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VIOLENT CRIME IN CANADA: SOME
COMMENTS ON VIOLENT CRIME;
CAPITAL PUNISHMENT AND OTHER
RELATED ISSUES.

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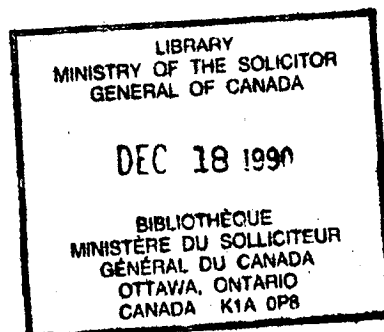
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THE PREVENTION AND CONTROL OF VIOLENT CRIME IN CANADA:
SOME COMMENTS ON VIOLENT CRIME, CAPITAL PUNISHMENT AND
OTHER RELATED ISSUES

by
the Hon. Warren Allmand,
Solicitor General of Canada



March 1975

THE PREVENTION AND CONTROL OF VIOLENT CRIME IN CANADA:
SOME COMMENTS ON VIOLENT CRIME, CAPITAL PUNISHMENT AND
OTHER RELATED ISSUES

A major concern of many Canadian citizens - and the most pressing goal of the Ministry of the Solicitor General - is to prevent and reduce crime in order to protect our society. Crimes of violence such as murder, armed robbery, assault and rape are most abhorred and there is much controversy on how to deal with the perpetrators of such crimes.

I take this opportunity to deal with what the Ministry of the Solicitor General feels are some of the most important of these issues:

- 1) Whether or not the increase of violent crime is out of control;
- 2) The causes and circumstances associated with violent crime and the deterrent value of capital punishment;
- 3) The questions of commutation of the death penalty and whether parole should be granted to those convicted of murder.

I

The first question I wish to address is whether or not violent crime is on the increase in Canada.

Horrible murders committed recently in Canada have led segments of the public to believe that homicides and other violent crimes are on a rapid and uncontrolled increase. It is further feared in some quarters that this increase is due in large part to a decrease in the use of severe punitive measures against criminals. This latter belief is related in part to the manner and extent of attention paid to violent crime by the mass media.

Let us look at the facts. Existing data indicates that there has been no disproportionate increase in the number of violent crimes. The proportion of violent offences to all Criminal Code offences has remained relatively constant at around 10% per annum over the period of 1966-73, as the attached Table 1 show. Furthermore, while the murder rate has increased moderately in the same period, the rate of increase has been less than with other crimes of violence whose penalties have remained substantially the same. Complete data for the year 1974 is not yet available but the information that we have indicates that the same trend has continued during the past year. While any increase is deplorable, I think it is very important to keep the situation in proper perspective.

There has been an especially strong concern over crimes of violence when the victims of such crimes have been law enforcement agents. This is a very understandable reaction as the police are the thin blue line protecting the public from the threats of its dangerous members. We

are all concerned with avoiding a situation where the safety and efficiency of the police are impaired. However, while it should go without saying that the murder of a single police officer or prison guard is one too many, I think it is important to point out that there has not been a significant increase in the murder of policemen in the country since 1962. As appears from the attached Tables 2 and 4, the police murder rate (the number of murders of police per 10,000 police officers) shows a pattern of fluctuation between 1961 and 1974, while the penitentiary employee murder rate shows a decrease during this period. If we look at the data on the number of police killed on duty from 1961 to 1974, we find that the most murders (11 cases) occurred in 1962, when capital punishment was still in force and was being applied. In 1963, there were no police murders. The number of murders per year fluctuates from 2 to 5 between 1964 and 1973 and rises to 6 in 1974. There is obviously no trend of increasing police murder in the past decade or so and it is too early to conclude that any trend is beginning.

I have tried to put the actual situation in some kind of perspective, because I believe that some recent tragic and sensational crimes have resulted in a misconception of the problem of crime and led to a belief that capital punishment can help solve this problem. Having done that, I do not mean to imply that the problem is not serious despite this. The problem is serious but the proposed solution is not likely to help. We should really be focussing on the causes of violent crime and

the most effective ways to deal with such crime. It is in the broader context of what we now know about the causes of violent crime and possible deterrents to such crime that I discuss the question of capital punishment in the hope that we may better understand this important issue.

