

**DANGEROUS OFFENDER LEGISLATION
AROUND THE WORLD**

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EXECUTIVE SUMMARY

In Canada, recent dangerous offender provisions contained in Bill C-55 have served to tighten controls on criminals who are considered to pose a significant threat to the community. Dangerous offenders are no longer subject to fixed sentences as they were prior to the introduction of the new legislation, and must serve an indeterminate period of time in custody without eligibility for parole until seven years has passed. The legislation also provides for a long-term offender designation that is intended to target sex offenders and imposes a community supervision requirement for up to ten years. These provisions, in combination with community notification protocols used in several provinces, were put in place to protect Canadians from dangerous offenders. But will these legislative measures protect us from harm or will the rehabilitation and reintegration of dangerous and long-term offenders be prevented, thus putting the community at a greater risk when such offenders are released?

A critical examination of the evolution of dangerous offender legislation in nations around the world, as well as the provision of these that are currently in force, will allow for an assessment of Canadian dangerous offender laws. For example, the great number of difficulties encountered after the implementation of community notification protocols for released 'high-risk' offenders in the United States and the United Kingdom, is significant to the possibility of similar problems arising in Canada. The relative success of dangerous offender legislation in the Netherlands is equally significant. We can learn much from the experience of other countries so that, ultimately, we can protect our communities through the effective handling of dangerous offenders.

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INTRODUCTION

Since the turn of the nineteenth century, dangerous offender provisions have been enacted in many nations around the world, particularly in North America and Europe. These laws exist because some offenders are considered to be so dangerous that punishment proportionate to their offences would be inadequate to prevent them from committing harmful acts in the future. Indeed, it is incapacitation, not punishment, that is the primary goal of dangerous offender laws. Two types of incapacitative measures are used to deal with dangerous offenders: preventive or indeterminate custodial sentences and community notification. A preventive custodial sentence is similar to an indeterminate one in that both entail the imposition of custody for a period longer than can be justified by the criminal act and the offender's record. Additional time is incorporated into these dispositions as the offender is seen to pose a significant threat to the community. A preventive sentence is different from an indeterminate sentence because it is fixed; a judge is required to indicate the length of time an offender will serve in custody. Community notification provisions serve to incapacitate the offender within the community by making his presence known to people within a certain area who will, theoretically, protect themselves and their loved ones from victimization.

This paper will survey laws from several jurisdictions around the world that provide for lengthy custodial dispositions or for community notification once a dangerous person is released from prison. We will focus on legislation enacted in the United States, the United Kingdom, Australia, the Netherlands, and Canada. The evolution of dangerous offender provisions within Canadian criminal law will be examined and the current protocols for dealing with dangerous and long-term offenders will be evaluated. It is hoped that a consideration of various dangerous offender protocols in other nations will allow Canadian law makers to improve upon the current legislation and create a better balance between the protection of society and the constitutional rights of the offender.

DANGEROUSNESS DEFINED

The classification of an offender as dangerous hinges on how dangerousness is defined. In the criminal justice context, Petrunik gives a broad yet revealing definition: "...the concept of dangerousness refers to a state of being of individuals which predisposes them to engage in harmful acts" (1994, p. 4). The definition is revealing for several reasons. First, it notes that dangerousness is a phenomenon that exists within individuals. The criminal justice system presupposes that only solitary persons act dangerously; government entities and corporations cannot. Second, the definition refers to a state of being, suggesting that there is something within certain people that is the source of their dangerous conduct. Danger is conceptualized as harm likely to be caused, displaying the orientation of dangerousness to future conduct. Finally, the last part of the definition pinpoints the fact that the danger manifests itself in harmful acts.

'Dangerousness' is not a term, however, that can be defined in the same manner across jurisdictions and through time. In English speaking nations, when dangerous offender laws were first passed in

the early part of the twentieth century, property offences were considered to be harmful acts. Thus, property offenders were classified as dangerous and were incarcerated indeterminately along with violent dangerous offenders (Pratt, 1996). In recent decades, the concept of dangerousness has narrowed considerably to encompass an offender's potential to commit acts of violence or those of a sexual nature. While it can be said that dangerousness is the potential of an individual to cause future harm to others, how a legislative body defines 'harm' is key to the definition of dangerousness.

DANGEROUS OFFENDER LAWS

United States

Historically, American dangerous offender legislation (at both the federal and state levels) has focused primarily on sexual offenders. In the late 1930s, Sexual Psychopath laws were introduced in many American states that were formulated on the premise that dangerous sexual offenders were neither legally insane nor normal. Thus, these offenders did not belong in mental institutions but needed to be incarcerated for the purpose of public protection (Pratt, 1996). Early sex offender laws were based on a clinical model of assessing and dealing with dangerous offenders. According to this model, those who commit serious violent or sexual offences are presumed to suffer from an individual pathology that renders them incapable of controlling their behaviour. Treatment is critical to reduce the probability of recidivism and indeterminate confinement is the preferred means by which those offenders are incapacitated until such a time as they are found no longer to be dangerous.

American dangerous offender laws formulated within the clinical framework make some incorrect assumptions (Petrunik, 1994). For example, violent offenders are assumed to suffer from some type of mental abnormality that causes them to re-offend, with their offences getting progressively more serious. As well, the laws reflect a common misconception that most sex offenders assault victims who are strangers- in fact, most sexual assaults are perpetrated by an acquaintance, friend or family member of the victim. The influence of the clinical model is clearly demonstrated in the presumed ability to diagnose and treat sex offenders as well as accurately predict dangerousness. Despite studies in the United States that show dangerousness to be unpredictable and the fact that dangerousness has never been shown to be an identifiable personality trait (Mullen & Reinehr, 1982), clinicians still give predictions regarding individual offenders. This aspect of the clinical model becomes especially troublesome when a clinical assessment is given in capital murder trials. In such a situation, Ewing (1983) has found that jurors who were given a clinical assessment of an offender's dangerousness and subsequently decided to give a death sentence, had relied heavily upon the clinical opinion in making their decision.

