



Strengthening the  
Justice System  
for Canadians

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Department of Justice  
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Canada

Canada

# **Strengthening the Justice System for Canadians**

In the 2006 Speech from the Throne, the Government clearly expressed its intention of building a stronger Canada through a clear and focused agenda consisting of five basic priorities: accountability, lower taxes, crime, child care, and health care. As the Government's legal adviser, the Department of Justice has a role to play in all of these areas, but it has the lead on one in particular: tackling crime.

At the heart of the Department's approach to this priority is the conviction that Canadians must have full confidence in their justice system. But for that to happen, the system – and the Government – has to respond to the real concerns of ordinary Canadians, and show that those concerns are taken seriously. Above all, in matters of justice and community safety, that means showing that serious offences will be met with serious consequences.

This booklet describes some highlights of the Department's work to date in tackling crime.

## **Serious Crime Means Serious Time**

Two pieces of legislation introduced in May were specifically aimed at ensuring that those who commit serious crimes will face equally serious consequences. All too often, this has not been the case, which has undermined public confidence in the justice system and left communities feeling unprotected. Two areas of particular concern are the use of conditional sentences and the response to crime that involves guns.

### ***Conditional sentences and serious offences***

Canada's new Government believes that criminals must be held to account, that they must face punishment that matches the severity of their crime.

The public has repeatedly expressed concern about the use of conditional sentences, including house arrest, in cases involving serious offenders. In response, this Government has tabled a bill that will tighten up the existing criteria and encourage a more cautious and appropriate use of conditional sentences. (Conditional sentences are already not permitted for offences that carry mandatory minimum penalties.)

The proposed reforms would prohibit the use of conditional sentences for offences prosecuted by indictment and punishable by a maximum of 10 years or more. Those convicted of serious violent and sexual offences, crimes against children, as well as other

significant crimes, such as major drug offences and impaired driving causing death or bodily harm, would be ineligible to receive a conditional sentence.

Select weapons offences, such as assault with a weapon causing bodily harm, or possession of a firearm in a motor vehicle, would also be ineligible for conditional sentences when prosecuted by indictment.

Conditional sentences would therefore be reserved for where they are appropriate, for crimes that are less serious and for criminals who pose a low risk to community safety.

### ***Mandatory minimum prison sentences for gun crimes***

Under the proposed new legislation, crimes committed using a firearm will be subject to mandatory minimum penalties that are in keeping with the gravity of the offence. Penalties will escalate for repeat offenders or where there are aggravating factors such as a connection with a gang or when the firearm is prohibited or restricted. For such crimes, the minimum for a first offence would be five years, but it would increase to seven years if the accused has a prior conviction involving a firearm. For more than one such prior conviction, the offender would face a minimum of 10 years.

As well as increasing existing mandatory minimum penalties, the proposed legislation addresses some new offences, such as robbery where a firearm is stolen.

For that offence, and also for firearms trafficking and smuggling, the minimum penalty would go from three years for a first offence to five years where there is a prior conviction that involved firearms.

This initiative is a response both to concerns of the general public, which wants to see clear consequences for gun crime, and to calls from front-line police groups, who must deal directly and regularly with the dangers of guns and gangs.

## **Providing the Tools**

The Government's commitment to tackle crime and restore confidence in the justice system is not likely to move beyond good intentions if those enforcing the law – such as police, prosecutors and judges – are not provided with the tools and support they need to do their job effectively. This may mean creating new laws that clearly identify and address threats to society, or it may be a matter of revising and clarifying existing laws and regulations to reflect or respond to social change. Two examples of the Department of Justice's recent work are legislation to improve the DNA Data Bank laws and the creation of the new offence of street racing.

## *Strengthening the DNA data bank laws*

Canada's National DNA Data Bank has been an invaluable tool for law enforcement officers since its creation in 2000. DNA analysis can:

- link crimes together where there had been no suspects;
- help identify suspects;
- eliminate suspects where crime-scene DNA does not match a profile in the Data Bank; and
- determine whether a serial offender might be involved.

To remain effective, though, the laws that regulate the Data Bank must frequently be reviewed and updated. The new Government has introduced legislation to implement earlier reforms to the law already endorsed by Parliament in May 2005 under Bill C-13. These improvements have been eagerly awaited by the provinces and territories, as well as the police and others. Most notably, Bill C-13 expands the list of designated offences for which a DNA Data Bank order can be made.

The proposed new legislation would create a new offence for failing to appear for DNA sampling, ensure DNA Data Bank information can be used to investigate all criminal offences, and add attempted murder and conspiracy to commit murder to the offences covered by the retroactive provisions (which apply to offenders convicted of a single murder, sexual offence or manslaughter prior to June 30, 2000). Other technical amendments would also strengthen the effectiveness of the Data Bank.

### ***A new offence – street racing***

In June 2006, the Government proposed a new *Criminal Code* offence directed at the dangerous but increasingly frequent practice of street racing. This issue involves a quite literal threat to the safety of our streets.

