

# Sentencing



# Purpose:

- To contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions

# Objectives

- To denounce unlawful conduct
- To deter the offender and other persons from committing offences
- To separate offenders from society, where necessary
- To assist in rehabilitating offenders
- To provide reparations for harm done to victims or to the community
- To promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and the community

- In arriving at a just sentencing decision a judge generally has discretion to consider the above objectives – however, some constraints do exist
  - Example: mandatory minimum sentences
- Judges must study the circumstances of each case carefully and consider all objectives and principles before choosing a sentencing option
- Judges are also required by law to state the reason(s) for imposing a particular sentence and must clearly state all terms of the sentence.

# The Sentencing Process

- 1. Finding of Guilt:** The accused is found guilty or pleas guilty
- 2. Statements are Ordered:** normally the judge will order a probation officer to prepare a pre-sentence report:
  1. Facts of the case
  2. Interview with offender
  3. Interview with others connected to offender (parents, school personnel, employer, friends)Victim impact statement could be filed

### **3. Submissions on Sentence:**

- Court meets again to consider pre-sentence report
- Defence and Crown will speak and have right to call witnesses
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- Defence and Crown may also work together and suggest a sentence to the judge - plea bargain

## 4. **Conviction Entered**

- Judge will then pass sentence (fine, probation, jail, etc)
- Must make reference to Criminal Code or other applicable law

# Specific Purposes of Sentencing

## 1. Deterrence:

- Sentencing should prevent an offender from committing a criminal offence in the future (specific) and member of society should be deterred from committing a similar crime (general)

## 2. Rehabilitation

- Help offenders become law-abiding citizens.
- Educational programs, drug and alcohol programs help bring changes to behaviour
- Reduces **recidivism** – returning to crime after release from prison



### **3. Retribution:**

- Punishing an offender to avenge a crime or to satisfy the public that the offender has paid for the crime

### **4. Protection of Society:**

- One of the main goals in sentencing

# Types of Sentencing Options

- Because of the high cost of maintaining the prison system, **diversion programs** – sentences that keep offenders out of the prison system are increasing

# Absolute or Conditional Discharge

- May be granted for minor or first time offence that does not carry a minimum sentence and the penalty is less than 14 years
- Absolute discharge is effective immediately with no conditions attached, judge sets the person free, criminal record is destroyed
- Conditional discharge is a release with conditions attached – curfew, avoiding contact with certain people, etc.

# Suspended Sentence

- Sentencing delayed
- If the offender meets certain conditions, it will never be served – report to a probation officer, have no weapons
- Still has a criminal record

# Conditional Sentence

- A prison term of less than two years that can be served in the community
- Perform community service, seek treatment for drug addiction, etc.

# Intermittent Sentence

- Prison sentence of less than 90 days that can be served on weekends and at night
- Used for non-violent offenders, have steady employment and whos families depend on them working

# Restitution

- Required the offender to repay the victim
- May have to offer financial compensation or shovel driveway, cut grass, do grocery shopping for victim etc

# Community Service

- Requires the offender to perform certain services for a set number of hours
- Food bank, coaching a ball team, etc



## **Deportation:**

- Anyone not a Canadian citizen who commits a serious offence can be sent back to their home country

## **Fines:**

- Specific amounts of money paid as penalties for offences

## **Suspension**

- Withholds a privileged such as a driver's license for a specified time or a lifetime