The influence of the clinical model can be seen in Illinois' Sexually Dangerous Persons Statute, which is not actually criminal law (Petrunik, 1994). Rather, it provides for the civil commitment of sexual offenders, particularly those who target children. The Act focuses on those who have a disorder that needs to be treated. After a charge has been laid for any offence, a district attorney may

petition for civil committal of the defendant under the legislation, in an attempt to show that the person is 'sexually dangerous' (Petrunik, 1994, p. 37). Following petition, two psychiatrists specializing in this area are called upon to determine whether the accused meets the criteria laid out under the Act. Their report is submitted to the court, and a full hearing with a jury is held. If the criteria are not met, the accused is tried as originally charged. If the requirements are met, the accused is held and treated at a facility that has the capacity to treat the committed person until recovery. Sexually dangerous persons may apply after a year of civil commitment for release. Each release application must be heard by a mental health review board. A report is made upon every application as to whether the criteria continue to be met by an offender. If the offender no longer meets the commitment criteria, he or she is released.

There have been several criticisms of the Sexually Dangerous Persons Act (Petrunik, 1994). The Act does not consider an offender's amenability to treatment. If there is no possibility for treatment, detention is merely preventive and violates due process, considering that the detained person has never had a trial. As well, many people who could be detained under the Act are not violent and thus would not necessarily need detention for treatment. Confinement under the Sexually Dangerous Persons Act could potentially be deemed cruel or unusual punishment, contrary to the provisions of the American Bill of Rights.

In recent years, there has been a dramatic shift away from a clinical approach to dealing with dangerous offenders to a community protection approach. The clinical model disappeared from the forefront of American sex offender legislation, in part, as a result of the efforts of civil liberties movements whose members argued that mental health experts' assessments of dangerous offenders were merely moral judgements disguised in psychological terminology. Additionally, the validity of mental health experts' predictions of dangerousness has not been demonstrated. Both the American Psychiatric Association and the American Psychological Association have made statements with respect to the inherent inaccuracies in the clinical predictions of dangerousness (Ewing, 1991). If an offender's future conduct could not be accurately assessed by the court, it would not be appropriate then, to commit him to custody indefinitely. Indeterminate sentences soon fell out of favour and legislators, in an effort to reinstate proportionality in the sentencing of sex offenders while protecting the community, decided that such a balance could only be attained by giving dangerous criminals determinate sentences and then notifying community members of their whereabouts after release.

Washington's Community Protection Act of 1990 is, as its name suggests, based on the community protection model of dealing with dangerous offenders, but still contains some aspects of the clinical model. It contains the Sexually Violent Predator Act, which has been challenged on several alleged Bill of Rights violations (Petrunik, 1994). This law emerged following several highly publicized incidents involving offenders who, despite unsuccessful attempts at treatment, were released after serving their sentences. The legislation increased the severity of penalties for many existing offences and targets those offenders with a history of mental disorder or sex offences. These persons, whether they are about to be released or are already in the community, can be summoned to a hearing to

determine whether they are sexually violent predators. There is no set time within which the application must be made. If the hearing reveals reasonable grounds to believe an offender is sexually violent, the offender will be sent to a clinical facility for assessment. Sexually violent predators must be diagnosed as having a disorder or abnormality that makes them likely to engage in acts of violence. A sexually violent predator will be held indefinitely until the Health Services Secretary recommends release. This is followed by a hearing to determine whether the person is still a sexually violent predator. Those found to be no longer dangerous can be released but must register themselves with the local police. The police will then notify the community that a sexually violent predator has taken up residence in their area.

Arguably the most significant sex offender legislation in recent years is Megan's Law, named after a seven year old New Jersey girl, Megan Kanka, who was raped and murdered in July of 1994 by a man who lived across the street. The Kankas did not know of the man's criminal record or sex offender status. This case spurred a highly publicized campaign to enact community protection laws at both the state and federal levels (Solicitor General of Canada, 1998a). Megan's Laws typically require police to notify community members when a sex offender is released from prison and takes up residence in their area. A convicted sex offender must register his name, address, and other pertinent information for a certain length of time, and this information is usually entered into a database. On May 17, 1996, President Bill Clinton signed a bill requiring all fifty U. S. states to enact Megan's Law community notification provisions, and as of April, 1998, forty-eight states had adopted this legislation ("Sex Offender Law Fails," 1998).

Because Megan's Laws are distinct pieces of legislation, different provisions exist within each individual law. In Delaware, for example, sex offenders are required to have a 'Y' designation on their driver's licences so that police officers in other states could identify as known sex offenders persons arrested or questioned. As is the case with many dangerous sex offender provisions, the Delaware measure was introduced in response to a sexual assault committed in North Carolina by a man who was released from a Delaware prison. This provision was included because, under the general scheme of Megan's law, only people in the community in which the sex offender settles are notified; people in other states would have no inkling if a sex offender from out of state came to their area. Critics argue, however, that putting a 'Y' on a dangerous sex offender's licence the measure does nothing more than brand dangerous status on released offenders, and that the measure will do little to protect people in states other than the one in which the offender was released.

The California Megan's Law was passed by the state legislature in late August of 1996. In addition to the basic community notification and sex offender registration provisions, the California legislation includes measures to increase public access to information on dangerous individuals. These include a requirement that the department of justice operate a '1-900' telephone number that members of the public can call to inquire as to whether a certain person is a known child molester (California Attorney General's Office, 1998). Sheriffs' offices across the state compile a CD-ROM database containing personal information on, and photographs of, convicted sex offenders. This database can be accessed by citizens by visiting their local sheriff's office, and can be searched by

name, ZIP code, or county. Essentially, one would be able to discover the names and addresses of all known sex offenders anywhere in the state. Additionally, the CD-ROM database highlights those offenders considered the most dangerous by marking their files 'high-risk' (California Attorney General's Office, 1998). The Bill amended section 290 of the state penal code to require that sex offenders be registered for life while residing in California.

Megan's Laws have ignited a heated debate over whether the *possibility* that a convicted sex offender may commit another offence is sufficient to justify the invasion of offenders' privacy. The American Civil Liberties Union (1999) has argued that convicted offenders who have served their sentences should not be subject to the continual punishment entailed by community notification. The ACLU states that notification laws will not prevent sex offenders from committing further crimes, but rather will prevent offender rehabilitation and reintegration. In many instances, the news media have published the identities of sex offenders. Even though the majority of citizens would not use published information such as the name and address of a sex offender to commit acts of vigilante violence, widespread notification does increase the likelihood of harassment and violence being perpetrated against the released offender. Further, community notification can contribute to the loss or strain of the offender's friendships and social supports, while creating difficulties for the released offender in finding and keeping work. These problems can lead to recidivism (Meier, 1995). It is also argued that sexual offenders who have paid their debt to society are punished a second time by public notification. Finally, there is no proof that public notification leads to increased community safety.

