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“All of our contact with the Crown’s office [shows us] the accused’s rights, not our rights. It is very clear that the Crown does not represent us.”

Diane Taylor, aunt of slain teenager Cara Taylor, speaking at the SafetyNet forum Victimization: Dealing with the Courts

Border Security: Committee Members

Chair:	Hon. Doug Lewis, Former Minister of Justice and Solicitor General of Canada
Facilitators:	Neal Jessop, President, Canadian Police Association
	Chief Barry King, Sault Ste. Marie Police Service
	Mansel Legacy, National President, Customs Excise Union
Delegates:	Richard Proulx, Federal and Foreign Services, RCMP
	Ed Leonard, CAVEAT
	Rebecca Scott, Canada Employment and Immigration Union
	Andrew White, Customs Inspector
	Art Hanger, Member of Parliament, Calgary N.E., Alberta
	Carol Fletcher Dagenais, Private Consultant
	Ben Eng, Former Metro Toronto Police Sergeant
	Frank Marrocco, Q.C.

Border Security

The Border Security Committee of the SafetyNet Conference has compiled recommendations to reflect the growing need to interdict the existing crime, violence, smuggling and illegal immigration activities threatening the safety and security of the Canadian public. To enhance the safety and security of Canadians, the committee recommends:

1.The creation of a Border Protection Service under the umbrella of the Solicitor General to coordinate the functions presently performed in part by CSIS, RCMP, Immigration, Revenue Canada Customs & Excise and the Solicitor General of Canada in order to avoid duplication and to increase efficiency and effectiveness. The Border Protection Service should also include a dedicated border patrol, encompassing marine and land units, to ensure the integrity of border protection between designated points of entry.

2.That the protection of Canadian society be the first priority of Border Protection Services.

3.That the House of Commons review the means of providing protection against the illegal entry of persons, the importation of illegal substances and materials, and protection of personal security at Canada's borders.

4.That Border Protection Services be provided with the technology to quickly place accurate and timely information at the disposal of all border protection officers.

5.That protocols be created to ensure the maximizing of resources between the appropriate federal, municipal, and provincial authorities when dealing with violators arriving by water, land, and aircraft who may not have been initially apprehended at a designated border crossing.

6.That sworn Canadian Police Officers be given authority to enforce the appropriate sections of the Customs Act.

7.That Border Protection Officers be granted full peace officer status, that they be fully trained and properly equipped and armed when and where necessary.

8.That students working at border points not be exposed to situations for which they have not been fully trained or equipped.

9.That the department of the Solicitor General of Canada should act as a clearing house for comprehensive

crime statistics as submitted by all police jurisdictions in Canada.

10.That the Immigration Act and the Criminal Code of Canada be amended to allow for an order of deportation by the sentencing court of persons convicted of an indictable offence which carries a penalty of ten years imprisonment or more, if they are currently of a status to which deportation applies, and further, that the travel documents be obtained forthwith, and that the person remain in confinement until such time as travel documents are available and removal occurs.

11.That the Transfer of Offenders Act be amended so as to allow the Crown in the right of Canada to initiate the transfer of foreign nationals to complete their sentence in a custodial setting in the country of their origin.

12.That the Immigration Act be amended so as to provide that any persons convicted of an indictable offence which renders them liable to imprisonment of ten years or more be disentitled to any further claim or grant of refugee status.

13.That persons who are to be removed from Canada be fingerprinted, their fingerprints be sent to the RCMP Identification Services, and that their biodata be entered in CPIC in the deportation category.

14.That the government of Canada pursue a Memorandum of Understanding with the government of the United States which would provide for safe third country protection to address the issue of sharing our refugee determination obligations. The committee recognizes a refugee's right to seek protection in Canada. (A large portion of Canada's refugee intake is in transit through the United States, a signatory to the UN Convention.)

15.That all legislation and policy regarding border protection should acknowledge that "voluntary compliance" is not appropriate as a guiding principle when dealing with border security, but may apply to tax collection.

16.That the government vigorously pursue a policy of requiring airlines to cooperate fully in efforts to deter illegal immigration.

There is persistent and growing public concern over criminality of non-citizens. There is also serious concern about the cumbersome and costly Immigration appeal process which currently exists. The committee feels that unless a more stringent and streamlined removal and appeal system is implemented immediately, upon conviction and after appeals of any criminal offense which carry a penalty of ten years or more, that there will be a public demand for mandatory deportation to occur without right of appeal (of the deportation).

"I am going to do everything in my power to prevent those disasters from happening in the future. I also want good decisions to be quality-controlled, so that people can learn from their colleagues how to make good decisions."

Willie Gibbs, Head of the National Parole Board, speaking at the SafetyNet forum Victimization: Dealing with Corrections and the Courts

Community Standards and Child Exploitation:

Committee Members

Chair:	Justice John McGarry, Ontario Court of Justice, General Division
Facilitators:	Linda DeBelser, President, Child Find Canada
	Chief Julian Fantino, London Police Service
	Nancy Toran-Harbin, L.L.B., C-CAVE
Delegates:	Pamela Hurley, London Family Court Clinic
	Bill Johnstone, President, Canadians for Positive Community Standards
	Audrey Krushel, President, Group Against Pornography
	Marion Standret, CAVEAT Corporate Secretary
	Patricia Herdman, Founder, Coalition for the Safety of Our Daughters
	Monica Rainey, Citizens Against Child Exploitation

Community Standards and Child Exploitation

Summary

Present-day anxiety over the occurrence and promotion of violence, especially that which is directed towards the young people of Canada, has reached widespread proportions. We are also acutely concerned about the profit achieved through the commission of crimes causing extraordinary human trauma and anguish to children, family and friends as victims of violent crime and the publication and distribution of material including serial killer trading cards, serial killer board games, pornographic materials and other like materials serve absolutely no use whatsoever except to glorify violence and can result in the exploitation and victimization of children by breaking down the inhibitions of children. We urge that the Minister of Justice support the enactment of legislation prohibiting the manufacturing, production, distribution and possession of materials including all such serial killer cards, serial killer board games, pornographic materials and other like materials.

Concerning Canadian satellites used to transmit explicitly sexual and violent material into foreign jurisdictions in breach of such jurisdictions' legislation: It is desirable public policy to respect foreign jurisdictions' communications regulations which promote public health and safety, and decry violence, exploitation, and victimisation: in particular, victimisation of women, children and vulnerable groups.

We recommend that the Canadian government enter into negotiations with the international family to ensure any such laws, regulations or policies intended to regulate material which is degrading, dehumanising or violent are not contravened by the international family. We recommend this matter be addressed by the appropriate provincial and federal ministries and regulating bodies.

We recommend the implementation of a national registry for DNA test samples. Such a registry would serve both to promote public safety and the use of cost effective methods in crime detection and prevention. A national registry would take those samples required in the investigation of an offence and serve as a repository to identify offenders in any future investigations. The accused is to be required to provide samples for DNA testing where the Crown attorney is relying on forensic samples for the case.

We recommend mandatory testing for HI virus for those charged with offences when there is a possibility that the victim could have contracted the HI virus from the offender. To preserve the rights of the accused, police

officers must go before judicial authority to receive permission for such testing. In this way, unwarranted testing will be avoided. Results of this testing are not to be used on an incriminatory basis during criminal prosecution since it is primarily for the peace of mind of the victim.

Section 163, Subsection 6 of the Criminal Code provides definitions of those cases in which child pornography is acceptable and possession, production or distribution is not an indictable offence. Included among these exemptions is that of “artistic merit”. We recommend that this exemption be removed from the Criminal Code. Under no circumstances can an activity which sexually exploits children and causes such irreparable harm be considered worthy of “artistic merit”. Consideration of the contents of such material and its effects must come before consideration of its artistic significance. We recommend that “artistic merit” be removed as a defense to the possession, production or distribution of child pornography.

Girls as young as 14 years of age have been discovered stripping and lap dancing in “adult entertainment” establishments in Ontario. Young people are entitled to protection from such exploitation. We recommend legislation (such as an amendment to the Liquor Licensing Act) to prohibit minors from entering an adult entertainment establishment for any purpose whatsoever.

We recommend the creation of a National Child Abuse Registry. Such a registry would work in the same way as bonding at a financial institution; in order to work with children in a position of trust (such as a teacher or babysitter), the onus is upon the prospective employee to produce an updated, recent certificate from the registry to prove that the individual has no previous convictions for sexual offences against children. By putting the onus on the prospective employee to obtain a certificate instead of on the employer to search the registry, we are eliminating the risk of invading the privacy of everyone listed on the registry.

We acknowledge that those who sexually offend against children are highly likely to recidivate. Accordingly, we recommend that if such offenders are to be released into the community, measures be undertaken to inform the community of the offender’s release. Police should receive communications (including a full history) about the offender. In the case of a high-risk offender, the police should be empowered to obtain clearance from the appropriate authority to release the name and photograph of the offender to the community. Corrections Canada should provide resources to preserve the community’s safety. If surveillance is required, Corrections Canada should provide the manpower. If the offender has a history of working with any organization in which children may be at risk, such organisations must be informed.

Since rates of recidivism for those convicted of sexual offences against children are extremely high, and treatment can at no point be considered a cure for those classified as sexual predators, we strongly recommend that those convicted of sexual offences against children be considered appropriate candidates for dangerous offender status when recidivism has occurred or seems likely to occur.

Legislation does not exist which imposes conditions or supervision upon an offender who has served his/her full sentences (warrant expiry). The former Solicitor General proposed probation provisions and supervision or continued incarceration for an indefinite period of time for individuals about to be released who have been identified as high-risk offenders. We recommend and urge the enactment of such post-release legislation. Such legislation must allow for the application for “dangerous offender” status by either a judge or Crown Attorney from the time of sentencing until the end of the sentence inclusive. Restrictions regarding the assessment of an individual’s future behaviour should be removed from the Criminal Code.

Section 160 of the Criminal Code regarding sentencing for bestiality is 10 years. Section 153 of the Criminal Code regarding sentencing for sexual exploitation of a young person is 5 years. The rights of a child should at minimum be not less than the rights of a beast. We recommend the sentencing provisions of Section 153 be amended to 10 years.

Section 153 (1) of the Criminal Code (regarding sexual exploitation of a young person) refers to “every person who is in a position of trust or authority” or “in a relationship of dependency”. We acknowledge that age disparity alone (wherein the offender is older than the young person) establishes the perpetrator as a “person who is in a position of trust” with respect to the young person. We recommend Section 153 (1) of the Criminal Code be amended to include, “or there is an age differential creating a pseudoauthoritative position”.

A young person in Canada is prohibited from: driving a car until the age of 16; purchasing cigarettes until the age of 18; and purchasing alcohol until the age of 19. Young persons are permitted to make decisions such as to live on the streets and sell their bodies at the age of 14. Canada has ratified the Geneva Convention article which defines a child as any person under the age of 18 years. We recommend adoption of the definition of a child as any person under the age of 18 years for the purposes of the Criminal Code. Since this definition would make sexual relations with anyone under the age of 18 a criminal offence, we further recommend that amendments be made which recognize factors of exploitation. Exceptions respecting sexual relations between minors who are peers should be acknowledged.