II

Restoration of capital punishment is prompted by the fear that murders, particularly murders where police officers have been the victims, are increasing due to a failure to provide a sufficiently strong deterrent. It is evident that capital punishment may satisfy the strong sense of moral and emotional outrage that many of us experience when a murder is committed, and there is no doubt that the threat a particular individual has posed to society is terminated absolutely. There are, however, other crucial issues involved.

The paramount issue is one of morality. Are we justified in taking a human life through capital punishment? Execution does not erase the crime of murder. It takes away another life. The commandment, "Thou shalt not kill" is part of our Judaeo - Christian heritage. It emphasizes the value of human life and should make us ponder whether we should take yet another life in retribution. Personally, I believe it is wrong to take the life of another person except as a last resort in

self defence. Before we had statistical evidence on the effectiveness of capital punishment, it was indeed considered as a last resort in the defence of society. However, evidence now available shows this is not the case.

This evidence bears directly upon the argument of deterrence. We now know that most types of violent crime are not deliberate or rationally planned. One or more of the following factors are usually present: quarrels or a history of quarrels between friends and family members; situations where alcohol or drugs are present; situations where immediate access to firearms exist, situations where the eventual offender feels threatened by the others present in the situation, and cases of mental or emotional instability and derangement. Given the sudden, unplanned nature of most homicide it appears unlikely that most individuals who commit murder take into account the existence or non-existence of capital punishment before carrying out the act.

Another factor in discussing this problem, is that there exists a certain group of people who might be classed as "adventurers" for whom the danger of death has little or no effect. Mercenary soldiers, auto racers, parachute jumpers, and citizens who volunteered to fight in Viet Nam and other foreign wars are examples. In the criminal field, there are examples of people for whom the penalty of death is no deterrent. Criminals know full well that the police carry weapons and

that many criminals are shot by the police during the commission of a crime. Despite this threat against their lives, these criminals still commit armed robbery and other offences knowing that they could be shot by the police. The danger of "on-the-spot" capital punishment does not seem to serve as a deterrent for this type of criminal.

Before and since becoming Solicitor General, I have examined the available evidence on the question of the deterrent effect of capital punishment. The more I have studied this question, the more I have become convinced that capital punishment is not the solution to murder. An examination of the evidence, statistics and research in Canada, the United States and Europe, indeed indicates that capital punishment does not effectively lower the murder rate. As a matter of fact, the lowest murder rates in the world are found in those countries and those states where capital punishment has been abolished for a long time. For example, Sweden, Minnesota, Wisconsin, Rhode Island and Maine. On the other hand, some of the highest murder rates are found in countries and states where capital punishment has applied for a long time, for example in France, Spain, Florida, South Carolina, Louisiana and Georgia. Insofar as the United States are concerned, the recent article published in *Crime and Delinquency* (October 1974) by Daniel Glaser and Max S. Zeigler shows that the states which have historically used executions most are the same ones which have the highest murder rates.

In saying that there is no evidence to show that capital punishment effectively lowers the murder rate, the evidence I have seen reaches the same conclusion as that of a 1968 United Nations document assessing international data on capital punishment.

With respect to the influence of the abolition of capital punishment upon the incidence of murder, all the available data suggests that where the murder rate is increasing, abolition does not appear to hasten the increase; where the murder rate is decreasing, abolition does not appear to interrupt that decrease; where the rate is stable, the presence or absence of capital punishment does not appear to affect it.

It is my view that the burden of proving that capital punishment is a good deterrent against murder is on those who want to retain capital punishment. On the basis of the facts and data available, I do not believe that this is a burden that they can discharge.

III

The final issue I wish to deal with is that of the commutation of death sentences, parole, and temporary absence of persons convicted of murder.