United Kingdom

Dangerous offender provisions have been in existence in the United Kingdom since the England and Wales Prevention of Crime Act was passed in 1908, which made possible the indeterminate incarceration of repeat offenders. In the first half of the twentieth century, 'dangerous' offenders were those who posed a significant threat to members of society or their private property (Pratt, 1996). Section 2(1)(b) of the English Criminal Justice Act of 1948 provides that "if the court is satisfied that it is expedient for the protection of the public, [the offender] should be detained for a substantial period of time" (cited in Pratt, 1996). No mention was made of the types of offences for which a person could be subjected to an indeterminate sentence and consequently, many property offenders were deemed dangerous by the courts. By the 1960s, the scope of dangerous offender provisions had narrowed to focus primarily on sex offenders.

Current dangerous offender legislation allows for preventive sentencing, or the imposition of a sentence longer than can be justified by the offence for which a person had been found guilty, when the court is of the opinion that the defendant poses a threat to the community. Preventive sentencing provisions included in the 1991 Criminal Justice Act require that, in the case of an offender suffering from a mental illness who has been previously diagnosed, the court must obtain a medical report and consider the effect that incarceration would have on the defendant's psychological condition as well as the availability of treatment in custodial facilities. When an

offender has not been diagnosed with a mental illness, however, the court is not required to consider a medical report or have a mental health expert testify at a hearing to determine the defendant's dangerousness. Further, the 1991 Criminal Justice Act repealed an earlier provision requiring a pre-sentence report, which would include information as to the offender's potential for rehabilitation and psychological characteristics, to be evaluated before a sentence was handed down. In many cases, it is now left to the court without the guidance of mental health experts to determine whether the offender is dangerous (Henham, 1997).

The appropriateness of a custodial disposition is gauged by section 2(2)b of the Criminal Justice Act. This section provides that the length of a custodial sentence given for a violent or sexual offence, while not exceeding the maximum, can be as long as the court decides is necessary to protect the public. The court, in making its decision, must assess the likelihood that harm will be inflicted on members of the community if the offender is released from custody. Unfortunately, the Act does not facilitate the court's assessment of dangerousness because, as mentioned previously, it does not require a pre-sentence report.

The most recent piece of dangerous offender legislation, the Sex Offenders Act, was introduced on September 1, 1997. This legislation requires local police agencies to register sex offenders within their jurisdictions for a number of years after release. These offenders, many of whom have been convicted of rape, sexual assault and incest, would be registered for five years for a non-custodial disposition, seven and ten years for a custodial sentences of up to six and thirty months, respectively; sex offenders given custodial sentences of over thirty months would be registered for life (Solicitor General of Canada, 1997). Police are now authorized to notify community authorities (school officials, employers, youth workers, for example) when a sex offender takes up, or has already established residence in the area (Home Office Research Development and Statistics Directorate, 1998).

There have been many criticisms of the United Kingdom's dangerous offender laws of late. The protective sentencing provisions included in the Criminal Justice Act, it is argued, are in violation of the human rights of offenders as they are subject to periods of incarceration longer than warranted by their offences; in essence, they are detained for offences not yet committed (Henham, 1997). Further, because the court is not required to consider a pre-sentence report, a judge must determine whether an offender is dangerous without the aid of a psychologist or a psychiatrist. Preventive sentencing provisions are also criticized for being incompatible with the paramount goal of the legislation- community protection (Henham, 1997). Although this might seem counterintuitive at first glance, it is fair to say that incarcerating a person for an undue period of time could be detrimental to the offender's chances of rehabilitation and reintegration into society. The longer a person remains in prison, the more he becomes 'institutionalized' and loses his ability to function as a productive member of society when released.

Community notification provisions have also been at the centre of much debate in the United Kingdom, and most of the criticisms of these provisions have mirrored those of American Megan's

Laws. It is argued that community notification heightens fear within communities and increases recidivism among released offenders who are often ostracized, harassed and prevented from finding work. Violence and harassment against sex offenders have been spurred in the United Kingdom by community notification. In one case, a teenage girl was killed in an arson attack on a sex offender, whose apartment was ablaze (Heartfield, 1998). Pedophiles have been targeted by an organization called People Against Child Abuse, a group that has held all-night vigils outside sex offenders' homes. Clearly, in the U. K., the rights of released offenders to privacy and security of the person are being jeopardized by the disclosure of sex offender's identities to the community.

Australia

As in the United States, Australian criminal law is made primarily by state governments and thus, a variety of dangerous offender provisions within criminal legislation have been introduced. The first of these provisions was introduced in New South Wales in 1905 and allowed for the preventive detainment of repeat offenders. Most Australian states have legislated some kind of preventive sentencing measures since then, but up until 1990, these measures were rarely used (Australasian Legal Information Institute, 1999). New South Wales currently deals with dangerous offenders according to the provisions of the Habitual Criminals Act of 1957. Under this law, an offender can be designated a 'habitual criminal' and given a protective sentence of between five and fourteen years, if certain conditions are met. The offender must be twenty-five years of age or older and have served, over separate periods, sentences for at least two indictable offences (ALII, 1999). Further, a judge must decide that such preventive detention is required to protect the public.

Of the states and territories of Australia, Tasmania and Western Australia have the most repressive of dangerous offender provisions, as sentences are indefinite and reviews are not required. In Tasmania, under the Criminal Code Act 1924 (Tas), an offender who appears to be at least seventeen years of age and who has committed at least two violent offences can be declared a dangerous offender and can be detained indeterminately. A judge must consider the potential of future harm that could be caused by the offender, the circumstances of his offences, medical and psychiatric opinion, and any other matters of relevance (ALII, 1999). There is no review process after an offender is declared dangerous and incarcerated in Tasmania. In Western Australia, The Criminal Code Act 1913 (WA) allows for the indeterminate sentencing of repeat offenders convicted of particular sentences, and the Crimes (Serious and Repeat Offenders) Act 1992 (WA) contains provisions for the indeterminate incarceration of youths and adults, and allows for release through a Supreme Court Order or at the discretion of the Governor.

In the state of Queensland, the Penalties and Sentencing Act 1992 (Qld) allows for the indeterminate sentencing of repeat violent offenders "where the court is satisfied that mental health legislation does not apply and that the offender is 'a serious danger to the community'" (ALII, 1999, p. 5). The court must, when imposing a sentence of indeterminate length, state the length of custody that would have been given had the offender not been declared dangerous. The indeterminate sentence can be reviewed after this specified amount of time has passed.