“Sex Tours” promote and lead Canadian residents to sexually exploit and victimize children in foreign jurisdictions. We recommend legislation be introduced to broaden the Criminal Code to include as extraditable offences, the sexual exploitation and victimization of children perpetrated by Canadian residents, wherever committed, including foreign jurisdictions. Recruiting or solicitation for the purposes of the sexual exploitation and victimisation of children would be included as extraditable offences.

Due to the number of children disturbed by the violent and sexually explicit material presented in newscasts, broadcasting and advertising, we recommend that such material be restricted to appropriate adult viewing hours e.g. 10 pm to 6 am, such as has been put into effect in the state of Minnesota.

We would like an opportunity to speak with the Justice Committee to articulate further and emphasize the extent of our concerns regarding the accountability of the Justice Committee in addressing these areas.

Recommendations

1.We urge that the Minister of Justice support the enactment of legislation prohibiting the manufacturing, production, distribution and possession of materials including all such serial killer cards, serial killer board games, pornographic materials and other like materials.

2.We recommend that the Canadian government enter into negotiations with the international family to ensure any such laws, regulations or policies intended to regulate material which is degrading, dehumanising or violent are not contravened by the international family.

3.We recommend the implementation of a national registry for DNA test samples. The accused is to be required to provide samples for DNA testing where the Crown attorney is relying on forensic samples for their case.

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5.We recommend that “artistic merit” be removed as a defense to the possession, production or distribution of child pornography.

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10.We recommend the enactment of legislation to allow for the application for "dangerous offender" status by either a judge or Crown Attorney from the time of sentencing until the end of the sentence inclusive. Restrictions regarding the assessment of an individual's future behaviour should be removed from the Criminal Code.

11.We recommend that the sentencing provisions of Section 153 of the Criminal Code be amended to 10 years.

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"When we pick jurors, we know very little about them."

Bruce Hillyer, Past-President, Ontario Trial Lawyers'Association, panellist at the SafetyNet forum Victimization: Dealing with the Courts

Crime Prevention: Committee Members

Chair:	Dr. Bob Horner, Former Chair of Commons Justice Committee
Facilitators:	Wendy Cukier, President, Coalition for Gun Control,
	David Kilgour, M.P. Edmonton S-E, Alberta,
	Deputy Speaker, House of Commons
	Chief Robert Middaugh, Hamilton-Wentworth Regional Police
Delegates:	Victor Dumesnil, National Vice-President, Customs Excise Union
	Donna French, Delegate
	Dr. Mark Genuis, Psychologist
	Howard Sapers, Member of Legislative Assembly, Alberta,
	Past Director John Howard Society
	Chris Simmonds, CAVEAT-BC, Chairman
	Dave Pratt, Councillor, City of Nepean
	Inspector John Grant, RCMP, Community Policing Branch
	Dr. Alison Cunningham, London Family Court Clinic
	Daina Mueller, Public Health Nurse

Crime Prevention

Summary

Striking at the roots of crime is more effective than reacting to it. Some may be skeptical that the emphasis on crime prevention is simply a way of avoiding the hard tasks of justice reform. However, the old adage that “an ounce of prevention is worth a pound of cure” is demonstrated through an objective analysis of the economic payoff for preventative programmes. Many of the victims of crime and their families are leading the efforts to promote strategies to prevent others from suffering with loss and pain as they have suffered.

The committee has defined a series of principles which form the foundation for its approach to crime prevention. First, individuals must take responsibility for their actions. We also believe, however, that crime prevention is everyone’s responsibility and that community recognition and ownership of our problems are essential to implementing effective solutions. Decisive political leadership and accountability are required. Words must be translated into action. Protecting society from crimes of violence must be a priority. Across Canada, there are crime prevention programmes which have been effective, and we need to disseminate information about solutions that work.

The committee examined solutions at the primary, secondary and tertiary level. Primary prevention is fundamental, and strikes at the roots of crime. Early investment in prevention reduces cost later. We must pay particular attention to supporting healthy families and to lowering tolerance of violence. Another key goal is to coordinate services for the prevention of substance abuse.

Secondary crime prevention measures are aimed at reducing individual and situational risks which may give rise to crime. Among these are improving mechanisms to identify and serve children at risk. We must also reduce opportunities for crime, and break the cycle of family violence. Education and training are needed for service deliverers. We must increase awareness of the consequences of individual actions. Firearms control is an important part of the solution.

Tertiary measures are needed once a crime has occurred, to ensure that society’s response is quick and effective. Persons committing crime under the influence of a substance must be held accountable for their actions. We need to develop appropriate mechanisms to identify and deal with problems in children not covered by the Young Offenders Act (YOA). We must also provide mechanisms to protect victims. Sentencing must be swift, certain and appropriate to the crime, particularly for violent and repeat offenders. At the same

time, alternative measures may be useful, especially for non-violent crime. Violations of existing court orders should lead to greater penalties, and sentencing should promote general deterrence, thus sending out a message to the community.

The recently created National Crime Prevention Council (NCPC) must be action-oriented. The Standing Committee on Justice and the Solicitor General should confer with the NCPC Chair on at least an annual basis to review the Council's results and performance, and to report its findings to Parliament.

Principles

The Committee spent some time discussing the core values which must form a basis for crime prevention strategy. These include the following:

.Individuals must take responsibility for their actions. While there is a wide range of contributing factors, ultimately it is individuals who make choices, and they must be held accountable for these decisions.
.Crime prevention is everyone's responsibility. Community recognition and ownership are essential to effective crime prevention. As with the physical environment, we require collective will and action to effect the broad changes needed to make our communities safer.
.Decisive political leadership and accountability are essential. There have been innumerable studies, reports and commissions on crime prevention, but we need action and the political will to enable change.
.An investment in prevention now reduces costs later. While considerable attention and resources are invested in responding to crime, preventing crime is preferable to reacting after the fact. As well, there is ample evidence that an early investment can yield significant benefits. The Perry Preschool project, for instance, showed that for every $1 invested in programmes aimed at crime prevention, $5 was saved in justice system and other costs. A fundamental principle is that we must invest now in prevention or pay later.
.Appropriate resources must be available and be coordinated. Currently, only a small fraction of the money spent on policing, courts and corrections is available for prevention programmes. Moreover, there is much duplication, and there are many gaps in the services available. In the community there is a need to develop a coordinated approach with appropriate resources.
.Crimes of violence (application of direct or indirect force against a person) must be distinguished from other offences at all levels in the system by principal stakeholders.
.We must focus on effective change strategies and implementation. New policies are frequently developed to promote crime prevention but there is no corresponding attention to the way in which change can be actualized or implemented. Every policy or strategy, whether it be community policing, zero tolerance for violent offences, or countering the culture of violence, must be coupled with an implementation plan to ensure that change is realized with appropriate training, resources, communication, accountability and evaluation.
.We need sharing and learning of best practices. There are many examples of approaches and projects which have been effective. We need mechanisms to promote sharing and learning across the system.
.We want action and accountability at all levels. We must develop mechanisms to reinforce accountability at all levels for crime prevention. Politicians must be asked to account for their actions in response to reports or recommendations; stakeholders in the system must be subject to appropriate evaluation, and all pertinent information must be shared.

Recommendations

Primary Prevention

Primary prevention is the most effective crime prevention strategy—it strikes at the very roots of crime. If one regards crime as a social disease, primary prevention is aimed at preventing the disease from taking root.

While there is considerable evidence of the links between social ills and crime, social development is not always understood as part of a crime prevention strategy. We need a paradigm shift in how people think about social problems to increase recognition of the links between crime and other social ills. Many of the same factors contribute to crime, poor health and substance abuse; consequently, there are strong links between crime prevention and health promotion. Substance abuse, in particular, is tied to many forms of violent and property crime.

1.Increase public education and awareness of the causes of crime and effective prevention measures (e.g. social development, housing, poverty, food services, health services).
2.Inequality and discrimination are also contributing factors and we must promote equality of race, sex, ability, religion, national origin (Charter: Section 15).
3. Prevention of substance abuse is critical.
4.Sharing information about effective programmes should be promoted at all levels. We know that primary prevention begins with children. The care a child receives in the formative years is crucial. Developing healthy families is the key to developing healthy children and healthy communities.
5.Support for healthy family development and parenting must be treated as core to crime prevention. At the same time, there are realities which make many families unable to provide adequately for the physical, social, psychological and moral development of children. Many parents need help, and there should be strong links between parents, school and the community in caring for children. Life skills and parenting training, for example, would be of benefit to the children. Emergency daycare and crisis support for single parents, and programmes aimed at helping teenage mothers are essential to ensuring that children's needs are placed first. There are a variety of ways in which the community and schools can reinforce and support the development of healthy children and help to build resiliency—the ability of children to respond to pressures, temptations, and impulses in a healthy way.
6.Community services and child welfare must be integrated with family action and school interventions to help meet the needs of children

7.Encourage partnerships, cooperation and integration of services among various ministry agencies and community organizations, with a view to providing better access to these services.
8.Programmes for life skill training and parenting should be promoted. The culture of violence is pervasive and normalizes violent and antisocial behaviour. The media is a major contributor. Helping children develop positive self image and skills needed to deal with conflict builds resilience and encourages more constructive responses. Programmes such as peer mediation, Project Adventure, and Compassion in the Classroom, as well as organizations such as CAVEAT, PACE, DARE are models of effective intervention.
9.We must promote programmes which build self-esteem, confidence, responsibility, self worth and trust in children.
10.We must undertake programmes to reduce and counter violence in the media.
11.We must lower the tolerance for violence through effective conflict resolution programmes.

Secondary Prevention

Secondary prevention is directed at individuals and circumstances where risk of crime has been identified. Again, to use the disease metaphor, secondary prevention is directed at the individuals who have one or more of the characteristics, or live under those circumstances, which are known to put them at risk. Secondary prevention is directed at individuals and situations which may have exhibited early symptoms of what might develop into a major problem.

The factors which place children at risk for crime are well-known. Educators emphasize that children at risk can often be identified at a very early age, but that the resources and mechanisms are not available to deal with their initial symptoms. Interventions at a later date are far less effective. Child welfare must be a core value at all levels. There is ample evidence to show the links between risk factors, crime and victimization. At the same time, early interventions have been shown to be successful. While the family is at the centre of meeting children's emotional, moral and physical needs, we can build resiliency in children-at-risk by providing support through the community and the school. We must strengthen these resources. As well, it is evident that the current fragmentation of responsibilities poses problems, and that we need coordinated responses by families, schools and the community. Teachers are often the first to identify problems but may need additional training and support in order to initiate effective interventions. The committee, therefore, recommended that the appropriate agencies work together to:

12.Establish mechanisms to identify children at risk at an early age.

a) Educate and empower families to respond by accessing support services.

b) Provide mechanisms to empower action by the parent/school/community.

13.There must be increased focus on child welfare and building resiliency in children.

14.Respond quickly and appropriately to individuals and situations which present risks to society.

15. Coordinate community/parents/school efforts to help children at risk.

16.Ensure that high-risk children are channelled into programmes to build self-esteem, trust and confidence.

Currently, a wide range of services is available in communities, but many potential users are not aware of them or are reluctant to take advantage of them because of the way in which they are provided. A client-centred focus is essential to the provision of support whether for crime prevention, social services or victim services, to ensure that available services are used. Accessibility must be considered in terms of language, literacy levels, location, and appropriateness. While professionals and "experts" are needed in some situations, the value of peer support cannot be underestimated. A fundamental concern is ensuring that the provider can effectively understand and communicate with the client. In dealing with students and parents, schools are a natural focal point. For some constituencies, a school is a less threatening environment than, for example, a social service agency or police station. Home-based service delivery is also appropriate in some cases.

