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VOLUME

**6**



Government  
of Canada

Gouvernement  
du Canada

# MEMORANDUM

# NOTE DE SERVICE

TO  
A

THE DEPUTY SOLICITOR GENERAL

FROM  
DE

SPECIAL ADVISER,  
CORRECTIONAL POLICY

SUBJECT  
OBJET

Capital Punishment - paroling of lifers  
and offenders whose death sentence has  
been commuted

SECURITY - CLASSIFICATION - DE SÉCURITÉ
<b>CONFIDENTIAL</b>
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE December 21, 1972

With reference to your memorandum of December 6 last,  
I attach some material for the Minister's purposes in connection  
with the matter of commuted death sentences.

Atts.

A. J. MacLeod.

AJM\*EGM

## Capital Punishment and Parole

### Purpose

The purpose of this paper is to set out the law and the practice in Canada concerning the commutation of death sentences and the release, on parole, of persons whose death sentences have been commuted to life imprisonment.

### The Law

The relevant provisions of the law, as contained in the Criminal Code and the Parole Regulations, are set out in Appendix A.

Section 214 provides that murder is capital murder or non-capital murder; that, in effect, capital murder consists of causing the death of a peace officer or prison officer acting in the course of his duties, or counselling or procuring another person to do an act that causes or assists in causing such a death; and that all murder other than capital murder is non-capital murder.

Section 218 provides that every one who commits capital murder shall be sentenced to death and every one who commits non-capital murder shall be sentenced to imprisonment for life.

Section 669 provides that the sentence to be pronounced against a person who has been sentenced to death shall be that he shall be hanged by the neck until he is dead.

Section 670 provides for recommendations for clemency by the jury.

Section 671 provides for the appointment of a day for execution of the sentence of death that will allow time for the Governor General to signify his pleasure before that day, and requires the Judge to make a report of the case to the Solicitor General of Canada. The section also provides for delays in execution for appropriate purposes.

Section 684 authorizes the Governor in Council to commute a sentence of death to imprisonment for life or any lesser term. Subsection (3) of this section (which expires on December 29, 1972) provides that a person whose death sentence has been commuted to life imprisonment or a lesser term shall not be released during his life or that term, as the case may be, without the prior approval of the Governor in Council.

The Governor General may also exercise the royal prerogative of mercy to commute a sentence of death to one of imprisonment. Article XII of the Letters Patent constituting the Office of the Governor General of Canada, 1947 (Revised Statutes of Canada, 1970, Appendices, p.445 at p.449), provides that the Governor General shall not pardon or reprieve any offender "without first receiving in capital cases the advice of Our Privy Council for Canada and, in other cases, the advice of one, at least, of his Ministers."

The Parole Regulations, made under the Parole Act, provide, in section 2(3) that a person serving a sentence commuted to imprisonment from death shall serve the entire term of the sentence unless, upon the recommendation of the Board, the Governor in Council otherwise directs.



Under section 2(4) of the Parole Regulations the Board shall not recommend a parole in such a case until at least ten years of the term have been served, minus time spent in custody between arrest and commutation.

### Principles Involved in the System

The question of the length of time to be served by a person whose death sentence has been commuted to life imprisonment was not dealt with by the Parliamentary Committee on Capital Punishment in 1956. The best available discussion of the principles involved is to be found in the Report of the United Kingdom Royal Commission on Capital Punishment, 1953. The Canadian practice has been, for all practical purposes, the same as the United Kingdom practice. It is set out in Appendix B, under the heading "The Length of Detention of Prisoners Convicted of Murder". Appendix C, also from the United Kingdom Royal Commission Report, sets out the length of terms served under life sentences in Commonwealth countries, including Canada.

The Grenier Report on Capital Punishment: New Material, 1965-1972, has the following to say in connection with the death penalty and parole (p.68):

"The behaviour of murderer parolees who had been sentenced in Canada to life imprisonment after their death sentence had been commuted confirms the American statistics tending to show that the recidivism rate is very low in this group and that they very seldom commit a second murder. Statistics published in April 1968 by the National Parole Board and quoted by Colin Sheppard\* show that from 1920 to 1967, 119 capital offenders who had first had their sentence commuted were granted parole. In April 1968, 89 of them were still on parole, 19 had dropped from sight and 11 had been returned to prison. Only one of the 119 committed a second murder and he was hanged in 1944. Between 1959 and 1967, out of the 32 under death sentence whose sentence had been commuted to life imprisonment and who were later paroled, only one was convicted of another crime, and it was not murder. Despite these encouraging results, Sheppard points out, the Parole Board is reluctant to release murderers, and government authorities are reluctant to give this agency the responsibility for doing so."

