

## 1. Role of the Criminal Justice System

Canada's criminal justice system is designed to ensure public safety by protecting society from those who violate the law. It does this by stating the types of behaviours that are unacceptable and defining the nature and severity of the punishment that can be meted out for a given offence. Punishment may include: a fine; restitution to the victim; probation; community service; or imprisonment.

A series of safeguards ensures that those charged with a criminal offence are presumed innocent until proven guilty and that they have the right to legal representation and a fair trial. The *Criminal Code of Canada*, in combination with other pieces of legislation, including the *Youth Criminal Justice Act*, the *Corrections and Conditional Release Act*, and the *Canadian Charter of Rights and Freedoms*, provides the foundation within which the criminal justice system operates. The criminal justice system provides an impartial (same for everyone) response to crime, as opposed to people taking matters into their own hands.

These are the primary functions of the criminal justice system:

- investigation;
- laying of charges;
- prosecution;
- determination of guilt or innocence;
- sentencing;
- administration of the sentence.

## 2. How the Criminal Justice System Works

The criminal justice system consists of four interrelated parts that work together to protect society from the moment a crime is committed until the offender is reintegrated into society. Each component is governed by legislation specific to its role in the criminal justice system, but they all have the potential to influence each other. For example, reports from law enforcement officers may influence judges' sentencing decisions; sentencing decisions influence the offender's prison experience; and reports and assessments of corrections staff influence parole decisions.

The four parts of the criminal justice system are:

- Policing;
- Courts;
- Corrections;
- Parole.

### Policing

The federal, provincial/territorial and municipal governments are responsible for this part of the system. At the federal level, the Royal Canadian Mounted Police (RCMP) is the law enforcement authority. At the provincial/territorial level, it may be either the RCMP, working under contract to the provinces/territories or, as in Ontario and Quebec, the provincial police. At the municipal level, the local police force provides protection. The main role of law enforcement officers is to apprehend offenders and, in most provinces, to lay charges against the accused, based on the *Criminal Code*. Law enforcement officers are the front line of Canada's criminal justice system.

## Section 3 ■ Criminal Justice System

### Courts

Once charges have been laid, the Crown attorney is responsible for deciding which charges the accused will face in court and for prosecuting those charges. If the case proceeds to trial, the judge (and, in a small number of cases, the jury) will decide whether the accused is guilty as charged. In cases where a jury finds the accused guilty, it is still the judge who decides the sentence that should be imposed.

In sentencing, judges are limited by the maximum and minimum penalties laid out in the *Criminal Code* or, if the offender is between 12 and 17 years old, by the *Youth Criminal Justice Act*. Sentencing decisions may also be affected by provisions in the *Canadian Charter of Rights and Freedoms* (for example, evidence may be deemed inadmissible if it was obtained in a way that violates the *Charter's* provisions). If an offender is given probation, it is the judge who sets the conditions. Sentences may be appealed, in principle, all the way up to the Supreme Court of Canada.

The *Criminal Code* gives judges some leeway in their sentencing decisions, based on the principle that prison should be a last resort for the most serious offences, and not used if an effective alternative punishment is available. Judges may also consider the following factors: the seriousness of the crime; the age and circumstances of the offender at the time the crime was committed; the need to prevent or deter the offender or others from committing similar crimes; the public's safety; and the offender's prospects for rehabilitation.

### Corrections

Those involved in this aspect of the criminal justice system administer the sentence handed down by the judge, whether it involves incarceration or probation. Once the accused is found guilty, depending on the nature of the offence, she/he may be sentenced to a term in the federal, provincial or territorial correctional system. The federal corrections system deals with adult offenders (18 years of age and older) who have been sentenced to two or more years of imprisonment. The provincial/territorial system deals with offenders serving a term of less than two years, as well as all non-custodial sentences (i.e., those involving probation and/or community service). The federal correctional system is governed by the *Corrections and Conditional Release Act*.

### Parole

Offenders who have served a portion of their sentence in an institution may be released to serve the rest of their sentence under supervision and control in the community. Parole is granted following a case review by the federal or provincial parole board (depending on whether they are in a federal or provincial institution). The terms for parole review vary from one province to another. Parole boards have the final say as to whether an offender is released from prison before serving the full sentence. The boards also set the terms and conditions that offenders must meet once they are back in the community (for example, abstaining from alcohol or drugs and reporting regularly to a parole officer). Offenders who violate their parole conditions may be sent back to prison to serve out the remainder of their sentence. Federal parole decisions are governed by the *Corrections and Conditional Release Act*.