17.Services must be user driven, easily accessible, flexible and centred on meeting client needs.

Opportunity reduction refers to initiatives aimed at making the commission of a crime more difficult. For example, safety audits to assess lighting and security of our physical surroundings have been effective in promoting personal safety. Locks and detectors discourage theft. Sites publicizing that they are equipped with alarm and surveillance systems are less likely to be targets. Personal safety programmes may help individuals avoid victimization. In addition, there are many devices, mechanisms and features which can be designed or retrofitted into products, such as cars, to make theft more difficult. Gun control is also part of opportunity reduction—reducing access to firearms reduces the likelihood that they will used, for example, to escalate an argument to an impulsive homicide. Some communities have active programmes to promote "target hardening" or opportunity reduction. Effective measures need to be documented, and all stakeholders—individuals, merchants, designers, manufacturers, police—should play an active role. The committee recommends that:

18.We focus our attention on promoting and implementing effective ways to reduce opportunities for crime.

19.We concentrate on firearms control as an important part of crime prevention

Education is critical to effecting change. Not only is there a need to raise public awareness of the problems and effective solutions, but individuals at all levels in the system must be given the appropriate skills to enable them to work together at crime prevention. In certain sectors, more emphasis on accreditation may help to raise standards and consistency of service.

20.We must encourage appropriate education, training and accreditation for stakeholders and service deliverers.

There is ample evidence that children who are abused or who witness abuse are more likely to become abusers. For this reason, domestic violence is not only an issue of violence against women and children, but is at the root of many other forms of violence, criminality, and victimization. If we are to make real changes, we must as a society recognize that violence in the home fuels violence in the schools in the streets, as well as setting the stage for the next generation of domestic violence. Interventions to prevent, detect and respond to domestic violence are fundamental to broad crime prevention strategy and the committee recommends:

21. Intervention is necessary to break the cycle of domestic violence.

Tertiary Prevention
Tertiary prevention occurs after a crime has been committed. According to the disease analogy, Tertiary prevention is the treatment once the disease is diagnosed. In some instances the treatment may be conservative, in others radical. Responses may be needed depending on the seriousness of the problem and the prognosis.

Clearly it is preferable to prevent crime than to simply respond to it. However, our responses to crimes which have been committed do have an effect on future behaviour. Therefore, the responses of the justice system, particularly with respect to sentencing, must be considered part of a crime prevention strategy. It is critical that this perspective and stronger sense of responsibility for crime prevention be reinforced at all levels of the justice system. In particular, the responses to violent crime must reflect the seriousness of the offence and place the protection of the public above all else.

For the reasons outlined above, domestic violence and child abuse must be dealt with swiftly and certainly. There are models of coordinated responses which have been effective but the practices vary greatly from community to community.

22.We must respond quickly and effectively to family violence and child abuse with:
• Mandatory charges in police interventions for spousal assault
• Reviews of coordinated response mechanisms in London, Ontario, and other communities

23.We need to provide mechanisms to protect victims and ensure physical safety. This includes:
• Providing adequate resources for safe houses and shelters
• Removing violent perpetrators rather than victims at the discretion of the local police authority

Once again, given that the opportunities of effecting change greatest in the young, it is critical that intervention take place at an early age. Currently the use of child welfare legislation varies across Canada. Some provinces are far more reactive than preventative, waiting until after serious harm has occurred, rather than intervening based on the likelihood that harm will occur if no action is taken.

With respect to the YOA, committee members agreed that there is a glaring need to ensure that all available mechanisms are utilised in problems involving offenders under the age of 14, in order to prevent the escalation

of violent behaviour.

24.We must ensure the appropriate and aggressive use of child welfare mechanisms in all provinces.

25.There must be appropriate mechanisms for identifying problems and solutions for those not covered under the YOA. These provisions should allow for the mandatory participation of the offender and the offender's family in programmes and courses for the examination of identified problems.

In considering the justice system from the perspective of crime prevention, the focus should be on efforts to prevent crime by incapacitating offenders likely to repeat their offence. The focus of the justice system must be shifted to the protection of potential victims from high risk offenders.

26.We must ensure that sentencing is swift, certain, and fits the crime, especially for violent and repeat offenders, with an emphasis on preventing future crime and protecting public safety.

27.Violations of existing Court orders should lead to greater penalties, to be served consecutively.

28.Mandatory sentences are appropriate for some crimes.

In addition, it is critical to reduce recidivism, or repeat offences, by ensuring that the court's response is appropriate to the crime. For example, incarceration for minor property offences may increase the likelihood that an individual commits the crimes, whereas sentences such as community service may increase the likelihood that they will not recidivate. Protection of the public must be a priority in dealing with all offenders, including young offenders. Programmes such as Project Challenge, initiated for juvenile offenders in Georgia, had a high success rate in reducing repeat offenders.

Therefore we recommend that:

29.The courts must allow for flexibility in responses, e.g. alternative sentencing for non-violent crime, counselling/esteem-building programmes, training, repayment and restitution to victims, and a range of requirements within sentencing, probation and parole reform.

30.The courts must also reduce the luxuries of the prison system both to decrease costs and improve deterrence

A critical objective of the courts must be to provide general deterrence. While there are questions about the extent to which punishment will change the behaviour of individuals, it does communicate a general message about society's values and acceptable behaviour. Punishment also defines the risks associated with inappropriate behaviour, which may influence the decisions and actions of others. Substance abuse should not be an excuse for unacceptable behaviour.

31.Sentencing should promote general deterrence.

32. We must adopt a policy of zero tolerance for violence offences.

33.The use of firearms or any lethal weapon used or threatened in the commission of a crime must be dealt with in a more serious manner by our courts.
34.All persons committing crimes under the influence of substances must be held accountable for their actions.

The justice system should reduce, not increase, the suffering by victims and their families. Victims and their families are not considered "clients" to the justice system, and, at many points in the court process, their rights

and needs are overlooked. The justice system, at all stages, must become client-centred, and must remain focused on promoting community safety and serving the needs of victims.

Improved accountability is also important. While certain judicial prerogatives must be preserved, there is also a need for education and training, as well as providing more information about sentencing.

35.We must provide better access to information for all stakeholders about sentencing and the results of decisions made at all levels of the justice system.

General Recommendations

The creation of the National Crime Prevention Council (NCPC) was an important step toward putting crime prevention at the top of the public agenda. In order for the Council to be effective in reducing crime we recommend that:

36.The role of the NCPC must be action-oriented on the following:

• Promoting community safety;
• Providing the federal government with advice and participating in policy development on matters related to safer communities;
• Gathering, analyzing and disseminating information about crime, crime trends and crime prevention;
• Providing training, research, evaluation, and public education on the prevention of crime;
• Providing funding assistance to local government and community organizations to implement community safety initiatives, and;
• Including membership from federal, provincial and municipal government and professionals and practitioners involved in crime prevention, health, social services, housing and education.

37.The Standing Committee on Justice and the Solicitor General will review the NCPC's performance and results on an annual basis and report to Parliament.
38.Given the importance of municipalities in crime prevention, we must ensure that their views are represented on the Council and that information sharing is promoted.
39.We need to establish a significant budget for crime prevention with specific financial assistance being first offered to existing, effective programmes.

"I'll never forget the morning after the [Montréal] tragedy. We'd been up 'til we'd finally identified her at 12:30 at night. Then at seven in the morning the CBC guy showed up with a camera this big and said 'can we please photograph Anne-Marie's bedroom?'."

Suzanne Laplante Edward, mother of Anne-Marie Edward, killed at the École Polytechnique, speaking at the SafetyNet forum Victimization: Dealing with the Media

Firearms and Public Safety: Committee Members

Chair:	Chief J. Grant Waddell, Niagara Regional Police Services
Facilitators:	Val Meredith, Member of Parliament,

Surrey, White Rock, South Langley B.C.

Heidi Rathjen, Executive Director, Coalition for Gun Control

Delegates: Inspector William J. Crate, Chief Provincial Firearms Officer
Doug Kosakowski, National Vice-President, Customs Excise Union
Rob McNamara, Vice-President, Victims of Violence
Carole Walzak, CAVEAT
John C. Thompson, Director, Mackenzie Institute
Harry De Jong, Police Association of Ontario

Firearms and Public Safety

Summary

CAVEAT requested the support of a number of individuals with a wide range of experience and interests for an examination of firearms and public safety issues. Representatives came from the Reform Party Caucus in Parliament, Victims of Violence, the Ontario Provincial Police, the Coalition for Gun Control, the Canada Customs and Excise Union, the Police Association of Ontario, the MacKenzie Institute, the Niagara Regional Police and CAVEAT itself. Our discussions explored a variety of policy and legislative options which may be pursued in order to improve public safety.

The working group agreed that the criminal use of firearms and resultant deaths and injuries are concerns not just for the law enforcement community, but for the entire public. We agreed that there is a further need to address public safety through improved controls on firearms and stiffer penalties for the criminals who misuse them. The group discussed a wide range of ideas and have outlined many proposals for legislative and policy changes which should go far towards accomplishing these ends.

These proposals include controls on firearms and their owners through the development and implementation of a system based on renewable possession permits. This would permit the screening of all firearms owners at regular intervals, link legal firearms inventories to specific owners, help remove unwanted firearms, raise accountability and assist the police in their routine operations by listing the location and ownership of firearms.

We also proposed that stiffer penalties be consistently applied for the criminal misuse of firearms and outlined some recommended changes to the Criminal Code of Canada. These include new offences for trafficking, possession and importation of illegal firearms. Moreover, mandatory, increased, and consecutive sentencing for using a firearm during the commission of a criminal offense would go a long way to address the public's growing intolerance for the light penalties currently being imposed in Canada’s courts.

Canadian gun control provisions contained in Part III of the Criminal Code of Canada are difficult to understand and are a result of add-on amendments made over the last 60 years. This convoluted patchwork of laws and exemptions is counter-productive in gaining the support of the very justice system that must apply them. The federal government should re-write Part III of the Criminal Code in clear, consistent and plain language.

Recommendations

PART I - CONTROLS ON FIREARMS AND OWNERS:

That the Criminal Code be amended so as to include:

1.A ban on all military assault weapons, except for law enforcement and military purposes;

2.A cost-recovery system of renewable possession permits for all firearm owners;

3.A registration system for all firearms;

4.The requirement of a possession permit (or equivalent in the case of police officers) to purchase ammunition;

5.A ban on replica firearms and weapons commonly referred to as Saturday Night Specials;

6.Allowance for medical disclosure by health care professionals to law enforcement authorities in high risk situations;

PART II - DETERRENCE MEASURES:

That the Criminal Code be amended to include:

7.Separate offences pertaining to the theft, illegal importation, illegal sale and illegal possession of firearms;

8.That replica firearms be considered as firearms when used in the commission of a crime;

9.Increased minimum sentences for the use of a firearm in the commission of a crime;

10.Additional offences warranting mandatory prohibition orders; additional circumstances warranting prohibition orders;

PART III - BORDER CONTROLS:

That the Criminal Code be amended and policy be instituted so as to implement measures to help customs detect and prevent the importation of illegal weapons, which include:

11.Allowing Customs Inspectors on the Primary line to take their time to screen travellers and goods entering Canada;

12.Proper tools to do the job, such as access to relevant information systems (CPIC);

13.Increased involvement in surveillance projects;

14.Full peace officer status for Customs Inspectors under Part II of the Criminal Code.

