the procedures for the calculation of sentence lengths, the forms of conditional release and all conditional release eligibilities not set out in the *Criminal Code*. The CCRA also sets out the criteria to be considered in making release decisions.

#### **Sentencing**

The *Criminal Code* indicates the severity of offences by setting maximum sentence lengths while leaving, in most cases, discretion to judges to set the actual sentence length. In some cases, the *Criminal Code* also sets minimum sentence lengths, restricting judicial authority to give sentences below that level. This is most common for crimes where weapons are used. Judges use the principle of totality which requires that they ensure that the aggregate of a series of sentences is just and appropriate to the

behaviour of the offender.

In using their discretion for determining actual sentences, judges take into account the offence and the offender, aggravating and mitigating factors before deciding on a specific sentence length. Acceptable ranges of sentences in particular cases are set by Appeal courts, which give direction to judges in terms of appropriate sentencing practices. While judges are aware of conditional release and its operation, they are not to take it directly into account, since the actual release of any individual offender is set by a parole board.

Sentence lengths are made on the basis of representations made by Crown prosecutors and defence attorneys. In many cases, the sentence is based on a “plea bargain” whereby the offender agrees to plead guilty to specific charges, with an understanding that a certain length of sentence will be suggested. In most cases, the judge supports the agreement reached by lawyers.

### **Sentence Calculation**

Where an offender has a single sentence, its interpretation is easily understood, with clear start and end dates. However, many offenders are subject to more than one sentence as the result of multiple charges or offences for which they are sentenced at different times. Offenders convicted of multiple offences may have consecutive sentences, concurrent sentences, or a combination of both, as set by the court. As a principle, most sentences commence when handed down by the court. On the other hand, life sentences for murder commence on the date of arrest.

### **Consecutive Sentences**

Consecutive sentences are served one after the other. For example, sentences of two years and three years consecutive would total five years. A judge must specifically direct that sentences are to be served consecutively.

### **Concurrent Sentences**

Concurrent sentences run at the same time. When no direction is given by the court, the sentence is deemed to be concurrent.

Where concurrent sentences are imposed at the same time, the total sentence is the same as the longest individual sentence. For example, if a judge gives a sentence of two years and another sentence of three years concurrent, the total sentence is three years.

### **Merged Sentences**

When an offender is serving a sentence of imprisonment and receives another custodial sentence, the old and new sentences are combined and become one sentence. The sentence starts on the date of the first sentence and ends on the date of expiry of the last sentence. For example, if an offender gets a two year sentence and one year later, gets another two year sentence, the total sentence length would be three years.

### **Dangerous Offenders and Long Term Offenders**

The *Criminal Code* contains provisions that allow a court, under prescribed circumstances, to declare that an offender is either a Dangerous Offender or a Long Term Offender. A Dangerous Offender is subject to an indeterminate (i.e. life) sentence, with no parole eligibility for seven years. A Long Term Offender designation allows the court to add a period of up to ten years of community supervision, commencing on the Warrant Expiry Date (end of sentence). This supervision is similar to probation or parole, but is subject to special rules, as it is not part of the sentence but rather a separate court order.

### **Warrant Expiry**

Neither CSC nor the NPB have authority once an offender reaches the warrant expiry date. Nevertheless, when an offender is deemed to continue to present a risk (i.e. has not been released), information is provided to police services to allow them to take action to manage that risk through supervision, use of Section 810 orders (i.e., peace

bonds), limited or public notification or other measures.

#### **IV. Offender Management**

The Correctional Service of Canada's (CSC) responsibility in the management of its offenders commences at the point of admission and continues until the end of the sentence. The main components prior to conditional release include Intake Assessment, Correctional Planning and Rehabilitation Programs.

##### **The Legal Framework**

Time served at a particular level of security classification is not mandated by law. However, CSC does have a policy to normally assign a maximum-security classification to offenders serving a minimum life sentence for first or second-degree murder for at least the first two years of federal incarceration. This is due to the gravity of these offences and need for a period of observation at the highest security level.

Otherwise, each offender is classified based upon the principle in the *Corrections and Conditional Release Act* (CCRA) of "least restrictive measures consistent with the protection of public, staff members and offenders." When deciding the appropriate security level, the law also requires CSC to take into account: the degree of control needed to protect the public; the offender and the security of the institution; the offender's accessibility to his or her home community and family; a compatible cultural and linguistic environment; and the availability of appropriate programs and services.

##### **Security Classification**

The CCRA clearly states that public safety is the paramount consideration in all decisions relating to corrections and conditional release, including the offender's security classification and institutional placement. Initial classification and subsequent movement is based upon an assessment of risk. Current practice uses research-based tools known as the Custody Rating Scale and the Security Reclassification Scale, to determine the most appropriate level of security at key points throughout the offender's sentence.