As more and more communities have witnessed the devastating effects of street racing, including the tragic deaths of young people and innocent bystanders, the value of a law that explicitly targets the practice is apparent.

The new offence references the existing *Criminal Code* offences of dangerous driving (without causing injury or death), dangerous driving causing bodily harm, dangerous driving causing death, criminal negligence causing bodily harm, and criminal negligence causing death. However, by clearly identifying street racing itself as an activity which is not only reckless and dangerous but also a crime, with real and serious consequences, the Government is able to send a clear and strong signal to potential offenders and also to the courts that it will not be tolerated.

The proposed changes increase the maximum penalty in street-racing situations for dangerous driving causing bodily harm and criminal negligence causing bodily harm from the current 10 years to 14 years in prison. For dangerous driving causing death involving street racing, the maximum penalty would be raised from 14 years to life.

This new offence will also include escalating mandatory minimum driving prohibitions for first, second, and subsequent street-racing convictions.

## **Helping Victims and Protecting the Vulnerable**

In its efforts to produce a stronger and more effective justice system, the Government has a special responsibility for those who have been the victims of crime and for those who, because of their age or other factors, are particularly vulnerable to victimization at the hands of criminals. Canada has historically been a peaceful society where the rule of law prevails, but it is increasingly clear that no one can be sure they or someone close to them will not become the victim of a crime. We can do more to support one another in such circumstances and to safeguard those most in need of protection.

## ***Supporting victims of crime***

In April, Minister Toews, along with Minister of Public Safety Stockwell Day, launched the first annual National Victims of Crime Awareness Week, reflecting the high priority this Government places on the rights and concerns of victims. For too long, victims groups, as well as the police and the general public, have been frustrated by a system that seems to focus more on the rights of criminals than on the rights of law-abiding citizens.

The Government's approach to victims' issues was evident in the Budget, which committed \$26 million to giving victims of crime a more effective voice in the system and greater access to services. As well, the Government continues to support the Victims Fund, which has recently been expanded to help those for whom it is a hardship to attend Parole Board hearings – one of the most important opportunities for victims to get a hearing for their views and concerns and to learn about the status of the offender who has victimized them.

## ***Protecting young people from sexual exploitation***

A key component of tackling crime is protecting Canada's young people from adult sexual predators. In June, the Government followed through on its promise to introduce a bill that would raise the age of consent for sexual activity from 14 to 16 years of age, renaming it the "age of protection." This initiative is widely supported by the police and others working to protect children from exploitation, as well as by the general public.

Since the goal is to protect young people, not to criminalize sexual activity between consenting teenagers, the bill includes a close-in-age exception of five years. This exception recognizes the reality that sexual activity takes place between teens, but that this is not a matter for criminal law. It is also worth noting that the new age of protection would actually bring Canadian law more in line with international standards.

### ***Dealing with youth at risk***

The Government is committed to addressing the concerns that have been raised about the current approach to dealing with youth crime in Canada. Budget 2006 set aside \$20 million for communities to address youth crime before it happens, through crime prevention initiatives that focus on protecting our young people from guns, gangs, and drugs.

## **Judges and the Supreme Court of Canada**

As the Prime Minister has pointed out, the Supreme Court of Canada is “a vital institution that belongs to all Canadians,” and the Government has taken action to make the appointments process more open and accountable. Public confidence in the justice system as a whole cannot be separated from confidence in the court system and the judges who administer justice across the nation. A strong and independent judiciary is an essential component of a free and democratic society.

The Government broke new ground with the procedure that led up to the appointment of Mr. Justice Marshall Rothstein to the Supreme Court of Canada in April 2006. For the first time in Canada, a Supreme Court nominee was publicly interviewed by an ad hoc committee made up of Members of Parliament from all parties. This process allowed Canadians the opportunity to learn more about this person who would be serving them on the highest court in the land, and fostered a better understanding of the Supreme Court and the judicial system more generally. It did so while respecting principles of judicial independence and the appropriate relationship between Parliament, the courts and the executive.

The issue of judicial compensation raises similar themes, and the Government has moved forward on this challenging file as well. The report of the Judicial Compensation and Benefits Commission included, among other recommendations, a call for a 10.8% increase in

salary for federal judges. While agreeing with most of the Commission's recommendations, the Government proposed a modified salary increase of 7.25%. The issue will be considered by Parliament, which has the ultimate authority for such expenditures from the public purse.

## **Director of Public Prosecutions**

The Government will be creating an Office of the Director of Public Prosecutions, separate from the Department of Justice, to conduct prosecutions for offences under federal jurisdiction. This greater degree of independence will be especially valuable for prosecuting the new fraud offences proposed in the *Federal Accountability Act* concerning employees of the federal government and Crown corporations. The Director will be selected and appointed through an open and non-partisan process, similar to that used recently to appoint Justice Rothstein to the Supreme Court of Canada.