

## Bill C-479 *An Act to Bring Fairness to Victims of Violent Offenders*

St. Leonard's Society of Canada: July 10<sup>th</sup>, 2013

Bill C-479 is a private member's bill that has finished its second reading and is before the committee as of July, 2013. The Bill proposes nine changes to the *Corrections and Conditional Release Act (CCRA)* that bring greater legislative support for the treatment of victims throughout the criminal justice process.

The Bill amends the *CCRA* to:

- Extend the maximum time for mandatory parole review by a Review Board from 2 to 5 years after previously being denied. This extension is said to prevent what the Federal Government views as a process of "re-victimization".
- The Bill removes the Review Board's right to impose conditions on the manner in which victims may participate in hearings and places greater onus on the Board to meet victims' need to attend these hearings.
- The Bill emphasizes that Review Boards "must take into consideration" the victim's needs and the needs of the victim's family to attend hearings and witness proceedings; it also, **requires** that the Review Boards to consider any victim impact statement presented by victims.
- The Bill removes obligations on the Review Board to consider the inmate's view.
- The Bill provides the ability of a Review Board to cancel a parole review hearing if an inmate has repeatedly refused to attend, or waived their right to attend previous hearings.
- The Bill effects victims' rights regarding the manner in which they may present their impact statements.
- The Bill makes it mandatory, as opposed to discretionary, that certain information about a person's release be shared with the victim upon request. Such information includes the release date of the person convicted; any conditions attached to the release, their progression towards meeting these objectives, and may also disclose the location of release.

The purpose of legislation is said to support the growing perspective of government officials that:

1. in recent years the system has unjustly upheld the rights of criminals
2. the law must be made stricter in terms of punishments in order to combat crime and make law abiding people safe
3. victims have been unfairly treated in the criminal justice system

### Concerns:

- The Bill may be inconsistent with the Charter of Rights and Freedoms; specifically, the cancellation of parole review hearing if the offender has repeatedly refused to attend previously. Private members bills do not obtain charter scrutiny from the Department of Justice, unlike Bills from the Federal Government. This lack of departmental oversight provides no guarantee that conflicts with this legislation will not lead to charter litigation.
- Victims' attendance would be assumed, unless the Review Board can show that their presence would disrupt the hearing. Inmates with legitimate concerns about how the victims' presence will impact their ability to function cogently in a hearing will not have to be heard.
- The Bill lacks measures to better enhance the needs of victims' and the community. It also lacks measures that reduce risk of reoffending; including evidence-based practices that support the needs of all parties affected by crime (e.g. restorative justice).

- The perspective that increasing punitive measures and directing victims' impact on punishment will somehow bring closure and satisfaction to victims, may lead to measures that increase institutional tension and do not leave convicted persons safer for reintegration.

### Concerns Related to the Procedural Amendments

- The amendments to parole review procedure ensure that statements made by victims "must be considered" in a Review Board's decision to grant parole. This may mean that reasonable consideration of impact statements must be demonstrated in the Review Board's written decision; especially in regards to how the statement did, or did not, influence the board's reasoning. The absence of such reasoning may grant the victim the ability to question the validity of the procedure and therefore dispute the Review Board's decision. These changes also reduce the Review Board's discretion when interpreting a case.
- Given the loss of the Review Board's discretion, impact statements that are considered irrelevant, alarmist, vague or otherwise untruthful are now entitled to consideration. This obligation undermines the experience of neutral, expert adjudicators.
- The Bill extends the Review Board's mandatory review period for violent offences from 2 years to 5 years. Initial denials for full or day parole often result from a lack of program participation or substance abuse progress. These factors can be remedied in a relatively short period of time. The amendments will lead to more unmotivated prisoners behind bars well after they could be benefitting from necessary and appropriate community supervision. This may further contribute to institutional overcrowding.

### Information/Privacy Concerns:

- One provision of the Bill **requires** victims to be provided information on the parolee's whereabouts and the conditions imposed on them at release. Currently, this information is released at the discretion of the Review Board. This loss of discretion runs a serious risk of infringing on the parolee's privacy, and risks going well beyond the need to support victims' rights. By shifting the power of information to the victim rather than the Review Board, the access to information faces great potential for misuse. In today's age of social media, this information can significantly influence reintegrative success of the parolee, and increases their potential for harm to themselves or others if the motivation to successfully reintegrate is lost.
- The Bill mandates sending a copy of the transcript of a parole hearing to the victims or their families on request. Parole hearings can contain information of a sensitive nature regarding the psychological, emotional, physical or sexual health aspects of an inmate's rehabilitation. If this information can be made public, inmates may be less willing to disclose complete information, though it may speak toward the merits of their rehabilitation.