PART IV - ADMINISTRATIVE:

15.That Part III of the Criminal Code be rewritten to be more efficient and more easily understood.

16.That the courts apply the law to reflect the seriousness of gun-related crime.

* A registration of all firearms system should be implemented over a long term period, starting with present acquisition.

** Two dissentions

*** Two abstentions

****Replica firearms defined as a life-like model -
Saturday night specials defined by the following characteristics: a) fires a cartridge of the following calibre: .22 (long or short), .380 (9mm short), .25 (6.25 mm), .32 or such other cartridges as may be suitable for the operation of a short easily concealable handgun; b) having an overall length of 10 cm from the muzzle to the rear of the weapon and c) being generally sought for such characteristics as being a light and easily concealed handgun.

Firearms and Public Safety Sub-Committee
CAVEAT Symposium, November 21, 1994

Committee Members

Chair:	Chief Julian Fantino, London Police
Delegates:	Rusty Beauchesne, Legal Advisor, Metropolitan Toronto Police
	Paul Culver, Crown Attorney, Ministry of the Attorney General, Toronto
	Grant Obst, Canadian Police Association
	Chief Superintendent Robert A. Hannam, Royal Canadian Mounted Police, London
	Jerome Wiley, Legal Advisor, Metropolitan Toronto Police
	David Griffin, Canadian Police Association
	Chief Superintendent Chris Coles, Ontario Provincial Police, London
	Priscilla de Villiers, CAVEAT
	Vince Westwick, Ottawa Police

Chief Grant Waddell, Niagara Regional Police Force

Firearms and Public Safety Sub-Committee
CAVEAT Symposium, November 21, 1994

Supplementary Recommendations

Canadians Against Violence Everywhere Advocating its Termination (CAVEAT) hosted the SafetyNet National Conference on Crime Prevention, Public Safety, and Justice Reform, September 18 to 20, 1994, in Hamilton, Ontario. In attendance were representatives of the judicial system, community safety activists, victim advocacy groups, victims, political leaders, and citizens at large.

During the Conference, a number of pressing issues and public safety concerns ranging from border security to community standards and child exploitation were discussed and resolutions formulated to address the many justice system inadequacies that impact. The vexing issues of firearms and public safety were dealt with, resulting in sixteen recommendations requiring comprehensive changes in the Criminal Code.

The recommendations are intended for the attention of the Federal Justice Minister, to be dealt with as part of the revisions of various areas of the Criminal Code presently being contemplated. Other recommendations, such as the complete review of Part 3 of the Criminal Code, require immediate attention rather than continuing the government's piecemeal approach to the controversial issue of gun control.

During the SafetyNet Conference, it became clear that existing laws, especially those that impact on the use of firearms during the commission of serious crimes, are simply not being vigorously applied, and most certainly, on a national basis, without consistency. Therefore, a further study group was convened by CAVEAT to further study the existing flaws or inadequacies that are self-imposed within the criminal justice system. In simple terms, it was felt that if the existing laws are not effectively used, more gun control legislation is simply an inadequate response by government.

The Symposium, involving a select group of professionals operating within the criminal justice system, focused on two main issues:

1.Are the current laws being used effectively to their full potential? If not, why not, and what remedies are available?
2.What new/improved legislation is necessary to appropriately address the concerns about use of firearms and public safety?

Summary

The group convened on Monday, November 21, 1994 and concluded its work as follows:

•There was unanimous assent in support of the sixteen recommendations formulated at the SafetyNet Conference dealing with "Firearms and Public Safety" issues.

•There was unanimous assent to the fact that many of the laws are in place, but are not being applied effectively. Furthermore, there exists the misconception that Section 85 of the Criminal Code is not being used as intended. Also, judges tend to consider the totality of sentence and include the sentence provisions of Section 85 as part of the substantive offence. Section 85 is not being used uniformly across the country.

Immediate Action Required (Interim Measures)

1.Declaration of Principles

Embodied in Part 3 of the Criminal Code:

It is recognized and declared that:

(a)Ownership, possession, and/or usage of firearms is a privilege, not a right, and is subject to this Part (Part 3 of the Criminal Code) and regulations issued therefrom;

(b)In the application of this Part, the protection of society and the prevention of injuries and deaths are paramount;

(c)The unlawful trafficking, importation, ownership, and/or use of any firearms are serious matters and shall be treated as separate and distinct offences from any other or substantive offence; and

(d)That penalties and prohibitions assessed to these offences be separate, and not part of the totality of the punishment of the crime committed.

2.Universal Application of Section 85 of the Criminal Code

CAVEAT is to request the Minister of Justice and the provincial and territorial Attorneys General and Solicitors General to begin discussions intended to address:

(a)Universal application of Section 85 of the Criminal Code across Canada, the provisions of which to be dealt with as a distinct and separate penalty. Direction/instructions in this regard to flow from the appropriate federal, provincial, and territorial Ministries to their respective areas of competence and responsibility within the Canadian Administration of Justice;

(b)Police training with respect to Part 3 of the Criminal Code - Powers of search and seizure and other related firearms offences/enforcement concerns to be addressed at federal, provincial/territorial jurisdictions (training videos - seminars - other materials) - simplify for police the existing application of Part 3 of the Criminal Code and its enforcement, thus enabling police to become more proactive in this regard;

(c)Enhanced education, training, and awareness for judges and crown attorneys with respect to the need for separate and distinct penalties for firearms offences (Section 85), apart from any other substantive offence;

(d)Section 85 - Sentence provisions to be vigorously pursued, including provisions for lifetime suspensions (firearms) for second conviction.

The foregoing recommendations are attainable “NOW” and need not await new gun control legislation, however configured. Moreover, such a focus by the federal Minister of Justice will add a measure of credibility to the urgent need to uniformly address at the government and community level across Canada the issues pertinent to “Firearms and Public Safety.”

These are priority issues that simply cannot await protracted debate, as is apparent with just about every aspect of proposed new gun legislation.

“As long as these people are in jail, we are safe. We deserve, we want, we demand a 100% guarantee.”

Diane Taylor, aunt of slain teenager Cara Taylor, speaking at the SafetyNet forum Victimization: Dealing with Corrections and Parole

High Risk Offenders: Committee Members

Chair:	Deputy Chief Ken Robertson, Hamilton-Wentworth Regional Police, National Joint Committee on High Risk Offenders
Facilitators:	Timothy Danson, L.L.B., Danson, Recht and Freedman
	Grant Obst, President, Saskatoon Police Federation
Delegates:	Paul Bailey, President, Regional Municipality of York Police Association
	Inge Clausen, Citizens United for Safety and Justice, National Chairperson
	Steve Sullivan, Director of Research, Victims of Violence
	Myron Thompson, MP, Wild Rose, Alberta
	Lee Redpath, Case Management Officer, Collins Bay Institution
	Dr. Russel Fleming, Penetanguishene Mental Health Centre
	Brandon Welsh, Policy Analyst, Federation of Canadian Municipalities
	Chief Peter Campbell, Halton Regional Police Service
	Jim Stephenson, Delegate
	Larry Chu, CAVEAT
	Mayor June Rowlands, Federation of Canadian Municipalities, Mayor of Toronto, Ont. (absent due to illness, sent in submissions)

High Risk Offenders

Summary

Every province in this country has a group of highly dangerous criminals who represent an extreme risk to public safety.

These sexually violent predators are being released into society to further victimize innocent women and children.

Many of these offenders are so dangerous that they should never be released from secure custody, yet current legislation allows the release of a growing number of these individuals.

The following recommendations are being made in response to growing public concern for protection against these predators:

It is recommended that legislation be enacted to enable the Crown Attorney, on the recommendation of

Corrections Canada or the National Parole Board, to ask the courts to hear Dangerous Offender Applications under the Criminal Code prior to the Warrant Expiry Date of Sexually Violent Predators, resulting in indeterminate custody.

Additional recommendations are being made in the following areas:

•Compulsory Dangerous Offender Applications made when criteria is met;
•Special training for Crown Attorneys in handling Dangerous Offender Applications;
•Notification of Dangerous Offender Applications before commencement of trial;
•Videotaping of child victims' evidence to prevent repeat court appearances;
•Mental Health Act assessment a minimum of 90 days prior to release date;
•Withdrawal of proposed capping legislation for mentally disordered offenders;
•Legislation for compulsory public notification on the release of Dangerous Offenders;
•Implementation of uniform Mental Health Legislation in all provinces across Canada;
•Improved sharing of information between all agencies dealing with Dangerous Offenders;
•Additional Government funding to enable the implementation of these recommendations.

Recommendations

Recommendation #1

Background:
Many high risk offenders are not subjected to the Dangerous Offender legislation for a variety of reasons. At the time of their trial the Crown Attorney may be confronted with a plea bargain offer from the accused lawyer. Faced with a complainant reluctant to face a lengthy trial and an offer of a guilty plea and long period of incarceration, the Crown may elect not to proceed with the Dangerous Offender Application.

The guilty plea and resulting sentence do not resolve the problem in the long term, and recent releases of many dangerous offenders are examples of how ineffective the system can be.

The Dangerous Offender Application is a complex and difficult process for Crown Prosecutors. Special training and experience in this area are needed to handle the cases against high risk offenders.

WHEREAS Crown Attorneys, under the current system, have the option whether or not to proceed with a Dangerous Offender Application at their discretion,

AND WHEREAS because of this, Dangerous Offender Applications are not brought uniformly due to the specific options taken within the judicial process such as plea bargaining, the time constraints of the Crown Attorney, et cetera.

AND WHEREAS the freedom of discretion given to the Crown Attorneys is recognized by this panel as a fault of the system,

AND WHEREAS this panel recognizes that policy changes must be made to existing legislation to provide for accountability of the Crown Attorneys,

IT IS RECOMMENDED THAT a Preamble to Section 753 be added and as such should read, "Where the Crown has reasonable grounds to believe that the accused constitutes a Dangerous Offender and where the criteria for Dangerous Offenders may be met, the Crown Attorney shall apply to the Attorney General for

permission to bring a Dangerous Offender Application under Section 753 of the Criminal Code, and upon receipt of this permission shall bring the aforementioned Application",

AND IT IS FURTHER RECOMMENDED THAT it be written into the legislation that "if the Attorney General refuses said Application, he shall provide a comprehensive written report as to why the request was denied",

AND IT IS FURTHER RECOMMENDED THAT Crown Prosecutors with special Dangerous Offender training and/or experience be assigned to process these Dangerous Offender Applications.

Recommendation #2

Background:
The current procedure for Dangerous Offender Applications leads to further victimization of women and children in the case of repeat offenders. Victims who were brutalized many years ago may be required to testify during D/O hearings and have to relive their trauma. This recommendation will allow videotaping of child victims' testimony and that the tapes could be used at any future Dangerous Offender hearings.