The Northern Territory and South Australia, in their dangerous offender legislation, focus particularly on sexual offenders. The Criminal Code Act 1983 (NT) and the Criminal Law (Sentencing) Act 1988 (SA) allow for the indeterminate incarceration of a person deemed a habitual criminal or incapable of controlling his sexual instincts. In both jurisdictions, release is by way of an order from the Supreme Court.

The state of Victoria was without dangerous offender legislation until 1990. In that year, a dangerous sexual offender was due for release from a Victoria prison. Garry David had a long history of violent offences and made known plans to commit further acts of violence upon release. David was diagnosed with an anti-social personality disorder but could not be held under mental health legislation because his disorder was not a mental illness (Wood, 1990). In response to the David case, the Victorian government passed the Community Protection Act 1990 (Vic). The Act's preamble specified that it applied to Garry David exclusively. It allowed the Supreme Court to put David into preventive detention if he posed a serious risk to the community and was likely to commit another act of violence. The Act also exempted itself from any evidence laws, making David subject to any clinical examination. The Act provided for a maximum order of six months' detention with a renewal option (Wood, 1990).

In 1993, the Community Protection Act was repealed and new provisions for indeterminate sentencing were added to the Sentencing Act 1991 (Vic). An offender can now be indeterminately incarcerated if there is a high probability, given the offenders character, the nature of his offence, and any other relevant circumstances, that the offender poses a serious threat to the community. The court must consider, additionally, psychiatric evidence as to the dangerousness of the defendant. A nominal sentence must be stated (the sentence the offender would have been given if he was not dangerous) and the indeterminate sentence must be reviewed when that period of time has passed.

Many criticisms of the Australian dangerous offender laws have been raised recently. One common criticism is that Australian dangerous offender laws ignore the principle of certainty in sentencing (Magazanik, 1993b) and would be better suited to a totalitarian society (Magazinik, 1993a). The preventive sentencing provisions in Australian criminal law can be criticized in much the same manner as those in other nations: these measures punish offenders for crimes not yet committed and may work against future rehabilitation and reintegration of offenders. Another major concern in Australia is the considerable disparity that exists in the requirements for dangerous offender status and in the available sentences for such offenders across jurisdictions. Age and offence requirements, indeterminate or fixed sentencing provisions, and review procedures are quite different from state to state.

The Netherlands

In 1925 and 1928, the Netherlands enacted legislation known commonly as the TBS law (an acronym for the words that translate, 'detention at the government's pleasure') which was amended in 1988 (Petrunik, 1994). The law affords judges the discretion to order an assessment, at the time

of sentencing, of an offender's degree of responsibility for the offence, in cases where the offence is violent in nature or preceded by a series of violent offences, carries a minimum four year term of imprisonment and a mental disorder is suspected (Petrunik, 1994). The court must also judge the offender to be a danger to the public. The offender is then remanded to a hospital where a psychologist and a psychiatrist conduct an assessment. This includes an evaluation of mental state, offence history and circumstances and behaviour at the time of the present offence. The assessment is used to determine the offender's degree of responsibility, be it partial or completely absent (Federal/Provincial/Territorial Task Force on High-Risk Violent Offenders, 1995). If an offender is found not responsible for the acts committed due to a mental disorder, there will be a 'non-punitive' order of indefinite detention; such detention is served at a hospital designed specifically for such offenders. This order is re-evaluated every two years. If found partly responsible, there are several options available. The offender has, at this point, the right to refuse any treatment or further assessment; the offender would then be sentenced under the Criminal Code. A partly responsible offender who does not refuse treatment may be given non-punitive confinement as in the case of a non-responsible offender. Alternatively, the judge may order a term of punitive (i.e. prison) detention followed by non-punitive confinement for treatment. If the offence for which the person presently stands accused is not violent but the court still finds that there may be a risk to the public, he or she may be confined to a hospital for a maximum of four years.

There is the option for gradual release of an indefinitely confined offender into the community (Petrunik, 1994). Over time, inpatients of a treatment facility will be allowed into the community for increasing intervals. Eventually, they are allowed out in a probationary scheme, under which the treatment facility holds responsibility for the patient. Studies of the Netherlands legislation have found that indefinite confinement, overall, averages six years; dangerous sexual offenders, as a subgroup of all offenders, are confined for approximately eight years.

The dangerous offender legislation of the Netherlands represents an improvement on other dangerous offender based on a clinical model in other nations. In the Netherlands, mental health assessments do not focus solely on predicting dangerousness or base their assessment only on a mental disorder. Rather, the assessments examine mental state, offender history and circumstances and behaviour at the time of the present offence which provides a more rounded picture of the offender and the offence, potentially improving behaviour predictions. Indeed, a study based on this method of evaluation found that those offenders who were not confined, contrary to the assessment's recommendations, were more likely to recidivate than those released in line with assessment recommendations (Petrunik, 1994). If community protection is to be regarded as the goal of dangerous offender legislation, it might be useful to closely consider the Netherlands' methods of offender evaluation and release, as the protocol that is in place there is effective without allowing for the violation of offenders' fundamental rights and freedoms.

CANADIAN DANGEROUS OFFENDER LEGISLATION

A Brief History

Canada's first legislation that dealt with dangerous offenders was introduced in 1947 (Jakimiec et al., 1986). The Habitual Offender Act dealt solely with offenders with lengthy criminal records and essentially served to remove them from society (Jakimiec et al., 1986). In 1948, the Criminal Sexual Psychopath Act was enacted. The Act required mental health experts to identify and treat dangerous sexual offenders (Petrunik, 1994). The Crown could apply for designation of an accused as a criminal sexual psychopath if he or she was convicted of one of the sexual offences enumerated in the Act. An assessment was made by two psychiatrists. If the assessment concluded that the person was sexually dangerous, he or she would be subject to the special sentencing provisions in the Act. The sentence given was a combination of determinate followed by indeterminate incarceration. The determinate sentence consisted of a minimum of two years' imprisonment. The indeterminate sentence would be reviewed by the justice minister every three years to determine eligibility for parole and what conditions would be attached if parole was granted.

