

Reality Check T

Contributing to the factual knowledge of Canadians about crime and criminal justice.

THE JOHN HOWARD SOCIETY OF CANADA

PREPARED BY THE JOHN HOWARD SOCIETY OF ONTARIO

“Volume Discounts in Sentences for Murder”

The claim:

The penalty for committing more than one murder is insufficient and should be increased.

The reality:

The penalty for murder is a life sentence. Ultimately, the person convicted for murder can spend the rest of his/her life in prison. The only way for release to the community is by earning a parole which is granted by the National Parole Board. Eligibility for parole is set at the time of sentencing. For first degree murder (planned and deliberate or of a peace officer or during the commission of another serious offence), parole eligibility is set at 25 years. For second degree murder (all that is not first degree), the judge has discretion to set the parole eligibility at from 10 to 25 years.

There is provision for a reduction of the period of parole ineligibility for those who have been given a life sentence with a parole eligibility of greater than 15 years. This can be done through a judicial review with a decision made by a jury. This judicial review can be applied for only after the person has served 15 years. And because of a recent amendment to this provision, those convicted of more than one murder are not eligible to apply for judicial review. He/she must serve the 25 years before applying for full parole.

This recent amendment is just one in a series of amendments over the past 40 years which have resulted in the steady increase in the time people convicted of murder must serve before applying for parole. In 1961, full parole eligibility for capital murder commuted to a life sentence (roughly equivalent to first degree murder) was 10 years and, for non-capital murder (currently second degree murder), parole could be considered after 7 years. (Note: the last execution in Canada was in 1962 after which all death sentences were commuted to life). Amendments in 1969, 1974 and 1976 increased the period before eligibility.

By international standards, Canada stands out for its particularly harsh sentencing policies and release practices for the equivalent of first degree murder. A recent survey of 15 industrialized countries done for the Solicitor General of Canada shows that Canada is second only to the United States in the amount of time to be served before a sentence review/parole eligibility and in the average incarcerated time served. The average sentence review/parole eligibility period was 9.5 years and the average incarcerated time served was 14.3 years. Canada's parole eligibility is 25 years and it is estimated that the average incarcerated time served is 28.4 years.

If a person commits more than one murder, the sentences are served concurrently. Unlike the United States, Canada takes the approach that the maximum sentence that can be imposed is life and that sentences that attempt to go beyond that are a fiction. And, again unlike the United States, we take the approach that rehabilitation and change is possible and do not disallow the possibility of release. Going

beyond the possibility of release at twenty five years will likely have the effect of making parole for murder in Canada merely a illusion. If sentences are consecutive and parole eligibility is therefore set at 50 or 75 years, it is unlikely that the many would live long enough to be considered for parole. Sentences which exclude the possibility of rehabilitation become sentences which are only retributive and punitive in nature. More humane jurisdictions recognize that while punishment is clearly a purpose of sentencing, it is not the only purpose of sentencing.

Let us remember that parole is but a possibility, not a certainty. Even if it is granted the person will be under supervision for the remainder of his/her life. A life sentence does mean that the person is under the control of the State for life. And the notorious - those offenders who are used to justify ever more punitive measures, will not likely enjoy the benefits of release from prison, regardless of what changes are made to the laws around penalties for murder. Good policy is never made on the basis of sensational, exceptional cases.

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