WHEREAS the current wording of Section 753 (b) of the Criminal Code leaves the Courts with an option as to Dangerous Offender status even after the criteria for Dangerousness have been established,

AND WHEREAS this panel feels that the declaration of Dangerous Offender status and the subsequent indeterminate sentence should be mandatory if the criteria have been established,

AND WHEREAS the closing sentence of Section 753 (b) of the Criminal Code currently reads "the court MAY find the Offender to be a Dangerous Offender and MAY impose an indeterminate sentence",

AND WHEREAS this panel recognizes that these changes can be made effective immediately simply by amending the wording in the existing legislation,

IT IS RECOMMENDED THAT the closing sentence of Section 753 (b) of the Criminal Code be amended to read "the Court SHALL find the Offender to be a Dangerous Offender and SHALL impose an indeterminate sentence".

Recommendation #3

Background:
Many high risk predator-type offenders are not identified until after they are incarcerated in a Federal Institution. Upon completion of their sentence these predators are released into society to further victimize innocent citizens.

This intolerable situation can be addressed in the rare cases of offenders who are so dangerous they cannot be released. One option is to amend legislation to allow for Dangerous Offender Applications prior to release for those rare high risk predators. The Mental Health legislation may also be applicable if authorities are required to make a mandatory referral for assessment under the Mental Health Act.

These referrals and any subsequent committal under the Mental Health Act will have significant economic consequences on the Ministry of Health, and appropriate Federal funding is required.

AND IT IS FURTHER RECOMMENDED THAT procedural amendments to be made to the Criminal Code to

read “Official Court transcripts, child witness statements or videotape be maintained indefinitely for use in possible future Dangerous Offender Hearings”:

Recommendation #4

WHEREAS currently, there is no system to prevent the release of a Sexually Violent Predator who is identified while he is in custody,

AND WHEREAS this panel believes that oftentimes much of the relevant information and analyses used to identify a Sexually Violent Predator is only obtained during the time in which the offender is in custody,

AND WHEREAS in some cases, a person serving a fixed term may have a change in circumstances, or new evidence could come forth identifying them as so dangerous to society that they may not be released on Warrant Expiry Date,

AND WHEREAS this panel recognizes that there should be legislation enacted to provide for such a system of identification and further detention,

IT IS RECOMMENDED THAT such proposed legislation be drafted to enable a Crown Attorney, on the recommendation of Corrections Canada or the National Parole Board, to ask the Courts to hear a Dangerous Offender Application, and that the Courts shall hear this Application prior to the end of the sentence of a Sexually Violent Predator, which may result in indeterminate continued custody under the provisions of the Criminal Code.

AND WHEREAS as an interim measure, during the development of the proceeding legislation there is a need for some policy,

IT IS FURTHER RECOMMENDED THAT in the interim, a minimum of 90 days prior to Warrant Expiry Date, Corrections Canada shall make a referral under the Mental Health Act for an Assessment to determine whether or not that individual is certifiable in the interests of public safety,

AND IT IS FURTHER RECOMMENDED THAT the Federal Government make the necessary resources available to the appropriate Mental Health facility.

Recommendation #5

Background:
This legislation on ‘capping’ should not be proclaimed because of potential high risk to public safety. Dangerous mentally disordered subjects who have committed horrific crimes should not be transferred from Criminal Code jurisdiction into the Mental Health System; may bring an inappropriate release.

WHEREAS this recommendation relates to Section 672.64 of the Criminal Code of Canada relating to capping, which has been tabled but not yet proclaimed,

AND WHEREAS currently the legislation provides that a person that has been found not criminally responsible on account of mental disorder only spends time in custody if required in the interests of public safety,

AND WHEREAS this provision means that certain mentally disordered offenders will be released to the

jurisdiction of the Mental Health Act and will be free of Criminal Code jurisdiction,

AND WHEREAS the Mental Health Act is not equipped to detain these mentally disordered offenders under its provisions,

AND WHEREAS furthermore, each year under this section of the Criminal Code, these offenders are reviewed and are subject to the possibility of release if they no longer are found to be mentally disordered,

AND WHEREAS this panel recognizes that the proposed capping legislation does not acknowledge the differences between the sane and insane offender,

IT IS RECOMMENDED THAT Section 672.64 of the Criminal Code not be proclaimed because of the aforementioned reasons.

Recommendation #6

Background:
When high risk offenders are released into the community Correction Canada currently notifies the Police in the jurisdiction where the offender is to live. The Police Chiefs are faced with Freedom of Information restrictions and extraordinary liability issues as a result. Legislation is needed to require the releasing agency to make the public notice regardless of the destination of the offender.

This requirement for public notification will ensure that the releasing agency takes appropriate action to ensure the subject receives treatment and assessment well in advance of any release dates.

WHEREAS currently, legislative provisions restrict the release of information on Dangerous Offenders to the public,

AND WHEREAS this panel recognizes that for reasons of public safety, certain information must be released to the public and that certain agencies must be held accountable to the public for the release of this information,

AND WHEREAS the Preamble of the Freedom of Information Act allows for the release of confidential information "for compelling public interest circumstances",

IT IS RECOMMENDED THAT legislation be enacted to provide that Correctional Services of Canada be responsible for the notification to the public of the release of a Dangerous Offender, and shall be accountable if it fails to provide proper notice.

Recommendation #7

Background:
The ability to monitor and track High Risk Offenders is hindered by the fact every Province has different Mental Health Legislation.

WHEREAS currently each province in Canada has unique Mental Health legislation,

AND WHEREAS this panel recognizes that in order to facilitate the uniform application of procedures within the Criminal Justice system, all Mental Health legislation must also be uniform,

IT IS RECOMMENDED THAT a uniform Mental Health Act be established that applies to all provinces.

Recommendation #8

Background:
Confidentiality and Freedom of Information restrictions have made the sharing of information on High Risk Offenders difficult. It is unacceptable for the public to be put at risk by agencies' omissions or failure to disclose information. The current individual agency approach should become more fluid with a constant flow of information from the time of subject's arrest to eventual disposition.

WHEREAS currently, there is a need for improvement on the existing legislation or procedures to facilitate the sharing of information between agencies in the Criminal Justice System specifically in regards to Dangerous Offenders,

AND WHEREAS this panel recognizes that in order to maintain accurate records, procedures that foster teamwork must be enacted,

AND WHEREAS currently, each agency has its own discrete set of files, information from which is not easily accessible by the public or by other agencies,

AND WHEREAS this panel recognizes that information should be shared automatically, and not have to be requested by various related agencies,

IT IS RECOMMENDED THAT a Dossier be created for each and every Dangerous Offender in custody that will accompany that individual from start to finish,

AND IT IS FURTHER RECOMMENDED THAT a Central Registry be established especially for Dangerous Offenders within C.P.I.C.,

AND IT IS FURTHER RECOMMENDED THAT legislation be enacted to provide that any agencies (Police, Crown, Corrections Canada, Mental Health facilities, National Parole Board, et cetera) be able to access these files and note any changes in the status of the offender,

AND IT IS FURTHER RECOMMENDED THAT these records be maintained for completeness and accuracy by establishing legislation that would effectively make the agencies inputting the information accountable for their actions,

AND IT IS FURTHER RECOMMENDED THAT in cases that the offender wishes access to his/her own file, victim identifiers be removed for reasons of protecting these people.

Recommendation #9

Background:
All agencies from the Police, Crown Attorneys, Corrections, to the Parole Services are underfunded. In many cases more can be done to protect the public but economic constraints mean citizens are in danger from High Risk Offenders. The results of current civil litigation by victims will highlight the false economics of a poorly funded justice system.

WHEREAS the whole of the justice system is under-resourced,

AND WHEREAS this panel recognizes that in order to facilitate the recommendations suggested by this panel, further resources will be required,

AND WHEREAS this panel agrees that public safety is a prime concern of the country as a whole and that only through the resolution of this issue will any economic renewal be facilitated,

IT IS RECOMMENDED THAT the government set aside more funding required to implement the recommendations set out by this panel.

"When somebody has been charged with a brutal murder, why is there parole?… Life should be life."

Sue Simmonds, mother of slain teenager Sian Simmonds, speaking at the SafetyNet forum Victimization: Dealing with Corrections and Parole

Parole Reform: Committee Members

Chair:	Dorothy Leonard, CAVEAT, Executive Administrator
Facilitators:	Scott Newark, Executive Director, Canadian Police Association and President, Canadian Resource Centre for Victims of Crime
	Noreen Provost, Citizens United for Safety and Justice Inspector Ian Russell, Metro Toronto Police
Delegates:	Marie King-Forest, Delegate
	Gary Rosenfeldt, Executive Director, Victims of Violence
	Terry Smith, Delegate
	Joanne Kaplinski, Delegate
	Marjean Fichtenberg, Delegate
	Ken Anthony, L.L.B. Crown Prosecutor
	Chief Richard Zanibbi, Sudbury Regional Police Service
	Derek Lee, Member of Parliament, Scarborough Rouge-River, Ont.
	Chief William McCormack, Metro Toronto Police, Past President, Canadian Association of Chiefs of Police

Parole Reform

Summary

The SafetyNet Parole Reform panel recognizes that it is desirable to maintain a conditional release system to aid in the attempted re-integration of inmates into society but at the same time ensure public safety by differentiating between that group and those violent and repeat offenders in their basic eligibility for conditional release. The Panel wishes to confirm that conditional release from custody should be a privilege and NOT a right.

The panellists recognize that there is a disproportionately small number of offenders committing a disproportionately high number of offences. The panel feels it important to confirm that the primary function of the justice system in all its parts is to protect the public. Rehabilitation is a valuable means to that end but it is not an end in itself.

We are also concerned with the growing perception that Canada has a legal system, not a justice system. We think we can do better.

For Corrections and Parole to maintain public confidence there must be a clear and unequivocal demonstration of competence, accountability in appointments, decision making and supervision of any offenders on conditional release. Both systems have a fundamental responsibility to ensure effective rights for victims of crime in their dealings with either process.

Accordingly, among the panel recommendations are the following:

1.The repeal of Section 745 of the Criminal Code.

2.That a fundamental change be instituted to the process of decision making regarding corrections and parole. Examination of the process reveals a basic conflict of interest in case management, resulting in far too many instances of inaccurate and unreliable information being placed in the hands of the Parole Board. Accordingly, it is recommended that the gathering, analysis and presentation of information concerning potential conditional release and the supervision of offenders while on release be removed from the mandate of Correctional Services of Canada and be placed instead in an expanded and independent Parole Service.

3.The amendment of the Corrections and Conditional Release Act (CCRA) to disentitle future conditional release for those offenders serving sentences for Category 1 Offences (Violence/Weapons) who commit a further such offence while on conditional release.

4.The amendment of Section 450 of the Criminal Code to authorize the arrest by a peace officer of parolees found in violation of their conditional release conditions.

5.The repeal of Section 127 of the CCRA to eliminate statutory release and replace it with discretionary conditional release including conditions restricting residency, where appropriate.

6.The amendment of the CCRA to guarantee the right of victims of crime to receive information as to the application of an offender to any form of conditional release, the right to make an oral presentation or written submission at such a hearing, and the right to be informed of the result of any such decision, including any return to custody of the offender as a result of the commission of another offence or a violation of a term of release.

7.The amendment of the Criminal Code to mandate consecutive conditional release ineligibility periods for multiple convictions for murder.

8.The amendment of the Criminal Code to allow the imposition of consecutive conditional release ineligibility periods for offenses committed by offenders on conditional release as a part of a life sentence.