There were numerous problems with the 1948 legislation. The term 'criminal sexual psychopath' was seen as extremely vague and unscientific. It was a serious designation to use, considering that an offender could be confined indefinitely based on this designation. On the other hand, the term's vagueness made the criminal standard of proof beyond a reasonable doubt hard to meet (McRuer, 1958, cited in Petrunik, 1994). A judge or jury would likely find themselves in doubt regarding what 'criminal sexual psychopath' means. The legislation's flaws led to a specification of the criteria in 1960, when the Dangerous Sexual Offender Act replaced the Criminal Sexual Psychopath Act (Petrunik, 1994). Dangerousness was based on the offender's criminal record and the circumstances of the current offence. One conviction was required, including the one on which the dangerous sexual offender application was based. Offenders already released into the community could be called in for a hearing if an application was made within three months of their release. These offenders could be subject to an indeterminate sentence to be reviewed every three years.

In 1969, a corrections committee tabled a report making several major recommendations with respect to the Habitual Offender and Dangerous Sexual Offender Act. The habitual offender legislation was seen as ineffective and found to be used inconsistently across Canada. Those incarcerated under the Habitual Offender Act were often repeat nuisance or property offenders, not dangerous criminals who posed a threat to the public (Webster & Dickens, 1983). The dangerous sexual offender law was also used erratically across the country, on occasion for sexual offenders who were not violent. Moreover, the law did not address dangerous persons whose offences were not sexual but no less dangerous. The committee did, however, advise continued use of a clinical method. Reliance on the behavioural and mental health sciences was stressed for assessing, diagnosing and treating dangerous offenders. The Law Reform Commission of Canada, meanwhile, cautioned against using indeterminate sentencing and recommended avoiding clinical evaluations of dangerousness. Despite these recommendations, new legislation was enacted in 1977 as an amendment to the Criminal Code

of Canada, based on the 1969 committee's report. This new law rescinded the Habitual Offender Act and the Dangerous Sexual Offender Acts, and was formulated such that it would apply to both sex offenders and those who had committed acts of a non-sexual violent nature. In 1977, Part XXIV of the Criminal Code had provisions for indeterminate or determinate sentences for offenders found to be dangerous who would be eligible for parole after three years.

Since the passage of the 1977 legislation, there have also been extra-judicial measures undertaken in response to post-release crimes that have attracted extensive media coverage, public protest and government task force recommendations. At one point, it was the practice of the National Parole Board to release offenders who had served two-thirds of their sentence and then to immediately issue recall warrants to offenders predicted to be dangerous (Petrunik, 1994). The Supreme Court of Canada declared this unconstitutional and instructed the Parole Board to base recalls on post-release conduct only, rather than on predictions. To avoid the difficulties with the above release and recall practice, legislation was passed in 1988 that allows the Parole Board to detain inmates to the end of their sentence if there are reasonable grounds to believe that an offender would cause death or harm to another upon release while under statutory release (Marshall & Barrett, 1990).

A highly publicized 1987 sexual assault and murder led to the repeal of the then Parole Act and the Penitentiaries Act (Petrunik, 1994). The introduction of the new Corrections and Conditional Release Act meant changes to the management of offenders while incarcerated and to the time and manner in which they are released. One change is that judges may now set parole eligibility at one half of the sentence for certain offenders convicted of certain types of offences. There were also additions to the list of offences for which the judge can set release eligibility and for which the National Parole Board can detain offenders to warrant expiry. However, these measures did nothing to address the problem with the release of potentially dangerous offenders into the community upon warrant expiry.

In 1993, then Solicitor General Doug Lewis announced a number of proposals including post-sentence detention for offenders nearing sentence expiry who are believed to be a threat to community safety. The possibility of a Charter violation discouraged Solicitor General Herb Gray from pursuing Lewis' proposal (Leishman, 1994). Instead, Justice Minister Allan Rock approached provincial mental health departments in attempts to get cooperation for his plans for civil commitment of those offenders who still pose a risk upon release (Blanchfield, 1995). This measure was criticized because of the inability of provincial mental health laws to confine patients for long periods, the attempt to turn a criminal justice problem into a mental health issue, and the fact that excessively long civil detention is just as vulnerable to Charter scrutiny as criminal legislation.

Bill C-55: Broadening the Scope of Dangerous Offender Laws

Bill C-55, an Act to Amend the Criminal Code (high risk offenders), the Corrections and Conditional Release Act, the Criminal Records Act, the Prisons and Reformatories Act and the Department of the Solicitor General Act, came into force on August 1, 1997. This legislation was

part of the federal government's scheme to deal more severely with Canada's worst criminals. Included in the new law are significant amendments of Part XXIV of the Criminal Code. For instance, the new law repealed a provision requiring the testimony of two psychiatrists at dangerous offender application hearings; now, only one mental health expert must give evidence as to the dangerousness of an individual. The Act also created a 'long-term offender' designation that targets sex offenders and allows for a period of community supervision of up to ten years following the release of the long-term offender from custody (Solicitor General of Canada, 1997). Additionally, the Act increased the time that a dangerous offender must serve in prison before he is eligible for parole, now seven years instead of three. Dangerous offenders, under the new provisions, can not receive fixed sentences, as under the 1977 legislation. All those found to be dangerous must be given an indeterminate sentence. Another noteworthy change resulting from the Act is a provision allowing the Crown to make a dangerous offender application up to six months after an individual has been sentenced for an offence. A new judicial restraint was also introduced by the Act which is aimed at persons who are considered likely to commit a personal injury offence. Judicial restraint, as set out in section 810.2 of the Criminal Code, and allows judges to order a peace bond that includes special conditions such as electronic monitoring requirements or avoiding contact with children.

Current Dangerous Offender Provisions: Part XXIV of the Criminal Code

Section 753 details the conditions that must be met before an offender can be found a dangerous offender and the procedures to be followed for a dangerous offender application. Any person convicted of a serious personal injury offence, but not yet sentenced, who constitutes a danger to the life, safety or physical/mental well being of others may be subject to a dangerous offender application by the Crown. A 'serious personal injury offence,' as defined in section 752 of the Criminal Code, is an offence that endangers, or could potentially endanger, another person's life, safety, or psychological well being. The offence must also be subject to a sentence of ten years or more imprisonment. Section 752 also includes an enumerated list of sexual offences deemed to be serious personal injury offences. The determination of dangerousness is based on evidence, establishing at least one of the following patterns of behaviour: unrestrained behaviour that is likely to cause danger; aggressive behaviour with indifference as to its consequences; or behaviour that is "of such a brutal nature" (s.753.(1)(a)(iii)) that ordinary standards of restraint will not control it. Alternatively, a person may be a dangerous offender if the offence for which the application is being made shows a failure to control sexual impulses which is likely to result in harm to another. Section 753(4) permits the court to incarcerate dangerous and long-term offenders indeterminately. If the application for dangerous offenders status is denied, according to section 753(5), the court may either consider the application as one for long-term offender or the court may impose a determinate sentence on the offender.