\* in Canadian Criminology Review, Vol. 13, No. 1, January 1971, pp.60 et seq.

Parole statistics for the period 1959-1972 indicate the following average length of time served by persons prior to release on parole after sentence of death (commuted), sentence of life imprisonment for non-capital murder and sentence of life imprisonment for offences that did not constitute murder, i.e., manslaughter, armed robbery and the like:

s.19(1)

-3-

Year	No.	Death Commuted			No.	Life for Murder			No.	Life for Non-Murder		
		Average time served				Average time served				Average time served		
		yrs.	mos.	days		yrs.	mos.	days		yrs.	mos.	days
1959	5	14	3	19	-				2	15	4	26
1960	4	13	8	11	-				6	11	9	15
1961	2	9	0	16	-				11	9	10	9
1962	9	14	5	19	-				15	10	2	18
1963	9	9	1	2	-				6	12	1	6
1964	3	9	1	11	1	14	0	15*	2	8	0	17
1965	2	11	2	11	1	3	5	14	-			
1966	-				3	4	4	27	7	7	10	17
1967	-				-				1	18	0	4
1968	6	12	8	18	8	6	7	6	3	11	5	13
1969	3	10	2	13	18	7	3	17	6	10	1	6
1970	16	15	4	22	19	6	8	22	3	10	2	11
1971	6	11	6	24	8	7	8	21	5	11	4	18
1972	3	13	1	11	2	7	2	1	2	9	6	5
	68				60				69			

Average time  
for years  
during which  
parole had  
been granted

11 11 28  
(approx. 12 years)

7 2 6  
(approx. 7 years)

11 2 22  
(approx. 11½ years)

\* [REDACTED] 16-year-old, mentally unbalanced,  
sentenced at Gander, Nfld. for "Detention at  
H.M.'s pleasure", in 1950.

Appendix D sets out statistical material, prepared  
by Mr. Koz, in relation to paroles granted by the National  
Parole Board since 1959 to persons who had been sentenced  
to death for murder.

APPENDIX A

Extracts from Criminal Code,  
Letters Patent and Parole Regulations

214. (1) Murder is capital murder or non-capital murder.

(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(b) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death.

(3) All murder other than capital murder is non-capital murder.

\*\*\*

218. (1) Every one who commits capital murder is guilty of an indictable offence and shall be sentenced to death.

(2) Every one who commits non-capital murder is guilty of an indictable offence and shall be sentenced to imprisonment for life.

\*\*\*

669. The sentence to be pronounced against a person who is sentenced to death shall be that he shall be hanged by the neck until he is dead.

\*\*\*

670. (1) Where a jury finds an accused guilty of an offence punishable by death, the judge who presides at the trial shall, before discharging the jury, put to them the following question:

You have found the accused guilty and the law requires that I now pronounce sentence of death against him (or "the law provides that he may be sentenced to death", as the case may be). Do you wish to make any recommendation as to whether or not he should be granted clemency? You are not required to

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make any recommendation but if you do make a recommendation either in favour of clemency or against it, your recommendation will be included in the report that I am required to make of this case to the Solicitor General of Canada and will be given due consideration.

(2) If the jury reports to the judge that it is unable to agree upon a recommendation, either in favour of clemency or against it, and the judge is satisfied that further retention of the jury would not lead to agreement, he shall ascertain the number of jurors who are in favour of making a recommendation for clemency and the number of jurors who are against making such a recommendation and shall include such information in the report required by subsection 671(1).

\*\*\*

671. (1) A judge who sentences a person to death shall appoint a day for the execution of the sentence, and in appointing that day shall allow a period of time that, in his opinion is sufficient to enable the Governor General to signify his pleasure before that day, and shall forthwith make a report of the case to the Solicitor General of Canada for the information of the Governor General.

(2) Where a judge who sentences a person to death or any judge who might have held or sat in the same court considers

- (a) that the person should be recommended for the royal mercy, or
- (b) that, for any reason, it is necessary to delay the execution of the sentence,

the judge may, at any time, reprieve the person for any period that is necessary for the purpose.