9.The amendment of the CCRA to end the current practise of sentence calculation, and thereby ensure a negative conditional release eligibility consequence for offenses committed while on previous conditional release, and specifically, to mandate that the commission of a category I offence (violence/weapons/drugs) while on conditional release for such an offence, require the completion of the original sentence in it’s entirety

before any future eligibility for future conditional release.

10.The amendment of the CCRA to allow discipline of Parole Board members short of termination to be carried out by the Chairman of the National Parole Board. A procedure akin to the federal Inquiries Act, allowing for private or public inquiries, would thereby be permissible.

11.The amendment of Section 167 of the CCRA to authorize the Correctional Investigator to receive and investigate complaints from victims of crime or CSC/NPB staff with respect to any matter arising out of the operation of the CCRA.

12.The amendment of the CCRA and Section 731.1 of the Criminal Code to mandate the presence of sentencing transcripts and offender criminal record, including any history of commission of offenses while on previous conditional release or bail, in any name or form, as a precondition for any hearing under the CCRA which may grant conditional release, in any form, to an offender. Further, Section 731.1 should be amended so as to require such information-sharing with Provincial Correctional officials as well.

13.The amendment to the CCRA to mandate a maximum, renewable term of five years for any appointment as a full or part time Member of the National Parole Board.

14.The repeal of section 746 of the Criminal Code which mandates the inclusion of pre-trial custody in calculating parole eligibility.

Preamble to Repeal of Section 745

WHEREAS current Section 745 fails to give adequate consideration of the principles of sentencing other than offender rehabilitation such as specific and general deterrence and denunciation and,

WHEREAS the current Section 745 procedure potentially, and realistically, contradicts the original purposes of sentencing and,

WHEREAS current Section 745 makes no reference to the protection of the public as a valid concern for a jury at a judicial review and,

WHEREAS current practise involves use or invocation of the Privacy Act of Canada which has the effect of keeping information critical to public safety AWAY from a jury and,

WHEREAS there is no clear code of procedure for the Crown in conducting judicial reviews which has resulted in great inconsistency across Canada including the nature of Crown examination and cross examination, access to Corrections information as of right to the Crown, and relevance of victim information and,

WHEREAS there is currently no mandatory victim notification of either judicial review application or hearing dates, and,

WHEREAS there is no clear enunciation of the entitlement of victim evidence as of right at such a judicial review, and,

WHEREAS no rules of procedure or evidence exist with respect to the nature or quality of psychiatric/psychological evidence admissible at judicial review hearings, and,

WHEREAS the Crown is currently disentitled to call viva voce evidence from Corrections or Parole officials with respect to quality of information gathering analysis and presentation within the parole and corrections process, or as to the quality or adequacy of supervision, and,

WHEREAS the Supreme Court of Canada has further confused these issues by recent decision,

BE IT RESOLVED THAT: SECTION 745 OF THE CRIMINAL CODE OF CANADA BE REPEALED.

"There are always so many reasons why victims do not speak up. We are trying to give victims the means to take part in the process."

Priscilla de Villiers, CAVEAT President, moderator of the SafetyNet forum Victimization: Dealing with the Issues

Victim Rights: Committee Members

Chair:	Cam Jackson, MPP, Ontario, Burlington South
Facilitators:	Bob Morris, LLB., Crown Counsel, President, Child Find Ontario
	Sharon Rosenfeldt, President, Victims of Violence
Delegates:	Jan Hillyer, Chairman of the Victims' Committee, CAVEAT
	Dianne Lupton, Victims Action Coalition
	Debbie Mahaffy, ACTION
	Rosalie Turcotte, Delegate
	Kent Laidlaw, Consultant, Victims' Assistance
	Joe Moylan, Delegate
	Terry Zynych, Victims of Violence

Victim Rights

Summary

For too long, victims of crime have been ignored by the criminal justice system. While every safeguard is taken to protect the accused, very little is done to help the victim. There is a severe imbalance between the rights of the accused and those of the victim. Victims not only suffer at the hands of criminals, but also experience revictimization under our justice system which is largely unresponsive to their needs and those of their families.

We, the members of the SafetyNet Victims' Rights Panel, have developed twenty-seven recommendations to effect meaningful change on behalf of victims within our justice system. First and most important, we unanimously endorse the enactment of a Federal Victims' Rights Bill. In addition, every province should introduce or amend their existing provincial victims' rights legislation to conform with the Federal Victims' Rights Bill.

A Victims' Rights Bill would provide a clear definition of a victim and his or her rights within the criminal justice system. Pursuant to the Bill, victims would have the right to be informed of all stages of the criminal

process; the right to restitution; the right to prompt return of property; the right to be heard by the Crown; the right to be heard in the judicial and correctional proceedings; the right to privacy and the right to protection from intimidation.

The Panel has recommended several other reforms to ensure greater financial equity for victims and greater access to victim services in Canada. In this era of fiscal restraint, we believe there are many fair and innovative ways to finance reforms to pay for victims' services, including criminal fines, surcharges, civil and criminal forfeiture and criminal compensation orders to prevent profiting from a criminal's recollections.

Other recommendations for justice reform include: Training and education for Justices of the Peace and Crown Attorneys; Standardisation and uniform use of Victim Impact Statements at all stages of the criminal justice system including sentencing and conditional release hearings; the creation of victim service programmes; early notification and participation in all parole board proceedings; amendments to the Coroners Act to ensure greater public accountability for jury recommendations and to provide for an automatic inquest whenever a person dies at the hands of a criminal out on conditional release or unlawfully at large; wider eligibility for victims under the Criminal Injuries Compensation Acts.

The panel has also called for a national initiative to ensure greater justice for child victims in Canada and that each province implement necessary reforms and measures to safeguard our children.

The Panel also recommends that a National Victims' Memorial Day be established to signify the experience of prolonged victimisation suffered by all crime victims and their families.

In our view, the question for Canadians to be addressed is no longer whether the victim should participate in the process or not. The question is rather the extent of this participation.

Recommendations

The Panel began its deliberations with a discussion of the role of the victim of crime within the justice system, the main conclusions of which are contained in the Summary. Agreement was reached on the point that the victim's participation in the entire system beyond the judicial sphere has further contributed to the secondary victimisation of the victim.

In recent years, however, there has been a growing responsiveness to the needs of crime victims. In 1988, the federal, provincial and territorial governments in Canada agreed on a set of ten Basic Principles of Justice for Victims of Crime which would "guide them in promoting access to justice, fair treatment and provision of assistance to victims of crime."

In response to these principles at the federal level, on May 3, 1988, Bill C-89, An Act to Amend the Criminal Code (victims of crime) Act was passed. Bill C-89 provides for a victim fine surcharge to be imposed on those convicted or discharged of offences under the Criminal Code and requires courts to consider restitution in all cases involving bodily harm, damage, loss or destruction of property.

All provinces in Canada, except for Ontario and Alberta, have entrenched Bills of Rights for Victims of Crime. Victims' rights advocates and legal experts agree that a victims' rights bill should be entrenched in federal law and should also be mirrored in legislation passed by all the provinces. Chief among those rights is the right of the victim to be informed and kept informed of his or her place within the justice system and throughout due process at the time of the commission of a violent crime. This includes the right to be treated with courtesy, the right to be protected and free from intimidation, present and future, and the right to be informed about all available victim services. It is important to entrench in Canadian law a legal framework that would provide that victims of crime become not only a part of the process of criminal prosecution, but also a part of the

equally important process of self-rehabilitation. Toward this end, the Panel proposed the following two recommendations:

1. That the Federal Government shall, in consultation with appropriate agencies and organisations, prepare for the consideration of Parliament, an Act to entrench the rights of victims of crime. This Act shall include:
a) The right to be informed of their rights at the earliest opportunity,
b) The right to be informed of and have access to social services, health care, medical treatment, counselling and legal assistance,
c) The right to be informed by the police of the nature, scope, timing and progress of all phases of the investigation,
d) The right to be informed by the Crown of:
i) The scope, nature, timing and progress of all court proceedings, including but not limited to plea bargaining, bail applications and sentencing.
ii) The role of the victim and other persons involved in the prosecution of the offence, including the right to be heard, where appropriate.
e) The right to be informed by correctional authorities of all proceedings and in any change of status of the offender.

f) The right to have a voice in all phases of the judicial process, including the right to have a support person present during all proceedings.
g) The right to be informed of the availability of all victim service programmes.
h) The right to fair and prompt restitution and to be informed of the process for application;
i) The right to privacy and protection from intimidation.

2. That each province implement, update or amend conforming victims rights legislation;

The Panel agreed that the issue of a proper and legally entrenched definition of a victim of violent crime is central to the enhancement of victims' rights and services. It is the victim definition that often determines the outcome of due process with respect to the victim during subsequent investigations, laying of charges and trials. Key to any expanded victim definition is the understanding of "loss" and "harm." Victimisation is an ongoing process that affects not only the individuals directly involved, but also their immediate family members who are the secondary witnesses to the pain and suffering experienced by the victim and who share in it themselves. In addition, it is time recognize to the fact that victims of drunk drivers are also victims of violent crime and that such recognition in law should lead to their equal treatment along with all victims in terms of services and compensation. The Panel proposed the following two recommendations:

3. a) That in all provincial Legislation, Statutes and Acts, the definition of a Victim be amended to refer to: "A person who sustained any loss or physical, psychological or other harm sustained as the result of the offence and the spouse, parents, family members or other lawful representative of that person;"

b) That the definition of a Victim be further amended to include "anyone who is a victim of the offence of drunk driving and that such victims be formally recognised under the law on an equal plane with victims of violent crime and that they have equal access to victims' rights, victim service provision and criminal injuries compensation."

4. That Section 7 of the Charter of Rights and Freedoms be amended to guarantee the rights of victims;

The Panel agreed that there is a need in all provinces to ensure that Crown Policy manuals are maintained in accordance with the laws and regulations dealing with the rights of, services to and compensation for victims

of crime. Such manuals indicate to Crown Prosecutors the parameters within which they are to include the role of the victim in due process of law. It was agreed that in order to achieve the best possible conformity between Crown Policy manuals and the law governing victims of crime (in the case of Ontario and Alberta, future law that will govern victims of crime), such manuals would be under the direct supervision and control of the respective Attorneys General in the Provinces:

5. That all Attorneys General shall prepare or update Crown Policy manuals;

The Panel discussed the issue of sensitisation to victims, their suffering, their needs and their services, especially in conjunction with the selection of Justices of the Peace. It was agreed that the role of Justice of the Peace is an important one which requires members who are in possession of the requisite qualities and knowledge needed to fulfil their responsibilities toward victims of crime so as to enhance their trust of the legal system and help further their self-rehabilitation. In response to these concerns, the Panel made the following recommendation:

6. That a list of core competencies be established for all Justices of the Peace and that each Justice of the Peace shall be required to meet such core competencies;

The Victim Impact Statement is an important mechanism whereby the court is enabled to assess the full, personal effect, including the experience of ongoing suffering, of an act of violence experienced by the victim and his or her family and friends. Since 1988, victims have been able to present victim impact statements to the judge at the time of sentencing by way of a written description of the harm that was done to the victim and which should be a consideration in deciding how much time an offender will serve in prison upon conviction. Such statements allow for a more balanced sentencing decision by the judge, as the offender has the opportunity to describe himself or herself at sentencing.

