

Fact Sheet

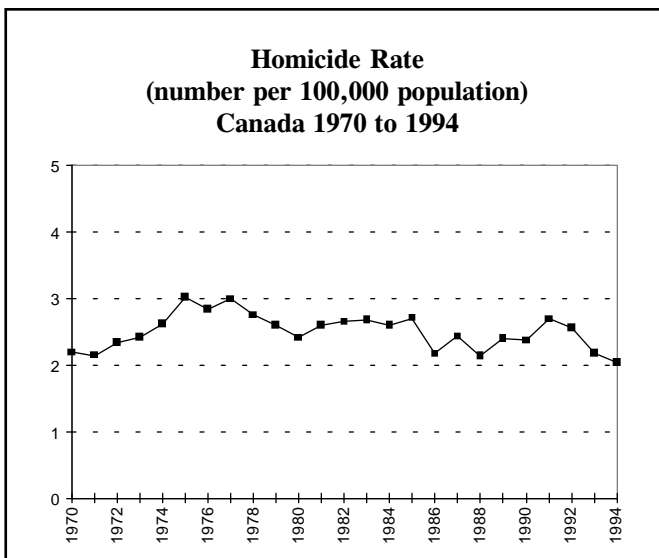
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update and
supplement

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Judicial Review



More Facts

- The 1994 homicide rate of 2.04 per 100,000 population was the lowest rate recorded in Canada in 25 years.
- The time which must be served prior to parole eligibility for those convicted of murder has increased continuously in the past 30 years. Before 1974, the maximum period of parole ineligibility was 10 years. It is now 25 years - an increase of 250%.
- The jury in a judicial review case is randomly selected from the voters' list. They are subject to scrutiny by both the applicant (the offender) and the Crown. As in trials, we entrust those who are selected to examine the evidence presented, listen to the guidance of the judge in matters of law and make a decision that is in the best interests of the community.

What about the victims?

The primary reason for abolishing judicial review is the pain it causes for the family of murder victims. Any thinking person would, of course, have tremendous sympathy for the family of victims of murder. But to avoid the pain of some by imposing harsh penalties for all is wrong. The hearing causes pain as did the trial. The trial is necessary to preserve a principled, objective criminal justice system. Judicial Review is necessary for the same reason. It must be recognized that what is best for society as a whole may not be that which particular victims feel compelled to demand facing their own circumstances. The criminal justice system embraces many purposes other than just punishment and there must be a forum in which the potential for rehabilitation, treatment and reconciliation are heard. No forum gives greater safeguards than an open court hearing before a jury.

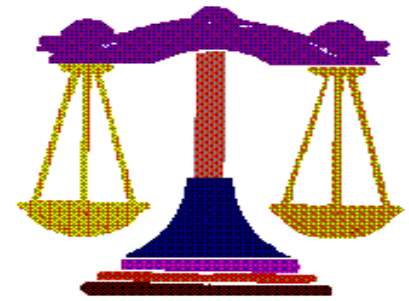
...opponents of judicial review are wrong to say reviews automatically "revictimize" the victims... as the following case illustrates. Leonardo Rocha, 59, was seeking early release after serving 16 years of a life sentence for the murder of his 16 year old daughter. Mr. Rocha testified that he simply had been unable to adjust to a society that, in his view, allows teenagers to gallivant in the outside world in defiance of their parents' wishes. "I was so confused, so out of control. I felt like my hopes were gone. My family was gone. Things happened that never should have happened." The killing had been about as close to spontaneous as a "premeditated" killing could get and Mr. Rocha's prison behaviour had been exemplary. His remaining family members were in favour of his being released. The Brampton jury elected to permit Mr. Rocha to apply for parole in three years.

Excerpts from *Globe and Mail*,
March 12, 1996 article by Kirk Makin

- The system in place has shown itself to be capable of distinguishing between the obviously dangerous and disturbed individuals and those who do not present a serious risk to the community. As of February 1996, of the 67 cases in which a decision has been rendered, 12 have been rejected completely, 3 have been rejected but can reapply for judicial review at a later date specified by the jury and 52 have had their parole eligibility reduced within a range of two to ten years.

- The judicial review provision affects only a small number of prisoners. While all those serving a life sentence with a parole eligibility of greater than 15 years are eligible to apply for a judicial review, many do not apply. By the mid point of 1995, 173 were eligible to apply but only 74 had applied.

- The current status of the 50 individuals who had received some reduction in their parole eligibility as of the end of December 1995 is as follows:
 - 25 on day or full parole,
 - 2 revoked for technical violations of parole conditions (no new offense),
 - 1 unlawfully at large,
 - 1 re-offended (armed robbery),
 - 1 dead, and
 - 20 remain incarcerated.



Section 745:

- provides the safeguards of an open court hearing in front of a jury selected from the community;
- is a measure of hope to moderate the punitive aspects of the sentence and recognizes the value of rehabilitation in criminal justice;
- provides future generations of the opportunity to make their own choices based on their own assessment of the impact of the sentence on the offender and the community at that time; and
- allows for the possibility, now and in the future, of being able to respond in a humane way to unique circumstances.

It is impossible to anticipate in advance the types of cases which may come up, the circumstances of the application, and the worthiness of the application. Canadians are quite capable of distinguishing between those people who can be safely released and headline-grabbing cases like Paul Bernardo and Clifford Olson. Surely rejecting the process which allows for a careful review by informed citizens in favour of a blanket ban demanded by those enraged by sensational cases is tantamount to abandoning key principles of criminal justice to mob rule.

A criminal justice system based solely on the demand for vengeance can never be just, humane or effective.

Judicial Review Decisions by Province (to February 1996)													
	Parole Eligibility Reduced to:									Rejected: re-application permitted in:			Total
	15	16	17	18	19	20	21	22	23	3 years	4 years	none	
N.B.						1							1
N.S.				1									1
Quebec	14	4	4	1	1	2		1				1	28
Ontario	1	1	1	1	3	1	1					7	16
Manitoba	1		2	1								1	5
Sask.	1	1							1		1		4
Alberta						1				1		3	5
B.C.	1	1			1	3				1			7
Total	18	7	7	4	5	8	1	1	1	2	1	12	67

- Murderers, as a group, have amongst the lowest recidivist rate of any offender group and for any crime. Continuing to incarcerate those who no longer present a risk to the community for a 10 year period costs the taxpayer \$457,530 (using the 1993/94 average annual cost of incarcerating an offender). Even with the judicial review provisions, the 1976 changes to parole eligibility increased the inmate population by 888 people serving life sentences.

- Overcrowding in prisons with all of its problems of increased tension, waiting lists for programs, unemployment and under-employment of prisoners, delays in parole hearings, double bunking etc. will only get worse. These problems will have an impact on all prisoners and, in the end, will only contribute to more crime.