In every case where the death sentence must be passed, the jury is required by the Criminal Code to consider whether they recommend for or against clemency, although they may also decide that they will not make any recommendation either way. This provision of the Code is designed to ensure that the Cabinet will have before it the opinion of the jury as to whether it wished to make a recommendation for or against clemency. On the question of the commutation of death sentences by the Federal Cabinet, it is sometimes thought that, because the trial judge has no option but to pass the sentence of death, executions must follow if the law is to be observed faithfully. Some think that because all five cases considered since December, 1967, were commuted, when the Criminal Code was first amended to restrict the circumstances in which the death sentence applies, there has been some kind of miscarriage of justice. This is simply not so. The Criminal Code provides that the Governor in Council may commute a sentence of death. Indeed, the Criminal Code requires that the trial judge, in fixing a date for the execution, must set that date at a time far enough in the future so that the Governor in Council may first determine whether the sentence should be carried out. I must make it clear, however, that the decision to commute in a specific instance does not establish a precedent in any way whatsoever.

Statistics published by the National Parole Service show that between January 1920 and September 1974 a total of 182 persons who had

a death sentence commuted were granted parole. Only 14 had their parole revoked by reason of their not adhering to parole conditions, and only 9 persons forfeited their parole upon conviction for an indictable offence. Between 1867 and 1974 only one person who had his death sentence commuted has committed a second murder. He was executed for this crime in 1944. We do not have complete data for other murderers, that is those who were sentenced to life imprisonment by the Court, but the indications are that the rate of recidivism in these cases is extremely low.

Some argue that the time served by individuals who had their death sentences commuted is minimal and bears no relation with the seriousness of the offence committed. The 28 individuals serving death-commuted sentences, who were paroled between January 1, 1961 and January 3, 1968 served an average of 12 years in a penitentiary prior to release. For the 42 persons serving death-commuted sentences, who were paroled between January 4, 1968 and September 30, 1974, the average time served rose to 13.35 years. This does not cover those who have not been paroled. This average time served is of course longer than the average time served for any other type of offence.

We also have recent data on the Temporary Absence program in our penitentiaries. During 1974, 1,019 temporary absence permits were issued to some carefully selected inmates convicted of capital murder. In only one instance did an inmate fail to return on time. During the same period, 2,106 temporary absence permits were granted to inmates serving life sentences for non-capital murder. In six instances, inmates failed to return on time.

I think it is also important to remember that the authority to release an inmate convicted of murder rests with the Cabinet who acts on the advice and recommendation of the National Parole Board. Before placing a case before Cabinet, an in-depth study of the case is made by the National Parole Board. Psychiatric reports are obtained in all cases of murder. A judge's report is required, and in most cases minutes of the Court Proceedings are obtained. Progress reports from the correctional institution are obtained as well as a comprehensive report on the inmate's release plan.

IV

In concluding, I feel it is important to present an accurate view of the extent to which violent crime is prevalent in our society and what its causes and its consequences are. Our chief concern is to find the most effective answers to these questions. Current debate seems to have focussed on the question of the capital punishment and left it at that. I think that the evidence I have put forward shows that this is not an effective means of combatting violent crime.

What, then, do I suggest in place of this? Some of the measures that I propose to prevent and reduce crime are the following: better trained, better deployed and better equipped policemen; effective gun control, proactive rather than reactive police work, more effective correctional programs for juveniles and adults; more effective social and economic programs to remove the causes of crime; improved treatment for alcoholics and drug addicts; improved education and recreation programs; possible restrictions on the showing of violence on television and through other media; measures to promote respect for legitimate authority in the home, the school, the church, community associations and government. If these and other measures were pursued with more vigor, we would do much more to lower our crime rate than we would if we merely emphasized the application of harsh penalties after the fact.

In the recent article published in Crime and Delinquency, to which I referred above, Daniel Glaser and Max S. Zeigler have examined possible explanations for the fact that the States (U.S.) which have historically used executions most are the same ones which have the highest murder rates. Their concluding paragraph is worthy of careful consideration:

Demands that capital punishment be restored are raised whenever the public is outraged at a particularly heinous and highly publicized killing, but the geographic and historic facts presented here suggest that this "gut response" is counter-productive as means of reducing the prevalence of

murder. The evidence shows that where use of the death penalty is most frequent there is less long-run outrage against killers than prevails in states that forbid any murder, whether by private parties or by the government. The alternatives to violence are, in addition to a respect for the sacredness of life, the many civilized procedures and practices of analyzing, negotiating, legally adjudicating, or simply tolerating disagreements. All of these alternatives are impaired or impeded rather than nurtured when the government resorts to the murderer's methods.