Members of the Panel expressed concern that one of the problems with Victim Impact Statements is that the Criminal Code of Canada does not make them mandatory but rather leaves their inclusion in the sentencing procedure up to the discretion of the court. In addition, concerns were also expressed concerning the lack of a single and self-explanatory victim impact statement form. It was noted that in some cases known to Panel members, victims were given sheets of paper and simply asked to “write.” In such cases, victims wrote in generalities and were otherwise inhibited from expressing fully the details of the impact of the personal violence they suffered. To address these concerns, the Panel recommended the following:

7. That pursuant to section 735 (1.1) of the Criminal Code of Canada, the Lieutenant Governor in Council for each province shall develop and implement a uniform victim impact statement form;

8. That section 735 (1.1) of the Criminal Code of Canada be amended in accordance with Bill C-41, currently before the Parliament of Canada, to read: A court “shall” rather than “may” consider a victim impact statement.

The members of the Panel discussed at some length the issue of the specific needs of victims of crime and the nature of the victim services best designed to meet them. It was agreed that ongoing communication between the police and the victim and the courts and the victim is crucial. The victim has a right to be notified of any arrests that have been made, upcoming court dates, such as sentencing hearings and parole hearing dates. It was noted that studies show that such notification was a number one priority among crime victims.

However, while most information such as this is available, it is only given if the victim requests it. Many victims do not know what kind of information to request. Many are also unaware of the kinds of treatment and

professional help that is available to them. It was noted that victims of sexual abuse or the parents of a murdered child may especially need help. It was also noted that while offenders have the chance to receive treatment, the victim often does not. One reason for this is that victims, unlike offenders, are not required to be told anything at all and are left in the dark regarding their rights and services. Many are also uninformed about the Criminal Injuries Compensation Board or about the options available to victims for restitution in terms of lost wages or property. The Panel made the following three recommendations:

9. That all provincial legislation that sets out the authority for police services shall be amended to include a clear mandate to provide for victim services and be funded accordingly;

10. That there be established in each jurisdiction victim-service programmes;

11. That victim-service programmes shall provide, but not be limited to, crisis intervention referral services, notification of investigative results, witness assistance, notification of court dates, court preparation and support, including court accompaniment, notification of case dispositions, community coordination and public education, advocacy, recruitment and training of volunteers and assistance in completing applications for criminal injuries compensation, victim impact statements and other forms;

The Panel members discussed the ways in which the role of the victim could and should be extended to the parole system. Victims should be informed that their assailants are being considered for parole and they should be kept informed concerning all aspects of the parole proceedings. This is also an issue that would not only ensure the ongoing safety and protection of the victim, but also of society. Cases where convicted criminals released prematurely on parole resulted in tragic deaths were shared by Panel members, including the death of Constable Joseph MacDonald in Sudbury.

Eligibility for parole is a privilege, not a right, which can only be allowed when public safety is not deemed to be at risk by the competent authorities involved in the parole process. It was agreed that a crucial factor to determine eligibility for parole in murder cases should be direct input from the victim (as defined by Recommendation #3), either by way of oral or written statements to the Board of Parole. The Panel made the following three recommendations:

12. All Boards of Parole at the federal and provincial levels shall be required, in advance, to notify victims of their right to be advised of all Parole Board proceedings which may affect them;

13. At all Parole Board Hearings, victims shall be afforded the opportunity to make written or oral statements;

14. That section 743 and Section 745 of the Criminal Code of Canada shall be amended to ensure that victims shall be afforded the right to present a written or oral statements with respect to hearings to determine eligibility for parole in murder cases;

The Panel heard Recommendation # 128 of the Jury Recommendations of the Inquest into the Death of Jonathan Yeo, the man responsible for the murder of Nina de Villiers, which reads: The Chief Coroner and Coroners of Ontario are “the voice of the dead for the benefit of the living,” therefore for that voice to be heard for the benefits of the living, the power of the Chief Coroner of Ontario under the provisions of the CORONERS ACT is to counsel the Government for the implementation of jury recommendations, must be increased. The CORONERS ACT shall be amended to provide that Agencies, Ministries and Officials or persons to whom these recommendations are directed, must respond to the Chief Coroner of Ontario in a timely fashion.”
The Panel agreed that this Recommendation be extended to all provinces. The point was also raised that

criminals who die in custody of diseases such as AIDS are entitled to an automatic inquest. But the family of a crime victim who dies violently at the hands of a criminal out on parole or temporary release must go through the wrenching process of trying to establish “sufficient cause” for an inquest to be held for their dead relative and must then petition to have standing in that inquest. Further points were raised by Panel members concerning the role of the Coroner’s Office. Inquests develop various recommendations to prevent the occurrence of future, similar tragedies in fulfilment of the mandate, “From the death of one, we may learn to help lengthen the lives of many.”

The Panel also agreed that inquest recommendations should be regularly monitored and that the progress of their implementation should be openly accessible by the public and especially victims. It was agreed that an excellent way of ensuring such accountability is for the Chief Coroner in each province to table an annual report to the respective Legislative Assembly on its role and duties in addition to the progress of implementing inquest jury recommendations. The Panel made the following recommendations:

15. That in each province the legislation respecting the Coroner’s office shall be amended to ensure that an automatic inquest is held whenever a person dies at the hands of a criminal out on parole or unlawfully at large;

16. That the legislation referred to in Recommendation # 15 be further amended to guarantee standing, during an inquest, to surviving family members in such cases;

17. That the mandate of the Chief Coroner be expanded to ensure accountability by tabling an annual report to the respective Legislative Assembly on matters relating to the office and duties of the Chief Coroner and that victims and the public should have access to the disposition and/or implementation of jury recommendations;

The Panel also discussed the issue of blood testing. In response to concerns raised by “Mothers Against Drunk Driving, Canada” that such testing be conducted in a uniform manner in all cases of car accidents which result in death or serious injury and in order to assist victims in future criminal and/or civil proceedings against drunk drivers, the Panel made the following recommendation:

18. a) That mandatory blood-alcohol testing be performed on all persons who are involved in a car accident which results in death or serious injury.

The Panel also extended the same principle to victims of sexual assault who are vulnerable to the contraction of AIDS and other diseases. The Panel agreed that AIDS blood testing should be made mandatory for offenders and victims in cases of sexual assault and recommended:

18. b) That Mandatory AIDS testing will be provided for all victims of sexual assault and also for all accused sex offenders. Support will be provided as well, which includes explanations of the realities of AIDS testing.

Further to Recommendations #13, #14 and #15, regarding victims and the parole system, the Panel discussed alternate ways of ensuring accountability by members of Parole Boards whenever their irresponsibility in releasing criminals into society without proper consideration of all factors affecting the likelihood that the criminal would pose a serious danger to society resulted in further deaths.

Among the issues discussed was that of minimal qualifications of appointed members of Parole Boards and the need to ensure that there be present on each Board at least a certain number of members with specific

qualifications in the medical and psychological fields who would be able to assess the individual cases presented for the Board's consideration. It was also suggested that Parole Boards also have members who are directly involved with victims of crime such as victim advocates to help provide a balanced judgement in parole cases. Panel members considered ways to maintain the integrity and accountability of Parole Boards and agreed on the following Recommendation:

19. That appropriate legislative amendments be enacted to provide for the review or rescinding of a Parole Board appointment where a decision to grant such an appointment has resulted in irresponsible Board decisions to release criminals into society;

Further to earlier Recommendations concerning ongoing communications between victims and the justice system, a number of Panel members stated that it was not sufficient to inform victims and their families whenever their convicted assailants are being considered for release into society or when they are so released. It is also necessary to keep victims informed whenever their assailants are placed in less secure institutions, a situation which places victims at risk when the criminal has an enhanced opportunity to escape confinement. Therefore, the Panel recommended that:

20. All Victims shall receive in advance notification by federal and provincial correctional authorities of any proposed transfer of a prisoner from a secure institution to a non-secure institution;

In discussing the issue of compensation for victims of crime, the Panel agreed that Criminal Injuries Compensation Boards ought to exist in all provincial and territorial jurisdictions in Canada and that there is a need to develop a single set of national standards for victim compensation to be implemented throughout all jurisdictions. It was noted that, with the exception of Prince Edward Island, the victims' rights statutes in Canada do not provide for direct compensation to the individual victim. Instead, the legislative scheme is to provide funding for victims' programmes and services and to promote victims' needs and concerns. PEI has consolidated programme funding with the criminal injuries compensation of victims in one statute.

The Panel drew on the personal experiences of members to develop corrections to current practices among existing Boards. Recommendations for victim compensation contained in the Report of the Advisory Board on Victims' Issues, "Victims of Crime in Ontario" were reviewed. Recommendation #3 of this report with respect to victim definition under the Criminal Code of Canada would be the operative one for all Criminal Injuries Compensation Boards and, under the terms of that definition, would make eligible for compensation victims of drunk driving. Other points included payment for grief, sorrow, pain and suffering, compensation levels for funerals BEFORE adjudication and the provision of funds for memorial markers in cases where bodies of victims are never recovered:

21. That Criminal Injuries Compensation Boards be established in all provinces and territories, that national standards for victim compensation be developed and implemented and that the definition of "victim" for purposes of victim compensation be conformed to that contained in Recommendation #3; The following areas should be reviewed:

- Requirement of police to provide information
- Timely response
- Uniform provincial compensation awards
- Eligibility criteria as per victim definition, schedule of offences to be kept current with that of the Criminal Code of Canada;
- Victims definition
- Proper notice of all available victim services to victims and their families
- Payment for grief, sorrow, pain and suffering

• Compensation levels for funerals before adjudication
• Where bodies are never recovered, monies be provided for a memorial marker;

The Panel heard that Bill C-89, An Act to Amend the Criminal Code (Victims of Crime) requires that a sentencing judge impose an added fine on an offender convicted or discharged of a crime under the Criminal Code. The offender must pay the surcharge in addition to carrying out the rest of his or her sentence, though exemption may be granted if the judge finds that paying the surcharge would cause "undue hardship."

The revenue collected from surcharges is not given directly to individual victims of crime. Instead, the provincial governments use the revenue to fund various programmes and services for victims. Some provinces use surcharge revenue to fund such programmes as police-based victim services, emergency shelters for women and children and sex assault centres.

The Panel also heard that there were variations in imposing the surcharge by judges. In a British Columbia study, it was found that a surcharge was imposed in only 10 per cent of the cases in larger urban areas, while in smaller centres, it was imposed in 42 per cent of cases. The study found that there were judges and Crown counsels who were not even aware that it was mandatory to order surcharges with non-fine sentences. In the same study, 10 of the 15 judges interviewed objected to the victim fine surcharge since it does not go into a special fund for victims and the provincial
government does not publicize the victim programmes and services it funds. The report recommended that judges would be more willing to impose the surcharge if they could see the beneficial programmes and services funded out of these revenues via a special victims fund. This is in fact the case in New Brunswick and other provinces who report high revenues for victim services. The Panel made the following two recommendations:

22. That a separate account be established in each province to receive monies generated by the Victim Fine Surcharge pursuant to Section 727.9 of the Criminal Code of Canada. Monies from this account should be dedicated to programmes which are designed to assist victims. Each province should establish a Committee to administer this account. Such a Committee shall include members of the public representing victims and victim service programmes. This recommendation is to be extended to victims of drunk drivers to ensure they also participate in victim service programmes which are funded by the victim fine surcharge.
23. That all Judges be informed about how the above monies are being allocated. All Judges shall be directed to levy the Victim Fine Surcharge as provided for in Section 727.9 of the Criminal Code.