The requisite conditions for long-term offender status are listed in 753.1(1). First, the court must be satisfied that a sentence of two years or more would be appropriate for the offence committed. Second, the offender must be likely to reoffend. Finally, there must be a "reasonable possibility of

eventual control of the risk in the community” (Pocket Criminal Code, p. 531). According to section 753.1(2), the offender poses a substantial risk for reoffending if he has been convicted of an offence of a sexual nature or if he has shown a pattern of repetitive violent behaviour. If a person is found to be a long-term offender, section 753.1(3) provides that the court shall either impose a custodial sentence for the offence for which the person was convicted of at least two years, or order the long-term offender to community supervision for up to, but not exceeding, ten years. If, while on community supervision, a long-term offender breaches an order of his supervision, he will be subject to a term of imprisonment of up to ten years.

Section 754 requires that the Attorney General of the province approve an application for dangerous or long-term offender designation. It also states that the offender be given seven days notice of the application. An application hearing is heard by a judge without a jury. No proof of any allegations admitted to by the defendant is required in the application hearing. Evidence of character is allowed under section 757, if the court believes it is pertinent to the determination of the offender’s dangerous or long-term offender status. Section 758 requires that the defendant be present at the application hearing, except in exceptional circumstances or when the defendant displays misconduct in the courtroom.

If found a dangerous or long-term offender, a defendant can appeal this finding under s.759. Section 759(3) provides that if the court of appeal allows an appeal, it may find that the defendant is not a dangerous offender and sentence him to a determinate sentence. The court of appeal could also decide that the offender does not meet the requirements for dangerous offender status, but does meet the requirements for a long-term offender designation. In that case, the defendant would be subject to a sentence of at least two years in custody or up to ten years of community supervision. The court of appeal could also rule that a new hearing be held. If a defendant found to be a long-term offender is granted an appeal, the court may either quash the supervision order or order a new hearing.

For those offenders incarcerated indefinitely, section 761 provides for a parole eligibility review. The National Parole Board must,

after the expiration of seven years from the day on which the person was taken into custody and not later than every two years after the previous review, review the condition, history and circumstances of that person for the purposes of determining whether he or she should be granted parole... (Pocket Criminal Code, 1999, p. 536)

Community Notification Protocols

At present, the Corrections and Conditional Release Act (CCRA) requires the Correctional Service of Canada to provide information regarding the identity and criminal record of offenders to the National Parole Board, provincial governments or parole boards, or any other agency authorized to supervise offenders. The Act also provides for the notification of police forces prior to the release

of a federal inmate, whether on temporary absence or statutory release. These provisions apply to *all* federal inmates, not only those classified as dangerous or long-term offenders.

Additional notification protocols have been established by several provinces to make the presence of high-risk offenders known to the public. In recent years, most provinces have formalized mechanisms for community notification through the establishment of advisory committees and procedures for the release of offender information to the community. Across provinces, the criteria that must be met before community notification and the definition of high-risk offender can vary. Some provincial protocols target sex offenders while others target all serious violent offenders.

In British Columbia, offenders who have been convicted of a sexual or violent offence against a child may have their identities made known to the community. The B. C. legislation calls for information sharing between justice agencies to allow for informed decisions on whether to notify the public when an offender who has committed a crime against a child is released from prison. This information sharing policy applies to local police, corrections officials at both the provincial and federal levels, the B. C. Review Board, Forensic Psychiatric Services, and the Crown Prosecutor's Office (Ministry of the Attorney General of British Columbia, 1995). In each case, a risk assessment will be done, and if a determination is made that public disclosure of information is necessary, information will be sent to local police who will then decide to make public the offender's personal information and whereabouts.

In Alberta, a community notification protocol has been created in partnership with Alberta Justice, the Chiefs of Police of municipal and Aboriginal police forces, the RCMP, and the Correctional Service of Canada. This protocol "has the primary objective of enhancing public protection through the lawful and appropriate release of information regarding a risk of significant harm to the public, or to a group or groups of people or to an individual" (Alberta Justice, 1996, p. 2). Once a determination is made by the Correctional Service Division of Alberta Justice that an offender poses a significant risk to the public, local police are notified upon the release of the offender. The Correctional Service Division considers many criteria including the offender's criminal record, access to victims, participation in treatment or rehabilitative programs, and his prospects for employment (Alberta Justice, 1996). The final decision to notify the community or certain individuals or groups is left to the police.

In 1996, the province of Saskatchewan introduced the Public Disclosure Act which "establishes a process to provide police with advice regarding the disclosure of information about dangerous offenders" (Government of Saskatchewan, 1996, p.1) and protects police from legal actions in response to community notification. At the request of local police, the Public Disclosure Committee will assess each case and recommend whether notification is appropriate, and if so, who should be notified and by what means.

Manitoba has had a similar process since 1995 when the Manitoba Community Notification Advisory Committee was established with its primary objective being to balance the right of the

offender to privacy with the right of the community to protect itself. The committee decides whether it is necessary to provide information either to the general public or to certain individuals when a high risk sexual offender is or will be residing in the community. The committee makes a recommendation to police based on the offender's criminal record, the threat he poses, and several other pertinent criteria.

Nova Scotia has recently (in 1999) developed its High Risk Offender Information Protocol that calls for the creation of a committee which would advise the commanding chief of police in a community as to the appropriateness of notification. The police chief may then decide against notification or may, alternatively, choose to notify the community of the presence of a high risk offender, selectively notify an individual (a victim or witness who may fear for their personal safety when an offender is released), or notify a community group (Nova Scotia Department of Justice, 1999).

In Newfoundland, the High Risk Offender Information Protocol was approved by the provincial government in 1996. The information sharing policy is to be used "in carefully defined circumstances" (Newfoundland Department of Justice, 1996, p.1), taking into account the best interest of the community and the offender's right to privacy. When an offender classified as 'high-risk' is released from prison, the RCMP may refer the case to the provincial Community Notification Advisory Committee. This committee is similar to those established in other provinces, and is composed of members of the public as well as representatives of the justice system. When the committee decides that notification is appropriate in a certain case, it advises the local police authorities on how notification of the public of the presence of a high-risk offender is to proceed- the scope and duration of the notification is detailed by the committee in its report (Newfoundland Department of Justice, 1996). The chief or commanding officer of the police force that is issued a recommendation by the Community Notification Advisory Committee can reject any recommendations made, however, and makes the ultimate decision to notify the public (and how to go about such notification) when an offender is released and is thought to pose a threat to the safety of the community.