CSC manages a total of 58 institutions at various levels of security. CSC's offenders are distributed as follows:

- 15% in maximum security;
- 65% in medium security;
- 20% in minimum security; and
- 6% are being assessed.

### **The Intake Assessment Process and the Correctional Plan**

Each offender has their security classification established after admission through a review procedure that evaluates a number of criteria. This process, called the Offender Intake Assessment, is based on a multi-disciplinary approach involving the systematic collection and assessment of information on each offender.

Key documents required by CSC are police reports, judges comments at sentencing, a post sentence community assessment and victim impact statements when available. It is critical for CSC to obtain a police report of the facts leading to the conviction as well as the judge's reasons for the sentence. Victim impact statements give us further insight into the nature of the offence and the offender's behaviour.

The Intake Assessment process must be completed within 70-90 calendar days from the offender's admission date. It determines the risk that the offender poses to the public, and to the security of the institution, staff, inmates and themselves. The assessment also determines the areas of intervention required to reduce that risk.

A Correctional Plan is specifically designed for the offender based on the results of the Intake Assessment. It details all the programs and activities to be undertaken by the offender to address the problems that led to incarceration. It provides the basis for program involvement and release planning as well as establishing a baseline to measure progress. CSC continually monitors an offender's progress in relation to

his/her plan. This progress is the primary consideration in any decision related to the offender, including the reclassification of the offender's security level.

### **Reclassification of Offenders**

Security classifications are normally reviewed on an annual or bi-annual basis but, may also be reviewed when there is significant new information that may lead staff to recommend either an increase or decrease in security level. The Security Reclassification Scale provides a broad assessment of an offender's performance while incarcerated, including disciplinary behaviour, correctional program and work progress, current substance abuse status and breach of trust history.

### **The Relationship of Security Classification to Reintegration**

The accuracy of security classifications and the placement of offenders to the appropriate level of security are essential to effective correctional management. Almost all offenders will eventually return to the community. Therefore, in addition to ensuring their separation from society, CSC's focus is on the preparation of offenders for their safe reintegration to the community.

The greatest protection that can be offered to the community is to assist the offender throughout the sentence to change his or her behaviour and become a responsible citizen. This preparation includes programming to meet specific needs and opportunities to demonstrate progress through transfers to reduced security or conditional release, including temporary absences, work release, parole and statutory release.

### **Rehabilitation Programs**

CSC provides a range of programs designed to meet the needs of offenders. Many of these have been accredited by panels of international experts. Correctional Programs are structured interventions that address the factors directly linked to offenders' criminal behaviour. Current Correctional Programs include:

- Substance Abuse Programs;



- Violence Prevention Program;
- Family Violence;
- Living Skills Programs;
- Aboriginal-Specific Programs; and
- Sexual Offender Programs.

CSC also provides literacy training to those in need as well as basic education to the grade 12 level. This is critical since 82% of offenders have less than a grade 10 education and up to 65% have not even completed grade 8 prior to arriving in penitentiary.

In addition, CORCAN provides employment & employability and trades training to about 4000 offenders each year. Offenders can be employed and trained in agribusiness, construction, manufacturing, textile production and a range of services.

## **V. Conditional Release**

The majority of offenders in federal custody, almost 80%, are serving sentences of fixed length. As a result, they will inevitably be released one day. It is safer to release offenders from penitentiary gradually and under supervision, while they are still under sentence.

Conditional release is a program that allows offenders to serve part of their sentence in the community. Offenders on conditional release are not completely free and are being supervised while in the community. They have the opportunity, under the supervision and assistance of a parole officer, to become contributing members of the community. They must live by the conditions of the release, which promote safety and foster harmony between the offender and the community. If the conditions are not met, the National Parole Board has the authority to end the release and send the offender back to a penitentiary.

### **National Parole Board's Responsibility**

The National Parole Board (NPB) is an independent administrative tribunal that has exclusive authority under the *Corrections and Conditional Release Act* (CCRA) to grant, deny, cancel, terminate or revoke parole, and in certain circumstances, to detain offenders until the end of their sentences. The CCRA and its regulations direct the NPB to make conditional release decisions for offenders in federal and territorial institutions. The NPB also makes parole decisions in the 8 provinces that do not maintain their own parole boards (e.g., other than Ontario and Québec).

