

BACK COVER PAGE OF
HOUSE OF COMMONS DEBATES
OFFICIAL REPORT (HANSARD)
VOL. 144, NUMBER 084
18 SEPTEMBER 2009



PAGE DE DOS
DÉBATS DE LA CHAMBRE DES
COMMUNES
COMPTE RENDU OFFICIEL (HANSARD)
VOL. 144, NUMÉRO 084
18 SEPTEMBRE 2009

If undelivered, return COVER ONLY to:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

En cas de non-livraison,
retourner cette COUVERTURE SEULEMENT à :
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of
the House of Commons

Publié en conformité de l'autorité
du Président de la Chambre des communes

SPEAKER'S PERMISSION

PERMISSION DU PRÉSIDENT

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Additional copies may be obtained from: Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
<http://publications.gc.ca>

On peut obtenir des copies supplémentaires en écrivant à : Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
<http://publications.gc.ca>

Also available on the Parliament of Canada Web Site at the following address: <http://www.parl.gc.ca>

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : <http://www.parl.gc.ca>

TABLE OF CONTENTS

	Page
CHAPTER ONE: INTRODUCTION	
A. Background	1
B. Framing the Issues	2
C. Structure of the Report	7
CHAPTER TWO: PUBLIC ATTITUDES	
A. Severity of Sentence	9
B. Knowledge of Crime	10
C. Use of Incarceration	10
D. Sources of Information About Sentencing	11
E. Conclusion - Policy Implications	11
CHAPTER THREE: THE NEEDS AND INTERESTS OF VICTIMS	
A. What Canadian Victimologists Have to Say	13
1. Victims' Interests	13
2. Victim Impact Statements	15
a. The United States	15
b. France	17
c. An Approach to Victim Impact Statements	17
3. Recommendations Made to the Sentencing Commission Regarding the Victim's Role in Sentencing and Related Processes	18
4. Approaches to Crime Prevention	19
B. The Present Canadian Situation - Bill C-89	20
C. The Committee's Response	21
1. Bill C-89	21
2. The Provision of Information to Victims	22
3. Making Maximum Use of Victim Impact Statements	25
a. At Plea and Sentencing	25
b. Use of Victim Impact Statements (and other Sentencing Information) by Correctional Authorities	27
CHAPTER FOUR: THE RECENT HISTORY OF SENTENCING REFORM IN CANADA	
A. Ouimet Report	29
B. Hugessen Report	31
C. Goldenberg Report	32
D. Law Reform Commission of Canada Report	33
E. The Criminal Law Review	35
1. The Criminal Law in Canadian Society	35
2. Bill C-19 and Accompanying Policy Statement on Sentencing	37
3. The Canadian Sentencing Commission	38
4. Continuing Consultations by the Department of Justice and the Ministry of the Solicitor General	40

**CHAPTER FIVE: THE SEARCH FOR A SENTENCING PURPOSE
AROUND WHICH CONSENSUS CAN BE BUILT**

A. Public Protection	44
B. Offender Accountability/Responsibility, Rather than Punishment	46
C. Victim Reparation	48
D. Incapacitation and Denunciation	48
E. Alternatives to Incarceration	49
F. Offender Rehabilitation	51
G. Preserving the Authority of and Promoting Respect for the Law	53
H. Canadian Sentencing Commission Suggestions	53
I. Summary of Committee's Views	53

**CHAPTER SIX: SENTENCING REFORM - SENTENCING GUIDELINES
AND MINIMUM AND MAXIMUM SENTENCES**

A. Background to Reform	59
1. Violence: Perception and Reality	59
2. Public Mistrust of the Criminal Justice System	59
B. Sentencing Guidelines	60
C. Minimum Sentences	68
D. Maximum Sentences	72