PERCENTAGE OF CRIMES OF VIOLENCE* TO ALL OFFENCES
AND TO CRIMINAL CODE OFFENCES, CANADA, 1966-1973

YEAR	ACTUAL OFFENCES NO.	CRIMINAL CODE OFFENCES NO.	NO.	VIOLENT OFFENCES % OF ACTUAL OFFENCES	% OF CRIMINAL CODE OFFENCES
1966	1,094,889	702,809	69,656	6.4	9.9
1967	1,190,207	786,071	77,614	6.5	9.9
1968	1,335,444	897,530	87,544	6.6	9.8
1969	1,470,761	994,790	95,084	6.5	9.6
1970	1,574,145	1,109,988	102,358	6.5	9.2
1971	1,648,817	1,166,457	108,095	6.6	9.3
1972	1,650,231	1,189,805	110,468	6.7	9.3
1973	1,809,135	1,298,551	114,760	6.3	8.8

* Murder, Manslaughter, Rape, Robbery, Wounding, Attempted Murder, Assaults, Other Sexual Offences.

Source: STATISTICS CANADA
Catalogue No. 85-205
Annual Publications of
Crime Statistics

TABLE 1

TABLE 2

POLICEMEN AND CUSTODIAL OFFICERS MURDERED,* CANADA

1961 - 1974

<u>YEAR</u>	<u>POLICEMEN</u>	<u>CUSTODIAL OFFICERS</u>	<u>TOTAL</u>
1961	2	1	3
1962	11	-	11
1963	-	-	-
1964	2	1	3
1965	2	-	2
1966	3	-	3
1967	3	-	3
1968	5	-	5
1969	5	-	5
1970	3	-	3
1971	3	-	3
1972	3	1	4
1973	5	-	5
1974	6	1	7
TOTAL	53	4	57

All data on murders of policemen and custodial officers and outcome of charges for 1961-1974 was supplied by Statistics Canada. The Canadian Penitentiary Service reported the murder of one instructor at a penitentiary in 1974. Information concerning murders of staff in provincial institutions is not available.

TABLE 3

RATE OF POLICE MURDERS PER 10,000 POLICEMEN,
CANADA, AND UNITED STATES, 1961 - 1973

<u>YEAR</u>	<u>CANADA</u>	<u>UNITED STATES</u>
1961	0.77	2.17
1962	4.33*	2.76
1963	0.00	3.02
1964	0.98	3.04
1965	0.62	2.79
1966	0.59	2.94
1967	0.84	3.80
1968	1.34	3.03
1969	1.30	3.85
1970	0.75	4.28
1971	0.72	5.11
1972	0.69	4.17
1973	1.75	4.59

* The rate was calculated on the basis of 12 murders; however Statistics Canada only records 11 policemen murdered in that year.

The rates of police murders per 10,000 policemen in Canada for 1961-1970 were taken from Capital Punishment - New Material: 1965-1972. Rates for 1971 and 1972 were calculated using Police Administration Statistics. As the number of policemen in Canada for 1973 is not yet available from Statistics Canada, we extrapolated the number by applying the average of yearly percentage increases in police strength in 1970-1972; then we calculated the rate. Therefore, this rate can only be considered as preliminary. The American rates were calculated using data from the annual report, Crime in the United States - (F.B.I. Uniform Crime Report); the rate for 1964 was calculated on an estimated number of police personnel, as we were unable to obtain the reported data for 1964.

TABLE 4

POLICEMEN MURDERED IN THE UNITED STATES,

1961-1973

<u>YEAR</u>	<u>POLICEMEN</u>
1961	37
1962	48
1963	55
1964	57
1965	53
1966	57
1967	76
1968	64
1969	86
1970	100
1971	126
1972	112
1973	127
TOTAL	998

The data refer to policemen murdered by felonious criminal action.

It should be noted that the F.B.I. Report does not have 100% coverage of the United States. For instance, in 1973, the combined coverage (urban-rural) accounted for 93% of the national population.

Source: "Crime in the United States",
Uniform Crime Reports of the
F.B.I., 1961-1973