The Panel heard another way of funding victim services through the seizure of monies earned by criminals or members of their families through the sale of recollections of the crime. Since 1989, the U.S. "Victims of Crime Act" (VOCA) has empowered each state to seize such unjust enrichment from criminals. As of 1992, the total amount of monies generated from this source alone reached more than $125 million and allowed for the development of victim services throughout the U.S., especially in areas which formerly did not have them.

The principle here is that criminals should not be allowed to derive profit from exploiting the suffering of their victims. Proceeds of crime legislation would also serve to illustrate how crime victims' rights can be implemented in a practical way under the law as it was in similar legislation enacted in New York following the publicised 'Son of Sam' murders. The Panel recommends:

24. That each province enact legislation preventing the unjust enrichment of persons convicted of a criminal offence and a member or a former member of that person's family through the sale of his or her recollections concerning the offence, interviews or public appearances during which the persons' recollection is discussed. Upon application by the Attorney General, a court of competent jurisdiction may order that such proceeds be forfeited and paid to the provincial Criminal Injuries Compensation fund;

The Panel then considered the experience of U.S. jurisdictions concerning civil forfeiture legislation which extends proceeds of crime legislation by removing the requirement for a criminal charge or conviction before proceeds of crime can be collected to fund victim services. It was agreed that such monies collected should be shared with the police forces conducting the criminal investigation. Those charged with impaired driving, the person's car should be automatically confiscated and their licence suspended while awaiting trial, points which are consistent with the pith and substance of civil forfeiture legislation. The Panel therefore recommended:

25. a) That each province study and consider enacting civil forfeiture legislation dealing with proceeds of crime. Such legislation should be modelled after successful U.S. jurisdictions where such civil forfeiture legislation has been in existence for years. Such civil forfeiture legislation provides for the seizure and forfeiture of proceeds of crime without any requirement for a criminal charge or conviction;

b) That in cases where a person is charged with impaired driving, that person's car should be confiscated and their licence automatically suspended while awaiting trial;

26. That monies allocated to the provinces pursuant to the Regulations of the Seized Assets Management Act (Proceeds of Crime) shall be shared with law enforcement agencies directly involved in conducting the investigation which resulted in the revenue being obtained. The balance of such monies shall be dedicated to programmes for victims;

The Panel also discussed the special needs of child victims of crime in their involvement in the justice system and how they are, at present, largely unmet. The Child Witness Project in London, Ontario presented the stresses that child witnesses undergo in the courtroom situation. Their vulnerability under such circumstances prevents them from having an effective role in due process as they are revictimized. The Panel heard a number of ways in which to assist child victims of crime and agreed on the following recommendation:

27. As there exists a need to ensure greater justice for child victims in Canada, there should be a national initiative to ensure that each province implement necessary reforms and measures to safeguard children. Such initiatives should include, but not be limited to: the number of interviews, joint interviews, multidisciplinary teams, video-taped interviews and the expanded use of closed-circuit television in appropriate cases. Police administrations shall appoint specially trained officers responsible for child victims of crime and that the Attorney General shall designate child abuse specialists in each jurisdiction;

The Panel heard that there is a need to increase public awareness of and sensitivity to the rights of victims of violent crime and their families. An annual day, commemorating publicly the victims of crime, would serve to encourage reflection on the question of whether victims have achieved their proper place within the justice system. It would also promote the dissemination of information relating to victims' rights and the services available to them. It would further make clear to governments and police authorities the need for constant effort and vigilance to ensure that victims are appropriately recognised under the law and that their rights are respected and their needs met to the fullest extent under the law and under victim services programmes. The Panel agreed on the following recommendation:

28. That a National Victims' Memorial Day be established and that corresponding days be enacted in each province. This day would also serve to increase public awareness of and sensitivity to the rights of victims of crime and their families in society and in our justice system, and would signify the experience of prolonged victimization suffered by all crime victims and their families.

“At one point I had to say ‘Are you people mad at each other; are you guys not on speaking terms?’. I don’t know why it’s so difficult just to find out what general policy is.”

Marjean Fichtenberg, speaking about how difficult it was for her to get information from Corrections officials, at the SafetyNet forum Victimization: Dealing with Corrections and Parole

Youth and YOA: Committee Members

Chair:	Stuart Auty, President, Canadian Association for Safe Schools
Facilitators:	Deputy Chief Christine Silverberg, Hamilton-Wentworth Regional Police
	Paul Moreau, Appellate Counsel, Appeals Branch Edmonton
	John Nunziata, MP, Toronto-York S-Weston, Ontario
Delegates:	Chuck Cadman, CRY (Crime Responsibility & Youth)
	Bernadette Dupuis, Delegate
	Dr. Frank Fragomeni, Clinical Director, Bayfield Homes
	Mark LaLonde, Programme planner, Interdisciplinary studies, Justice Institute of British Columbia
	Margaret Pinard, Delegate
	Jessie Smith, Chair, CAVEAT Education Committee
	Margaret Stanowski, Executive Director, Springboard
	Colette Mandin-Kossowan, Delegate
	Hilary Meggison, Child & Adolescent Services, Hamilton Public Health Department
	Jan Lukas, CAVEAT Education Committee

Youth and YOA

Of Existentialism, Anomie, and Society’s Duty:
An Impassioned Plea for Change

Summary

There is, today, significant concern being expressed across this country about the rising rate of youth crime, and our inability as individuals and institutions to cope with young offenders. As professionals in the care of young people, as victims of crime committed by youth, and as people concerned about the safety and welfare of our communities, we recognize, in very direct and troubling ways, the immediate need for extensive revision to the Canadian system which deals with youth in conflict with the law. Indeed, we believe we reflect both the growing fear that our communities are unable to cope with the consequences of youth crime, and a rising dissatisfaction with our legislators who seem either immune to or naive about the pervasiveness of the problem.

That the Young Offenders Act lacks broad public support is echoed in the voices of many, both inside and outside the system, who believe that a crisis has been reached in terms of our ability to respond to the inappropriate behaviours of young people. The causes are multi-grounded, the solutions complex. As a coalition of both cross-system professionals and grassroots organizations, it is clear to us that the problem must be addressed conjointly, and in a fashion that goes beyond the single mandate of any one group or the specific terms of any one piece of legislation. There lies in us a passionate sense of foreboding – our collective

experiences and knowledge belie the notion that piecemeal amendments to the current legislation will ease our anxiety over a systemically induced failure to respond to the needs of our young people. Our principles are simple: early identification and intervention is critical and cost effective; care-giving professionals must be able to share information for the benefit of their communities and their children; family dysfunction must be seen to be both a root cause of young offender behaviour and a priority in the delivery of social services; communities must take ownership of their children; and as an essential component of the equation, young offenders must be held responsible for their behaviour.

There is another absolute upon which we agree – the rights of victims. Our experiences shape our view that victims are marginalized, and we are now clear and unabiding in our collective call to enshrine the rights of victims within every applicable piece of legislation and within the criminal justice policy framework as a whole. Only then will victims begin to be accorded the dignity and the fair and equal treatment they deserve. While we acknowledge that the treatment of victims as incidental is not spawned from a conscious desire to subjugate them in the process, the unalterable fact is that victims suffer alone – they are conscripted bystanders in a drama where the offender is the central character. Again, our principles are simple: victims have a right of engagement, including notification of the offence, the arrest, and the trial date; the right to present both a written and oral impact statement; the right to be advised of the disposition of the case; the right to be advised of the release of an offender from custody including the conditions and terms of release, prior thereto; the right to be notified of and the right to attend reviews of dispositions pursuant to the Young Offenders Act; and importantly, the right to receive trauma counselling, and to have access to treatment opportunities as the victim deems appropriate.

Recommendations

Recommendation #1 — Court Directed Treatment and Counselling

WHEREAS provincial mental health legislation provides sufficient protection from unwarranted invasive treatments, and

WHEREAS there are currently high risk offenders who do not consent to treatment in situations where it is clear that treatment is necessary, and

WHEREAS many young offenders, in particular young sexual offenders, manifest denial, rationalization and lack of remorse, and

WHEREAS young offenders are not best equipped to make their own decisions in relation to the necessity for treatment, and

WHEREAS the safety, security and protection of our communities is best served by mandated treatment, and

WHEREAS the present Young Offenders Act in Section 20(1)(i) provides for the detention for treatment with the consent of the young offender, and Bill C-37 would repeal that section, thereby removing the ability of the Youth Court to order custodial treatment,

THAT the Young Offenders Act be amended to provide the authority to the court to direct custodial or out-patient treatment and counseling without the consent of the offender.

Recommendation #2 — Information Sharing for Case Management

WHEREAS some provincial Freedom of Information and Protection of Privacy legislation restricts information sharing, and

WHEREAS a case management model approach to both early intervention and rehabilitation is essential for effective proactive and reactive treatment,

THAT a review be undertaken of all provincial privacy legislation to ensure exemptions exist to permit information sharing between appropriate agencies.

Recommendation #3 — Public Defenders

WHEREAS provincial Legal Aid Systems are becoming financially prohibitive, and

WHEREAS young offenders should be represented by specialists in Youth Court defense

THAT all provincial Attorneys General examine the concept of public defenders, retained on salary, to better serve the administration of youth justice.

Recommendation #4 — Parental Responsibility and Accountability

WHEREAS parents and/or guardians must accept responsibility for the behaviours of their children, and

WHEREAS parents and/or guardians are accountable for the wrongs of their children,

THAT the Young Offenders Act be amended to incorporate Section 22 of the Juvenile Delinquents Act.

Recommendation #5 — Serious Personal Injury Offences to Adult Court

WHEREAS crimes of violence to the person are abhorrent to society and must not be tolerated, and

WHEREAS mitigating factors, including youthfulness, can be taken into account by a sentencing court,

THAT all Serious Personal Injury Offences be tried in adult court, and

THAT the sentencing court be empowered by legislative amendment to direct service of all or part of the sentence in a youth institution.

Recommendation #6 — Early Intervention Strategies

WHEREAS there is general agreement that early intervention with children at risk may reduce the number of young offenders

THAT early intervention programs be funded through the repriorizing of current allocations.

Recommendation #7 — Community Policing

WHEREAS we endorse the concept of community policing in regard to prevention of youth crime, and

WHEREAS we recognize the importance of school liaison officers, and

WHEREAS we endorse the efforts of educators to deal with youth crime and applaud the safe schools movement,

THAT there be continued sharing of resources, and coordinated effort in relation to youth violence in the schools.

Recommendation #8 — Victims' Rights

WHEREAS victims are marginalized throughout the criminal justice process

THAT victims' rights be enshrined in a Statement of Principles within the Young Offenders Act, which would include the right to be notified of the offence, the arrest and the trial date; the right to provide a written and oral impact statement; the right to be notified of the disposition of the case; the right to be notified of an offender's release from custody, including any terms or conditions of release prior thereto; the right to be notified and have the right to attend reviews of dispositions under Section 28 of the Young Offenders Act; and, the right to be afforded treatment opportunities as the victim deems appropriate.

Recommendation #9 — Children Under 12 Years of Age

WHEREAS there is consensus that there is an insufficient framework to deal with children under the age of 12 years of age who have committed criminal offences,

THAT a legislative mechanism be researched, and created to deal with children under the age of 12 years who commit criminal acts.

Conference Attendees
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