### **Correctional Service of Canada's Responsibility**

The NPB and the Correctional Service of Canada (CSC) are separate federal agencies within the Public Safety Portfolio, however, both work closely together. In addition to its responsibility for the care, custody and treatment of federal offenders during imprisonment, CSC provides the NPB with case information, including information collected from police and courts, and provides case by case recommendations related to release decisions. CSC is also responsible for the supervision of all released





offenders in the community. The NPB does not actually supervise offenders, however, it can return offenders to custody during conditional release based on information provided by CSC's parole officers.

In addition, CSC has responsibility for certain types of conditional release which are not under the authority of the NPB, specifically work releases, escorted temporary absences, and most unescorted temporary absences. These are short term releases and often form part of the process of planning for the offender's eventual reintegration back to the community.

### **Types of Conditional Release**

**Day Parole:** Day parole is a discretionary release by the NPB, and allows offenders to participate in community-based activities to prepare for release on full parole or statutory release, under the supervision of CSC. Offenders on day parole must return nightly to an institution or a halfway house, unless otherwise authorized by the NPB.

Offenders serving a determinate sentence are eligible for day parole 6 months before eligibility for full parole. There are different eligibility timeframes for those serving life or indeterminate sentences.

**Full Parole:** Full parole is also at the discretion of the NPB. It allows the offender to serve the remainder of the sentence in the community under the supervision of a CSC Parole Officer. Aftercare agencies such as the John Howard Society and the Elizabeth Fry Society are among the agencies that operate halfway houses (community residential facilities) under contract with CSC. Staff and volunteers of these agencies work with offenders and their families to locate employment and secure enrolment in programs.

Eligibility for full parole is normally at one-third of the sentence for those serving a determinate sentence, although in some cases of serious drug or personal injury offences, criminal organization offences, and terrorism offences the judge can set

parole eligibility at one half.

Eligibility for those serving a life sentence or indeterminate sentence as a dangerous offender is different.

**Statutory Release:** Offenders who have not been granted parole are normally subject to statutory release after serving approximately two thirds of the sentence. This is the law and is not a discretionary release by the NPB. The offender is supervised in the community and will be returned to prison if he/she is believed to present an undue risk to the public. In some cases however, the NPB can order the offender to be detained in custody for the entire sentence without statutory release, according to strict provisions in the CCRA. This is referred to as detention. Offenders serving a life or an indeterminate sentence are not subject to statutory release.

**Accelerated Parole Review (APR):** With some exceptions, offenders serving their first federal sentence for a non-violent offence must be released on full parole after they have served one third of their sentence. Release will not be directed if the NPB determines that the offender is likely to commit a violent offence or a serious drug offence, if released on parole.

**Conditions of Release:** There are 9 *standard conditions* of release for day and full parole, and for statutory release. In addition, the NPB may add *special conditions* to manage the risk of the offender. Examples are to abstain from alcohol or not to associate with certain individuals. The NPB may revoke a release if there is a breach of a condition or a new offence, or to prevent a breach of a condition.

## **Parole Eligibility**

Parole eligibility timeframes are specified in the CCRA or *Criminal Code*. An offender must usually serve the first third, or the first seven years, whichever is less, of any sentence of imprisonment before being eligible for full parole.

In the case of offenders convicted of a serious drug offence, personal injury offence, criminal organization offence, or terrorism offence, exceptionally, the sentencing court may specify that the portion of the sentence that must be served before parole eligibility is one-half or 10 years, whichever is less.

Normally, however, federal offenders become eligible for day parole six months prior to their full parole eligibility date or three years before, for offenders serving life sentences.

Different rules apply for offenders serving life sentences for murder or indeterminate sentences, such as those found by the court to be a Dangerous Offender.

Parole eligibility for lifers is set by law or by the court:

- 1st degree murder - 25 years
- 2nd degree murder - 10-25 years (determined by the judge)
- Life sentence imposed as a maximum penalty – 7 years
- Those serving a life sentence may apply for day parole 3 years prior to the full parole eligibility date.

After serving 15 years, persons serving sentences for 1<sup>st</sup> or 2<sup>nd</sup> degree murder may apply for Judicial Review under Section 745.6 (“Faint Hope” Clause) of the *Criminal Code*. The application is heard by a judge and jury who will decide if the parole eligibility date should be earlier and how much earlier. The offender can then apply to the NPB who decides whether to grant parole or not. In any case, “lifers” must serve their sentence for the remainder of their lives, whether in a penitentiary or under supervision in the community.

Dangerous Offenders’ first eligibility for parole is fixed at 7 years, with a review every 2

years thereafter.