**CHAPTER SEVEN: SENTENCING REFORM - SENTENCING ALTERNATIVES
AND INTERMEDIATE SANCTIONS**

A. The Goals and Failure of Incarceration	75
B. Alternatives and Intermediate Sanctions	75
1. Community Service Orders	79
a. Historical Perspective	79
b. What is Community Service?	79
c. Advantages of Community Service Orders	79
d. Relationship of Community Service to Sentencing Goals	79
e. Issues of Concern	81
i. Legislative Authority for Community Service Orders in Various Jurisdictions	81
ii. Maximum Number of Hours of Community Service	82
iii. Disparity	83
iv. Assessing/Excluding Some Offenders	83
v. Prison Alternative or Net Widening?	84
vi. Evaluation	85
2. Alternative Sentence Planning	86
a. The Canadian Experience	86
b. The American Experience	88
c. The Committee's Opinion and Recommendations	89
3. Victim-Offender Reconciliation Programs	90
a. In General	90
i. What is Victim-Offender Reconciliation?	90
ii. How it Works	91
iii. Benefits of Victim-Offender Reconciliation	91

iv. Evaluation of Mediation Services and Other Reconciliation Programs	92
b. Oklahoma Post-Conviction Mediation Program	93
c. Genesee Justice - Dealing with Violence	94
d. The Committee's Opinion and Recommendation	96
4. Restitution	98
a. Canadian Law	98
b. Restitution in Conjunction with Victim-Offender Reconciliation Programs	99
c. Enforcement	100
d. Committee Recommendations	100
5. Enhanced Probation Services	101
a. What is Probation?	102
b. Probation in Conjunction with Conditional Discharges and Suspended Sentences	104
c. Enforcement of Probation Orders	104
d. Special Conditions/Services Associated with Probation	105
i. Alcohol or Drug Treatment or Abstinence	105
ii. Employment Orders	105
iii. Personal Counselling and Life Skills	106
iv. Shoplifting Counselling	107
v. Treatment for Assaultive Males	107
vi. Evening/Weekend Attendance Centres	108
vii. Probation Hostels and Community Residential Centres	109
e. Intensive Probation Supervision	112
i. The Georgia Program	112
ii. The Swedish Model	114
iii. Canadian Proposals	114
6. Home Confinement, House Arrest and Electronic Surveillance	117
7. Sentencing Alternatives that Shorten or Re-arrange the Period of Imprisonment (Periodic, Intermittent or Weekend Detention)	120
8. Fines	122
C. General Recommendations of the Committee	123
CHAPTER EIGHT: CURRENT FORMS OF CONDITIONAL RELEASE	
A. Introduction	129
B. Forms of Conditional Release	129
1. Temporary Absence	130
a. From Federal Penitentiaries	130
b. From Provincial Prisons	130
2. Parole	131
a. Day Parole	132
b. Full Parole	133
i. Generally	133
ii. Special Categories of Offences and Offenders	133
° Violent Conduct Offences	133

◦ Murderers.....	134
◦ Dangerous Offenders.....	134
iii. Parole by Exception	134
3. Mandatory Supervision	135
a. Generally	135
b. Detention Orders, Residency and One-Chance Mandatory Supervision (Bill C-67)	136
4. Mandatory Terms and Conditions of Release	138
C. Unconditional Release	139
CHAPTER NINE: THE RECENT HISTORY OF CONDITIONAL RELEASE REFORM IN CANADA	
A. Early Days	141
B. Proposals for Reform and Other Developments Since 1969	142
1. Ouimet Report	142
2. Hugessen Report	143
3. Goldenberg Report	145
4. Law Reform Commission Report	146
5. Peace and Security Legislation	147
6. Nielsen Task Force	148
7. Bills C-67 and C-68	149
8. Canadian Sentencing Commission	149
9. Correctional Law Review	150
10. Solicitor General's June 1988 Proposals	150
CHAPTER TEN: THE RELEASE PROCESS	
A. Jurisdiction of Parole Boards	153
1. The National Parole Board	153
a. Organization	153
b. Composition	153
2. Provincial Parole Boards	154
B. Federal Release and Termination Processes	154
1. The Obligations of the National Parole Board	154
2. Obligations of the Correctional Service of Canada	155
a. Provision of Programs	155
b. File Preparation	155
c. Release Supervision	155
3. File Study by the National Parole Board	156
4. A Hearing	156
5. Decision-Making	157
a. Criteria and Risk Assessment	157
i. Psychiatric and Psychological Assessments	160
ii. Risk Assessment	161
b. Voting	162
c. Suspension or Revocation of a Conditional Release	163

