



# Straight Talk

## Scott Newark on Parole Reform

2011, Issue #1

Canadians generally recognize that criminal justice is a difficult issue and that our justice system is inherently complex. But they see grounds for concern about how effectively it deals with the repeat offenders who are all too frequently in the news for committing new crimes.

Part of the complexity of the system is that different components, from police to prosecutors to judges to prisons, are all meant to be working together with the ultimate goal of increasing public safety by reducing crime. But however complicated their interactions may be, the fact that they share this ultimate goal means the rehabilitation efforts of the corrections and parole component should be evaluated primarily by whether they reduce crime, including from repeat and even chronic offenders.

In this first of our Straight Talk series MLI talks to crime-expert Scott Newark about how well our corrections and parole system fits into this overall effort and how to improve it.

**MLI:** What is the real purpose of Canada's corrections and parole system and how well is it working?

**Scott Newark:** First of all, the corrections and parole system is part of the overall justice system. Police, prosecutors, courts and prisons are all supposed to be a part of an integrated system working to the shared common end of public safety. The best measure of its effectiveness is whether its actions result in less crime or, in the case of people already convicted, less repeat crime. In the corrections context we do things like provide addictions counselling or job training within prisons or even outside them, but the purpose is not to make somebody a better mechanic, it's to provide them skills so they stop committing crimes.

**MLI:** My understanding is that a disproportionately large volume of crime in Canada, as elsewhere, is committed by a disproportionately small number of offenders.

**Scott Newark:** That's exactly correct.

**MLI:** How does the system differentiate between first or, maybe, second offenders and career criminals?



Scott Newark has a thirty year criminal justice career beginning as an Alberta Crown Prosecutor with subsequent roles as Executive Officer of the Canadian Police Association, Vice Chair and Special Counsel for the Ontario Office for Victims of Crime and as a security and policy advisor to both the Ontario and federal Ministers of Public Safety.

**Scott Newark:** Especially with young people the justice system, including corrections and parole, tries to protect public safety through proactive steps like anti-gang measures to try to keep people from getting involved in criminal activity. Even when they do break the law, again especially with youth, we sensibly use more lenient measures, trying to get people to understand that what they are doing is not a good idea, trying to give them positive reinforcement and, in many instances, structure in their life. But as you get somebody committing crimes over and over again, including serious ones, other tools come into play like deterrence and literally, isolation from society. It's meant to be a sliding scale. This is why we have a number of sections in the Criminal Code which, by law, impose increased penalties for a second or subsequent offence. But one of the most glaring deficiencies in our correction system is that this principle is not reflected in parole eligibility laws. It would probably surprise people that in our current system someone can commit crimes ten times while on parole and yet still be eligible for parole at the same time as a first offender. In my view, this disjointed, 'one size fits all' approach actually undermines the collective goal of increased public safety through reduced crime, especially when it comes to repeat offenders.

**MLI:** Is there an immediate fix available for this problem?

**Scott Newark:** Yes. One of the recommendations made by law enforcement and victims' groups over the years is that the law should be changed to mandate escalating future parole ineligibility consequences for people who commit indictable offences while on parole. This is not about locking people away forever. But it is about saying that persons who repeatedly breach the trust of early release by committing new crimes should at some point have to actually serve the sentence imposed by the court because they've demonstrated they aren't worth the risk inherent in early release. It's that simple but that important.

**MLI:** Within prisons, how do we try to "correct" offenders and how well does it work?

**Scott Newark:** About 40 years ago we shifted the focus away from a 'penal' system based on punishment to a 'corrections' system with a focus on trying to change people's behaviours. And while no one has ever called me soft on crime, I think a corrections approach is absolutely the right way to go. It includes everything from education, job training and anger management to addiction counselling and more. The long term goal is that we take the opportunity while people are in custody to help them resolve what is leading them to commit crime which includes helping them acquire skills so they can do something other than criminal activity so they do not end up back in prison. What is not properly measured, in my view, is how well those different programs are performing based on re-offending rates. An example of this misperception of how 'success' should be measured, ironically, was the Minister's recent justification for closing the farm prison program which was that hardly any of the offenders in it went on to become farmers. But the point isn't whether they become farmers; it's whether they commit fewer crimes in the future.

**MLI:** How well do we track this kind of offender recidivism?

**Scott Newark:** Not well enough. When I was with the Police Association in the 90's I remember Correctional Services of Canada (CSC) released data that 80% of the federal prison population had previously served a jail sentence. Not necessarily a federal sentence, but they had still gone through this "correction system". While we realistically don't expect bank robbers to become bank presidents, it is not unreasonable to expect they stop robbing banks, and that is also not an unreasonable expectation of our corrections system. Getting the truth about this systemic performance by

modernizing the crime statistics to show the criminal profile of offenders is one way to do this, and it's something the Macdonald-Laurier Institute has recommended.