### **Principles of Parole Decision-Making**

Six principles, which are provided in the CCRA, guide Board members in decision-making. These help to ensure that the hearing and conditional release process is fair and understandable to everyone concerned. The six principles are:

- Community protection is the most important consideration in every conditional release decision;
- All relevant information must be considered;
- Parole boards are more effective when they exchange information among their criminal justice partners and provide information about policies and programs to offenders, victims, and the general public;
- Release conditions should include the least restrictions on an offender consistent with community protection;
- Parole board actions are guided by appropriate policies; and Board members are given appropriate training;
- Offenders must receive the information that the Board will use to make a release decision beforehand, and the reasons for the decision, and the opportunity to appeal to a decision.

### **Decision Making Process**

Most parole release decisions are made after a face to face hearing with an offender in the institution where he/she is incarcerated. However, some decisions are made on the basis of a case file review only.

Decision making is based upon 3 “snapshots” of the offender:

- The “BEFORE” (past); based upon information from police and courts, family, community, education employment; criminal history; victim impact statements and a statistical probability to recidivate;

- The “NOW” (present): based upon an assessment of current problems (e.g., drugs/alcohol; mental health; behaviour; attitude; anger; violence; abuse history; learning disabilities); benefits from programs (e.g., anger management; educational upgrading; skills training; alcohol and drug treatment; sex offender treatment; psychological or psychiatric counselling); and institutional behaviour (e.g., fights; drug dealing; institutional charges OR positive behaviour, such as accomplishments and program participation).
- The “FUTURE” snapshot: an assessment of release plans (e.g., accommodation; family and community support; employment; community programs; relapse prevention; Information and opinion from police and the community; conditions to be enforced by the parole officer who will supervise the offender).

Parole hearings usually have two Board members on the panel. Three members are required for lifer cases, detention, Dangerous Offender cases, and those who are not eligible for parole until they have served half of their sentence. Board members examine all available information about the offender by way of a file review prior to the hearing. At the hearing they ask questions to gain more information and to clarify certain areas. When they have all of the information they need, the Board members discuss the case without the offender present. Each Board member votes independently and based on the results, a decision is made on whether or not to release the offender.

If the release is granted they may also set special conditions. The offender is always provided with the reasons for the decision taken by the Board. All hearings are recorded.

Offenders may choose to have an assistant help them at the hearing. The assistant may be a friend, relative, lawyer, member of the clergy, Elder, prospective employer or other person. The assistant may advise the offender and may make a presentation on his/her behalf.

The NPB will grant parole only if in their assessment the offender will not present an undue risk to society before the end of the sentence; and the release of the offender will contribute to the protection of society by facilitating his/her return to the community as a law-abiding citizen.

### **Hearings**

Anyone, including media, victims and police, can apply to observe an NPB hearing. To observe a hearing a person should apply as early as possible, preferably at least 60 days before the hearing, to permit the security check that is required by law before a visitor can be admitted to an institution. Most people who have applied in writing to attend a conditional release hearing will be allowed to attend the hearing as observers. Generally, no person under 18 years of age will be allowed to observe a hearing, however, exceptions are possible.

Offenders may choose to have an assistant help them at the hearing. The assistant may be a friend, relative, lawyer, member of the clergy, Elder, prospective employer or other person. The assistant may advise the offender and may make a presentation on his/her behalf.

The NPB welcomes victims to present a prepared impact statement at hearings. Feedback from victims has been positive. Criminal justice personnel, including police, are encouraged to observe NPB hearings to better understand the process of risk assessment and decision-making.

### **Decision Registry**

The NPB maintains a registry of all decisions, including the reasons for the decisions. Any person who demonstrates an interest in a case may apply, in writing to have access to the contents of the registry. The information shall be shared except in specific situations listed in section 144 of the Act.

### **Parole successful completions (2008 – 2009)**



- Day Parole: 84.5% of offenders completed successfully
- Full Parole: 73.4% of offenders completed successfully
- Statutory Release: 60.3% completed successfully

\*The majority of the non-successful outcomes are due to breaches of conditions of parole and not criminal acts.

### **Outcomes of Release**

In all categories of conditional release, the rate of reconviction for violent offences has declined since 1997-98.

Including non-violent offences, nine of every 10 offenders on parole do not commit a new offence, and better than 99 of every 100 parolees do not commit a new violent offence.

Over the past dozen years, more parolees have been completing their supervision period successfully, fewer parolees have been revoked for a breach of conditions, and fewer have been revoked for new offences.

## **VI. Post-Sentence Measures**

The Warrant Expiry Date (WED) is the date a criminal sentence officially ends, as imposed by the courts at the time of sentencing. While normally corrections and police agencies have no authority over an individual at the WED, an exception occurs in the case of Long Term Supervision Orders (LTSO), Section 810 Orders and persons subject to the National Sex Offender Registry.