d. Re-examination Where Parole Denied or Revoked	164
e. Judicial Review of National Parole Board Decisions	164
6. The Role of a Parole Supervisor	164
CHAPTER ELEVEN: IMPROVING THE QUALITY OF RELEASE DECISIONS	
A. In General	167
B. Appointment of Board Members	168
C. Training of Board Members	169
D. Information Exchange	171
E. Public Parole Hearings	172
F. Victims and the Parole Board	173
1. Victim Information Considered at Parole Hearings	173
2. Victim Participation at the Hearing	173
G. Relationship of Correctional Service of Canada and National Parole Board	174
H. Risk Assessment	175
1. Background	175
2. The Difficulties Associated with Predicting Violent Recidivism	178
CHAPTER TWELVE: THE FUTURE OF CONDITIONAL RELEASE	
A. Introduction	185
B. The Retention of Conditional Release	185
C. Full Parole	188
1. Decision-Making Criteria	188
2. Eligibility	188
3. Amount of Time Actually Served	190
4. Parole as a Privilege	191
D. Day Parole	192
E. Temporary Absence	193
F. Earned Remission	195
CHAPTER THIRTEEN: PAROLE SUPERVISION:	
A. Employees of the Correctional Service of Canada	197
1. In General	197
2. Caseloads	197
3. Training Opportunities	198
B. Employees of Private Sector Agencies	199
C. Halfway Houses	199
1. In General	199
2. Halfway House Standards	199
3. Community Involvement	200
4. Special Classes of Offenders	201
5. Programming	202
6. Specialized Halfway Houses	202
CHAPTER FOURTEEN: OVERVIEW OF CORRECTIONAL PROGRAMS	
A. In General	203

B.	Community Involvement in Programs	203
C.	Citizens Advisory Committees	204
D.	Commissioner's Task Forces	205
E.	Program Resources	205
F.	Program Continuum	206
G.	Long-Term Programs	207
H.	Sex Offenders	208
I.	Special Groups of Offenders	209
J.	Final Comments	209

CHAPTER FIFTEEN: NATIVE OFFENDERS

A.	Overview	211
B.	Sentencing	211
C.	Institutional Programming	212
D.	Conditional Release	214
E.	Native Community Involvement	217

CHAPTER SIXTEEN: WOMEN IN CONFLICT WITH THE LAW

A.	The Context	219
1.	Women and Crime	219
a.	The Offences with which Women are Charged and for which they are Imprisoned	219
i.	National Charges	219
ii.	Sentenced Admissions to Provincial/Territorial Institutions	220
iii.	Penitentiary Admissions	220
b.	Data Submitted About Female Offenders in Saskatchewan	220
i.	Population Profile at Pine Grove, June 1986	221
ii.	Characteristics of Pine Grove Inmates	222
2.	The Need for Research	223
B.	Community Sanctions	223
1.	Fine Options and Community Service	224
2.	Education, Treatment and Self-Help Models	225
a.	Shoplifting	226
b.	Substance Abuse and Sexual Abuse	226
c.	Work Adjustment/Employment Readiness	228
3.	Community Involvement in Community Sanctions	228
C.	Halfway Houses	229
D.	Prisons for Female Offenders	231
1.	Distribution and Size of Women's Prisons	231
2.	Classification of Female Prisoners	232
3.	Prison Programming	234
a.	General Concerns	234
b.	Release Planning	235
i.	Release Planning Services and Programs	235
ii.	Parenting as Women's Work	235
c.	Native Women	236

i.	Background	236
ii.	General Program Implications	237
iii.	Release Planning	237
d.	Specific Concerns Related to the Possible Closure of the Prison for Women and to Federal-Provincial Exchange of Service Agreements	238
i.	Education	238
ii.	Work Placements	238
iii.	Family Visiting	238
iv.	Other Programming	239
v.	What Can Be Done?	239
	CHAPTER SEVENTEEN: CONCLUSION	243
	APPENDIX A: List of Recommendations	245
	APPENDIX B: Terms of Reference	269
	APPENDIX C: Witnesses	273
	APPENDIX D: Written Submissions	289
	REQUEST FOR GOVERNMENT RESPONSE	297
	MINUTES OF PROCEEDINGS	299