**MLI:** What is the role of the Parole Board and how well is it doing?

**Scott Newark:** The Parole Board is supposed to serve as the independent decision-maker about whether individuals get early release from a jail sentence and, if so, on what conditions. In my experience, which goes back to the early '80s, they are far too frequently a junior partner that defers to Correctional Services of Canada (CSC) 'recommendations' which defeats the purpose of their existence. A key problem is that the Parole Board is largely dependent on the information provided to them by CSC although we've managed to make a few changes over the years so that victims can make submissions and law enforcement can also be more involved. The bottom line, however, is that if CSC is following its own internal policies or philosophy that includes getting offenders out of custody early, then that has a huge and not necessarily positive effect on public safety. I remember being asked by the Minister of the day to sit on some hearings and this young corrections officer was giving a submission in support of parole for a thug with a long record. When the Parole Board members went out to consider the decision, the same officer said, 'Geez, I hope they don't let him out'. I said, 'Wait a minute, you just recommended he be released!' And she said, 'Yeah, but you have to understand here that the whole business of CSC is to get them out.' Years later a coroner's inquest into the rape and murder of a woman by a career criminal on parole heard from a corrections officer who explained his support of the parole application as being driven by CSC's institutional philosophy of 'GTO' or "Get Them Out".

The most glaring example of this institutional self-serving approach was exposed in 1999 when CSC's 'equalization' program was exposed where they literally were imposing a quota system so 50 percent of the population was in custody and 50 percent was out. This was completely contrary to the provisions of the law but was driven by a social engineering 'we know best' philosophy that fortunately was exposed and terminated. Let me be blunt; that kind of approach puts people at risk.

**MLI:** What changes are the most important to deal with repeat offenders and how well is the government dealing with them?

**Scott Newark:** First, convert statutory release into earned parole. Right now in Canada there is a presumptive right of offenders to be released after not more than two-thirds of their sentence no matter how often they broke the law or breached parole. I would put up a big sign in all Canada's prisons: 'Parole is a privilege to be earned, not a right to be demanded'. Trust me, they'll get the message.

Second, create escalating parole ineligibility consequences for people who commit crimes while on parole. Third, incredibly, it is not a crime in Canada to breach parole conditions. It should be and should be part of criminal records CSC and the Parole Board are required to take into account. Fourth, we've changed our laws to create post sentence supervision orders for high-risk offenders but neither CSC nor the Parole Board take that option into account and instead release repeat offenders early so they can be under parole 'supervision' which is now no longer necessary. The law should be changed to require these tools are considered. Fifth, the Parole Board should be able to order electronic monitoring of parolees without CSC permission. Sixth, we need a comprehensive public analysis of the success of various Corrections' programs, not based on how many people complete a course but whether they then re-offend less than other inmates. Seventh, the government's platform in the last election included an attempt to create a drug-free environment in prisons. This is a huge challenge, but would pay enormous dividends. Eighth, amend the Immigration Refugee Protection Act and the International

Transfer of Offenders Act to expedite the removal of foreign criminals out of our jails (which would save us a ton of dough as well). Finally, ensure the independence of the Parole Board by ensuring CSC does not have undue influence on Parole Board appointments or decisions.

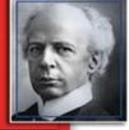
It's a big list but the public safety dividends will be immediate and real. The Harper government has made enhanced public safety through criminal justice reform a priority so hopefully improvements like these are on the horizon.

**Recommendations:**

- 1) Convert statutory release into earned parole.
- 2) Create parole ineligibility consequences for offenders who commit crimes while on parole.
- 3) Make breaching the conditions of parole an offence.
- 4) Require consideration of post-sentence supervision orders.
- 5) Permit Parole Board to order electronic monitoring without CSC approval.
- 6) Review CSC programs based on recidivism.
- 7) Implement a drug free prison policy.
- 8) Expedite the removal of non-citizen criminals.
- 9) Ensure Parole Board independence from CSC.



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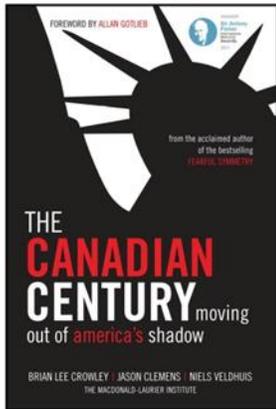
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