### **Section 810 Orders**

The Correctional Service of Canada (CSC) works in close collaboration with police services. When CSC has reasonable grounds to believe that an offender who is approaching his or her Warrant Expiry Date (WED) may pose a risk to the public or an individual, a comprehensive information package is prepared 90 days prior to the offender's release to assist police in determining what action can be taken. The WED information package includes: the offender's criminal profile, correctional plan, records of institutional behaviour and psychological/psychiatric evaluations. With this information, the Crown may apply to the courts to impose a "peace bond" under section 810 of the *Criminal Code*.

Section 810 orders are preventative court orders, not punitive measures. They are available to protect the public before a criminal offence has been committed by targeting individuals who are likely to commit violent or sexual offences. This measure requires an individual to agree to specific conditions to remain crime free. Conditions typically include regular reporting requirements to police or correctional authorities, weapon prohibitions, close monitoring of the individual's activity and prohibitions against being within a specific distance of any place such as schools. Other potential restrictions, such as electronic monitoring or curfew, are also possible.

Once granted, the peace bond is in effect for up either 12 or 24 months, and may be renewed by application to a court. A breach of any condition of a peace bond is a criminal offence under section 811, and can be prosecuted in any provincial or territorial court with criminal jurisdiction.



### **Long Term Supervision (LTSO)**

Under certain conditions a court may designate an offender as a "Long Term Offender" with a "long-term supervision order" that begins upon the completion of the custodial sentence. The LTO designation is given to individuals convicted of a "serious personal injury offence" who, on the evidence, are likely to re-offend. As a result the judge may impose a period of supervision of up to 10 years in duration. On average the supervision period handed down by the courts is approximately 8 years. The provision applies to offenders who do not otherwise meet the criteria of a Dangerous Offender designation, and while they may pose a risk to re-offend, the evidence is able to satisfy the court that the offender can effectively be controlled in the community under supervision after release. Any breach of a term of the supervision order is a separate indictable *Criminal Code* offence under s.753.3, and is punishable by up to 10 years in prison.

As of April 2007, the Courts had imposed 441 LTSOs of which 71.4% were for the maximum 10 year period.

### **National Sex Offender Registry**

The *Sex Offender Information Registration Act* established a national sex offender database containing information on convicted sex offenders. This database is maintained by the RCMP and is intended to assist police in investigating crimes of a sexual nature by providing them with rapid access to current vital information on convicted sex offenders.

Following conviction and sentencing for one of the *designated* offences listed in the *Criminal Code*, the Crown can apply to the court for a Sex Offender Registration Order. The Crown can also apply for other offences if they were done with the intent to commit one of the *designated* 'sexual' offences.

Sex offenders are required to remain registered for a minimum of 10 years and up to

life, depending upon the specific charge they were previously convicted of.

In February 2008, Royal Assent was given to the *Tackling Violent Crime Act* (Bill C-2) which makes a number of changes to the *Criminal Code* in relation to sex offenders, including:

- Creation of a presumption of dangerousness, so that when an individual has been convicted three or more times of a specific violent/sexual crime, and the Crown has brought a DO application, it would be up to that person to convince the court why he/she should not be designated a Dangerous Offender;
- Requiring the Crown to declare in open court whether or not it had considered an application for Dangerous Offender status whenever any person is convicted of a third designated serious violent/sexual offence; and
- Requiring offenders who breach LTSO conditions to be re-heard as potential Dangerous Offender designations unless the court is satisfied that the risk posed by the offender could be managed with a less severe sentence.

### **Circles of Support & Accountability (COSA)**

A post sentence measure that is entirely voluntary for ex-offenders and has shown great success is known as Circles of Support and Accountability. COSAs aim to have safer communities and fewer victims by assisting and holding accountable individuals who have committed sexual offences and are re-entering society.

COSAs involve a group of 4 – 7 trained volunteers who commit themselves to support and hold accountable a person who has been detained to the end of sentence because of a sexual offence history and who is returning to the community. COSA volunteers work with community agencies, professional treatment providers like psychologists, sometimes parole or probation officers, the police, and the courts.

### **Pardons**



The National Parole Board administers the Canadian pardon system. After completion of sentence and demonstration of 3 years of law abiding behaviour, a person convicted of a summary offence may apply for a pardon under the *Criminal Records Act*. Persons convicted of indictable offences may apply after 5 years of law abiding behaviour. When a pardon is issued or granted, the federal criminal record of the individual is sealed. While 3,282,193 Canadians have a criminal record, to date less than 10% have been pardoned.