### 3. Public Safety and Emergency Preparedness Canada (PSEPC)

Security and freedom are the cornerstones of Canada's open, democratic, and diverse society. To help maintain the social and economic well-being of Canadians and sustain Canada's place in the world, the Government needs to ensure secure communities, borders, and infrastructure. The new department of Public Safety and Emergency Preparedness Canada (PSEPC) was created on December 12, 2003, as a fundamental component of the Government's efforts to better secure Canada's public health and safety.

PSEPC combines the former Department of the Solicitor General, the Office of Critical Infrastructure Protection and Emergency Preparedness Canada, and the National Crime Prevention Centre. The Minister of PSEPC is supported by a department and a range of agencies that form a strategic structure to enhance public safety. The six agencies include:

- Canada Border Services Agency;
- Canada Firearms Centre;
- Canadian Security Intelligence Service;
- Correctional Service of Canada;
- National Parole Board;
- Royal Canadian Mounted Police.

**The Canada Border Services Agency (CBSA)** combines all the major players involved in facilitating legitimate cross-border traffic and supporting economic development while preventing people and goods that pose a potential risk from entering Canada. It integrates several key functions previously housed in three organizations: the Customs program from the Canada Customs and Revenue Agency, the Intelligence, Interdiction and Enforcement program from Citizenship and Immigration Canada, and the Import Inspection at Ports of Entry program from the Canadian Food Inspection Agency.

The **Canada Firearms Centre (CFC)** was established to enforce the 1995 Canada Firearms Act. The Act ensures that owners of firearms are licensed and that their firearms are registered.

The **Canadian Security Intelligence Service (CSIS)** provides security intelligence and advice to the Government of Canada. CSIS collects, analyses, and retains information and intelligence on activities that may constitute a threat to national security. It provides security assessments on employees to federal government departments and agencies, as well as advice to ministers on immigration and citizenship applications.

The **Correctional Service of Canada (CSC)** administers sentences of two years or more and is responsible for supervising adult offenders on parole and statutory release. CSC offers a variety of programs, both for offenders within correctional institutions and those on parole, to help them make a successful transition to the community. When an offender is eligible for parole, CSC makes a recommendation to the National Parole Board based on its assessment of the offender's potential to reintegrate and the risk s/he poses to society. The most important

## Section 3 ■ Criminal Justice System

consideration in CSC decision-making is public safety.

The **National Parole Board (NPB)** is an independent administrative body that controls the conditional release of federal offenders (those serving a sentence of two years or more) and of provincial offenders in provinces and territories that do not have their own parole boards. The NPB has the power to grant, deny, terminate or revoke parole for inmates in federal, territorial and many provincial institutions except for cases in provinces that have their own parole boards (Quebec, Ontario, and British Columbia). Upon recommendation from CSC, the NPB may compel offenders to serve out their full term in the institution. The NPB's responsibilities also include deciding whether to issue, grant, deny or revoke a pardon under the *Criminal Records Act (CRA)* and making clemency recommendations to the Government of Canada.

The **Royal Canadian Mounted Police (RCMP)** enforces Canadian laws, prevent crime, and maintain peace, order, and security. The RCMP is responsible for preventing, detecting and investigating offences against federal laws; maintaining law and order; and preventing, detecting, and investigating crime in provinces, territories, and municipalities with which it has a policing contract. The RCMP also provides investigative and protective services to other federal departments and agencies, and offer specialized police training, research and forensic (crime detection) expertise to all Canadian law enforcement agencies.

### ***Review Bodies***

There are also three review bodies included in the portfolio, which ensure accountability and full respect for the rule of law:

The **Office of the Correctional Investigator (OCI)** conducts independent investigations into the problems of federal offenders, upon receipt of a complaint by, or on behalf of, an offender. Investigations may also be launched upon request by the Minister of Public Safety and Emergency Preparedness or on the Office's own initiative. This body reports to Parliament annually, through the Minister.

The **Royal Canadian Mounted Police External Review Committee (ERC)** provides an independent and impartial review of certain types of grievances and formal disciplinary, discharge, and demotion appeals referred to it by the RCMP.

The **Royal Canadian Mounted Police Public Complaints Commission** provides the public with a mechanism whereby complaints regarding the conduct of members of the RCMP can be reviewed in an open, independent, and objective manner.

In addition, there are two statutory review bodies of CSIS:

The **Office of the Inspector General of CSIS (IG of CSIS)** monitors CSIS's compliance with its operational policies, reviews its operational activities, and provides reports to the Minister of Public Safety and Emergency Preparedness.

The **Security Intelligence Review Committee (SIRC)** which does not form a part of the Ministry, is a non-partisan committee of Privy Councillors that conducts independent external review of CSIS as mandated by the *Canadian Security Intelligence Act*.