



**Canadian Institute for the Administration of Justice
(CIAJ)
2010 Annual Conference**

**“Sentencing and Corrections:
Sentencing Theory Meets Practice”**

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The 'Guiding' Principle: *Least Restrictive*

Provisions related to the "least restrictive" principle may be found in the legislation, regulations and policies governing federal sentencing, custody, and parole.

Sentencing

- *Criminal Code*, Section 718.2 (d):
"an offender should not be deprived of liberty, if **less restrictive** sanctions may be appropriate in the circumstances."

Custody


- *Corrections and Conditional Release Act*, Part I, Section 4 (d):
"that the Service [Correctional Service of Canada] use the **least restrictive measures** consistent with the protection of the public, staff members and offenders."

Parole

- *Corrections and Conditional Release Act*, Part II, Section 101 (d):
"that parole boards make the **least restrictive** determination consistent with the protection of society."

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Assessing Risk: Individual vs. Contextual Factors

Narrow focus on individual risk vs. contextual factors under counts:

- Gender and cultural issues
- Environmental/external influences on behaviour
- Some psycho-social factors (such as trauma)
- Non-treatable disorders (i.e. brain injury).

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Average Offender Maintenance Costs

Women	\$343,810
Men (Maximum Security)	\$223,687
Men (Medium Security)	\$141,495
Men (Minimum Security)	\$140,527
Community Correctional Centre (CCC)	\$85,653
Parole	\$39,084
Average	\$162,376

Source: Parliamentary Budget Officer, based on information for fiscal year 2008-2009

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Conditional vs. Statutory Release Trends


Fiscal Year 2008-2009

Statutory Release	5,807	56%
Day Parole	3,073	30%
Full Parole	1,441	14%

Source: Corrections and Conditional Release Statistical Overview (2009)

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Discretionary Release Trends

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Offender Reasons for Waiving, Postponing or Withdrawing Parole Reviews


Cited Reason	Percentage
Reasons related to programming - Currently completing program - Wanted - Required program unavailable - Not interested in participating in programs - Change in treatment plan - Programs Incomplete - Other (transfers, segregation, unsuccessful attempts, etc.)	42.3%
Perceived lack of support from PO/CMO	34.6%
Reasons related to factor that reflects poorly on behaviour	11.5%
Not interested	9.6%
Reasons related to release plan	9.6%
Transfer application / pending	8.6%
Case preparation incomplete	5.8%
Believes parole will be denied	5.8%
Lower security level / more gradual release process	4.8%
Reasons related to parole review process	2.9%
Other - pending court decision, waiting for statutory release, etc.	18.3%

Source: National Parole Board, Waivers, Postponements and Withdrawals: Offenders, Parole Officers and National Parole Board Perspectives, November 2009.

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“Segregate the dangerous, deter and restrain the rationally motivated professional criminal, deal as constructively as possible with every offender as the circumstances of the case permit, release the harmless, imprison the casual offender not committed to a criminal career, only when no other disposition is appropriate. In every disposition the possibility of rehabilitation should be taken into account.”

Source: Report of the Canadian Committee on Corrections (Ouimet Report), 1969

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