The province of New Brunswick has also developed a protocol, but has only dealt with one case as of July, 1999. The protocol applies in three situations: where Correctional Services Canada informs the police of the imminent expiry of a sentence served by a high-risk offender; where provincial corrections officials notify the police of the upcoming release of a high-risk offender; or where the police are made aware of the presence of a high-risk offender by an independent source (Solicitor General of New Brunswick, 1998). According to the protocol, notification may be appropriate when an offender has served his sentence to warrant expiry and is thus not subject to community supervision, has indicated the community in which he intends to reside, and is seen to pose a significant threat to the community or to a person or group within that community (New Brunswick Department of Justice, 1999).

Criticisms of Canadian Dangerous Offender Legislation

Several of the provisions contained in Bill C-55 have been criticized as being potentially unconstitutional and will undoubtedly face the scrutiny of the Supreme Court of Canada. Since Bill C-55 came into force, dangerous offenders must be given indeterminate sentences without eligibility for parole until seven years has passed. The elimination of judicial discretion and the increase in parole eligibility period could be in violation of section 12 of the Canadian Charter of Rights and Freedoms. Canada's highest court has yet to hear a case regarding the constitutionality of section 761, but in another related decision, "[t]he Supreme Court of Canada has found that minimum sentences may constitute cruel and unusual punishment, contrary to section 12" (Koziebrocki & Copeland, 1997). Further, the community supervision requirement for long-term offenders which makes any breach of conditions an indictable offence, could be in violation of section 7 of the Charter. This section of the Charter states that all Canadians have "the right to life, liberty, and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." Koziebrocki and Copeland (1997) argue that in making any breach of conditions placed on an offender by the Parole Board a criminal offence, the long-term offender provision improperly delegates judicial sentencing discretion. Thus, a long-term offender may be deprived of his liberty in a manner that is not in accordance with fundamental justice principles.

Section 810.2 of the Canadian Criminal Code has also been the subject of much criticism. Under this section, a judge may order a high-risk peace bond of a duration of one year or less if the court is satisfied that the released offender poses a significant threat to the person security of a particular person. Any person in fear of personal injury when an offender is released can initiate the peace bond process. The court may place specific conditions on the offender that must be met or the defendant will face further sanctions. On the surface, the high-risk peace bond measure appears reasonable, but when a number of conditions are imposed, particularly when they are not realistic, offenders may be unable to abide by them. Consequently, released offenders subject to a peace bond have an inordinately difficult time staying out of jail.

The case of L. J., a sex offender from southern Alberta, is indicative of the difficulties that released offenders on peace bonds can face. L. J. repeatedly denied sexually assaulting a fourteen year old girl, but was found guilty of the offence and kept in custody until the end of his sentence. Upon release, a peace bond was ordered according to section 810.2 of the Criminal Code, and L. J. was compelled to abide by several conditions (which, at this time, are still in force). First, he is required to inform local police about a change in residence, providing at least 24 hours before the change. Second, L. J. must report weekly to a specified detective in a city about 100 kilometers away, even though he does not have a vehicle. Third, he must not come within 100 meters of a public area where children under the age of fourteen might be present. Additionally, he cannot enter a residence within which live children under fourteen years of age. Since the peace bond was issued, L. J. has been breached for failing to notify the police at least twenty four hours prior to a change in his residence. L. J. was evicted from a hotel in which he was living after his identity and sex offender status was publicized.

This occurred at 11:30 p.m. and the local police were not answering their phone. He left a message on an answering machine, but was breached because he did not give twenty-four hours notice. He was breached a second time when he moved in with his wife because she lives across the street from a playground. L. J. has also encountered difficulties in applying for, and receiving, welfare benefits. Initially, he was designated an 'employable' person, but no one would hire him given his sex offender status and the strict conditions to which he is subject. After appealing this decision, he has been approved to receive benefits.

The reality of L. J.'s situation is undeniable: if some of his peace bond conditions are not removed, L. J. will breach again. As it stands, he cannot walk down the street without potentially passing a young child. He risks returning to jail on a daily basis and is forced to stay in his hotel room twenty-four hours a day. In effect, the peace bond provision set out in section 810.2 of the Criminal Code, to which L. J. is subject, is operating as a punitive provision. Koziobrocki and Copeland (1997) have pointed out that, given the fear of personal injury that may be inflicted upon an individual by the offender, conditions of a 810.2 bond will be restrictive at best, and at worst, incapacitative.

Canada's dangerous provisions included in the Criminal Code have also been criticized for being too broad in scope. The 'serious personal injury offence' provision allows for indeterminate confinement for any offence of violence or attempted violence. Jakimiec et al. (1986) points out that, theoretically, a person can be designated as a dangerous offender after only one conviction. While such a case would be rare, a considerable number of people could be found dangerous offenders under this scheme. Lisa Neve, a young Edmonton prostitute, best exemplifies the potential of Canada's dangerous offender legislation to cast too wide a net and designate people with few violent offences, dangerous offenders. Neve had been convicted of slashing a woman on the neck, taking another prostitute outside of the city and stranding her alone on the side of the road after cutting off and stealing her clothes, and threatening the lives of an Edmonton lawyer and his children. She also took another prisoner hostage while in custody at a Calgary young offenders centre. Lisa Neve was released from prison on July 1, 1999, after the Alberta Court of Appeal decided that her criminal record did not warrant a dangerous offender designation ("Former Dangerous Offender Freed From Prison," 1999).

Additionally, it has been argued that the potential for an indefinite sentence may prejudice the plea bargaining process (Webster & Dickens, 1983). The fear of indeterminate detention may encourage an offender to agree to a lengthy determinate sentence, regardless of whether the dangerous offender application would have been successful. If no agreement is made in the plea negotiations and the application hearing goes ahead, the court may, if it does not find the offender to be dangerous under section 753 of the Criminal Code, impose a lengthier determinate sentence than is warranted by the offence and the prior record of the accused.

