

# Criminology 11



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Sentencing is Considered a Critical Phase in the Canadian Justice System The obligation of the justice system in any nation is to protect the people. It is a system of institutions and procedures charged with preserving social order, preventing or mitigating criminal activity, punishing those who break the law and providing avenues to rehabilitation. The sentencing phase affects or applies to all areas of the justice system making this stage of justice the most critical. The Canadian system of justice is unique in that it utilizes a multifaceted approach to sentencing that involves the victim and community. Canada's restorative sentencing method has proved effective in accomplishing the goals of a justice system.

Certainly to a victim of crime the sentencing phase is the most critical part of the justice system. The Canadian system incorporates the input of the victim whenever practical to do so. In this way the sentencing process focuses on addressing the damage inflicted by the offender's actions and its impact on the victim and to society, instead of focusing exclusively on the punishment aspect. If the person accused of a crime either pleads or is found guilty, the court has many options. Prior to sentencing the judge generally requests a pre-sentencing report which provides information regarding the accused party's realistic prospects for rehabilitation. It also assesses the potential threat to the community they present. While preparing the report, the parole officer usually contacts the victim to establish the nature and significance of the physical, psychological, financial and material harms they suffered. ("Victims," 2011).

The Canadian government reformed the Criminal Code in September 1996. Included in these comprehensive reforms is sentencing guidelines that promote reparations for the various injuries inflicted on victims and the

community. In addition, the sentencing guidelines are meant to teach the offender a sense of responsibility and appreciation of the hurt caused to the victim(s) and to society. Both of these objectives demonstrate the restorative nature of the sentencing phase in the Canadian system of justice. However, this rethinking of sentencing procedures does not replace but adds to the traditional objectives of sentencing such as deterrence, denunciation and rehabilitation.

The addition of restorative sentencing in 1996 was referred to as a “watershed marking the most significant reform to the law of sentencing in Canada’s history” by the Supreme Court of Canada when considering the Gladue decision. (“ Making,” 2012). The high court ardently endorsed utilizing the restorative sentencing approaches for offenders, particularly aboriginal offenders. The Court showed significant interest in the concept and implementation of sentencing circles, an important method of justice involving members of the community in sentencing hearings. “ Under this approach, the community can support victims and offenders in their healing and reintegration into society. Healing circles can also provide restoration and closure to communities suffering the effects of historical abuse.” (“ Making,” 2012).

The Canadian system of justice has designed a sentencing structure that addresses the victims, communities and the perpetrators needs in it efforts to maintain social order. The sentencing process was scrutinized and overhauled because lawmakers realized this is the most crucial phase in a justice system that attempts, at its core, to provide fairness to society. Sentencing guidelines help provide closure to the victim, a restorative function for society, a deterrent for would be offenders and rehabilitation

which benefits both the criminal and the society the justice system is sworn to protect.

#### Works Cited

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