Criticisms of community notification provisions have arisen in Canada after many difficulties have been encountered by released offenders trying to return to a life on the 'outside.' Corrections policies calling for the community approval of offenders' residences have virtually ensured that these

offenders will be chased from one community to the next. The case of another Alberta dangerous offender illustrates this problem. J. S. was declared a dangerous offender and given a determinate sentence of eight years in the late 1980s. He served his entire sentence to warrant expiry. In 1998, he was released from a federal penitentiary to take up residence in a nearby city. RCMP were notified of his release. Subsequently, he was forced to leave his new home after his identity and dangerous offender status were the focus of media coverage. J. S. encountered the same publicity in three other cities in Alberta and B. C. and was forced to move to evade harassment from angry community members. Finally, he took up residence in a central British Columbian community, where he breached a condition of his probation and was charged and incarcerated for several weeks. Upon release, he was given an additional condition that he live in a residence approved by the Probation office and the community in which the dwelling was located. Needless to say, he could not find a place in which to live under those conditions. He then moved to a facility run by the John Howard Society in another city. While there, he breached his conditions, and was incarcerated again for a brief period of time. He was then sent to live in a cabin in a remote area with a corrections officer present twenty-four hours a day. In January of 1999, this situation proved to be unfeasible and he was moved to a forestry camp that had been closed for the winter, but would allow him to live there for a cost of \$675 per day. Without removing the condition that the community approve his residence, J. S. would not be able to live anywhere except such remote areas. Although J. S. was given a determinate custodial sentence for his initial crime and served it to completion, he has not been allowed to return to life in the community because no one wants to welcome a 'dangerous criminal' into their neighborhood.

DISCUSSION

Most dangerous offenders in this country have been convicted of sexual assault, aggravated assault, or manslaughter. As of May, 1998, 231 people were declared dangerous offenders, most of whom were still incarcerated in Canadian jails (Solicitor General of Canada, 1998b). Less than one year prior, as of August 1997, the total number of people who had been found dangerous was 204 (Bonta et. al, 1998). This represents a significant jump; typically, 15 people per year are declared dangerous (Bonta et. al, 1998), but in the nine months since Bill C-55 came into force, 26 more have joined the ranks of Canada's worst criminals. Bill C-55, it appears, has widened the net to catch more people than ever before, including many for whom the law was not intended.

The long-term offender provisions now included in the Criminal Code have the potential to be more effective than the dangerous offender provisions because sentence lengths are fixed and long-term offenders will be subject to a period of community supervision of up to ten years. Fixed sentence lengths are advantageous because release plans are more likely to be developed throughout the course of the sentence, while little or no planning is made for the release of a person serving an indeterminate sentence before the court decides to release the offender. The new long term offender provisions also require community supervision once an offender is released so that corrections officials can closely monitor an offender's behavior. The long term offender provisions are not

beyond criticism, however. The constitutionality of making a breach of National Parole Board conditions an indictable offence is still in question, and will likely be challenged in the Supreme Court of Canada at some point.

Another issue that needs to be addressed by policy makers is the problematic nature of the provision of treatment for dangerous offenders in custody. Treatment in prison is generally provided for those approaching their release date. Because dangerous offenders are given indeterminate sentences, many do not have access to treatment opportunities. Yet, because they have not participated in pre-release treatment programs, their release is often denied. Treatment programming should be made equally available to inmates no matter when they are to be released. Additionally, CSC needs to ensure that treatment is appropriate for each offender, given his specific cognitive ability and mental health status. In many cases, suitable treatment is not available to meet the needs of low-functioning offenders, which results in either treatment not being taken or lack of treatment success, delayed release and the perceived necessity for community notification.

Additionally, Canadian governments, at both the federal and provincial levels should reconsider their legislated protocols for community notification when dangerous offenders are released. There are some cases in which notification may be beneficial, particularly when notification is limited to specific individuals or to a small geographic area. In most cases, community notification on a broad scale has more negative consequences than positive. There are numerous Canadian examples of offenders being chased from one community to another, never being allowed to settle down, find employment and seek support. While each community may find some immediate relief when the offender leaves, his leaving is only a short term solution and illustrates a narrow view of community safety. Simply because a particular offender has left the community does not mean that there are not others who are as yet unknown who live close by. We need to view community safety as being achieved when we:

1. Practice what we know about early intervention to prevent people from becoming sex offenders;
2. Provide a range of treatment opportunities appropriate to the developmental and cognitive needs of sex offenders of all ages; and,
3. Understand that the safer choice is to allow offenders to remain in the community in which he has support, supervision and connections.

Some people might argue that they would feel more secure if they were aware of the identities of dangerous offenders in their neighborhoods, but widespread community notification actually serves to heighten fear of victimization. In a large metropolitan area, hundreds of thousands of people are notified of a dangerous offender's release, while only hundreds will come into contact with him in the community. This blanket notification propagates the belief that there are more 'predators' in the community than ever before, and fearful attitudes among members of the public are reinforced. A vicious cycle results: widespread notification leads to an increase in the community's fear of crime which, in turn, leads to more calls for notification. We would also argue that the use of inflammatory

language such as “predator” by politicians and officials also works to heighten fear and increase calls for more punitive action.

But are communities safer for knowing that high risk offenders are in their midst? In some cases, knowledge of a sex offender can be helpful if community members view themselves as support to that offender in his efforts to live in the community. Knowledgeable neighbors can keep a watchful eye on an offender’s activities and can intervene to help the offender seek support if he or she looks like they may be slipping into old patterns. In most cases, however, communities react with fear and outrage, rather than support and supervision. In time, after notification protocols have been in place for several years, we will be able to examine the effects that these protocols have had on the rate of recidivism of dangerous offenders. It would not be surprising to find that recidivism had increased, given that community notification usually prevents offenders from becoming productive members of society.

While other countries have moved away from indeterminate sentencing in favor of community notification, Canada has expanded both approaches. The government, if it is to fulfill its promise of creating a safer society, should look to mechanisms for dealing with dangerous offenders that have worked in other countries. We should look at the dangerous offender provisions of the Netherlands in particular, where dangerous offenders, while given indeterminate sentences, can have their sentences reviewed after two years and every two years thereafter. There are also mechanisms in place for the gradual release of dangerous offenders in the Netherlands which allows for the reintegration of the offender into society. The best approach to dealing with high-risk offenders should provide for mandatory community supervision and extensive programming to facilitate the rehabilitation and reintegration of the vast majority of dangerous offenders. Some may never be rehabilitated but, in general, most offenders considered high-risk will at some point be reclassified and returned to the community and thus, rehabilitation and reintegration are necessary conditions to ensure that these released offenders become productive, law abiding citizens. Only then can the government honestly say that our dangerous offender laws are protecting Canadians and their families.

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