\*\*\*

684. (1) The Governor in Council may commute a sentence of death to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in a prison other than a penitentiary for a period of less than two years.

(2) A copy of an instrument duly certified by the Clerk of the Privy Council or a writing under the hand of the Solicitor General of Canada or Deputy Solicitor General of Canada declaring that a sentence of death is commuted is sufficient notice to and authority for all persons having control over the prisoner to do all things necessary to give effect to the commutation.

(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment



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or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council.

\*\*\*

Letters Patent Constituting the  
Office of Governor General of Canada, 1947  
(R.S.C., 1970, Appendices, p.445 at p.449)

XII. And We do further authorize and empower Our Governor General, as he shall see occasion, in Our name and on Our behalf, when any crime or offence against the laws of Canada has been committed for which the offender may be tried thereunder, to grant a pardon to any accomplice, in such crime or offence, who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one; and further to grant to any offender convicted of any such crime or offence in any Court, or before any Judge, Justice, or Magistrate, administering the laws of Canada, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to Our Governor General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to Us. And We do hereby direct and enjoin that Our Governor General shall not pardon or reprieve any such offender without first receiving in capital cases the advice of Our Privy Council for Canada and, in other cases, the advice of one, at least, of his Ministers.

\*\*\*

#### Parole Regulations

2. (3) A person who is serving a sentence of imprisonment to which a sentence of death has been commuted either before or after the coming into force of this subsection, or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment after the coming into force of this subsection, shall serve the entire term of the sentence of imprisonment unless, upon the recommendation of the Board, the Governor in Council otherwise directs.

(4) The Board shall not recommend a parole, in a case coming within subsection (3), until at least ten years of the term of imprisonment minus,

- (a) in the case of a sentence of imprisonment for life, the time spent in custody from the day on which the inmate was arrested and taken into custody in respect of the offense for which he was sentenced to imprisonment for life to the day the sentence was imposed, or

..4

-4-

- (b) in the case of a sentence of death which has been commuted, the time spent in custody from the day on which the inmate was arrested and taken into custody in respect of the offense for which he was sentenced to death to the day the sentence was commuted,

as the case may be, have been served.

## APPENDIX B

### III. THE LENGTH OF DETENTION OF PRISONERS CONVICTED OF MURDER

644. *The Principles.* A sentence of imprisonment for life is never carried out literally. "Persons serving life sentences have died in prison before a definite term has been set to their sentences, but there is no case recorded in which it has been decided that a person shall be kept in penal servitude until he dies". The actual periods are determined by the Secretary of State in accordance with the circumstances of the individual case. Each is reviewed at least every four years. The basic principle was thus stated by the Home Office:

"The punishment must be sufficient to deter others and to be accepted by public opinion as an adequate vindication of the law: it ought not to suggest that the crime of murder is regarded lightly by the State or can be put on the same level with other crimes. It is therefore desirable to grade the terms as far as possible according to the degree of culpability in each case. Account must also be taken of the length of sentences imposed by the Courts for other offences".

Subject to this, weight is given to the character and behaviour of the prisoner and to the likelihood of his committing further crimes of violence. If long imprisonment were having a bad effect on the prisoner's health, this would be taken into account, but his interests would not be the only consideration in such a case.<sup>4</sup>

645. *The Practice.* Table 12 in Appendix 3 gives full information about the periods of detention of life sentence prisoners released in England and Wales during the years 1900-1949. It shows the steady continuance of a downward trend that began nearly 100 years ago.<sup>5</sup> In 1866 the minimum period was fixed by Sir George Grey at 20 years. It was subsequently

3. Rule 84A of the Prison Rules (S.I. 1951 No. 1343). Rule 28 of the Prison (Scotland) Rules (S.I. 1952 No. 565 (S. 18)) is in similar terms.

4. Home Office, pp. 5-6 (35-42); Newsam, Q. 125-6, 182-3.

5. A fuller account of the variations in the periods served under life sentences in England and Wales during the last 100 years is given in paragraphs 35-48 of the Home Office evidence (pp. 5-6).

gradually reduced, and by the beginning of the present century, 20 years had come to be regarded as the maximum; no one was detained longer unless there were exceptional reasons, e.g., if a prisoner had a record of persistent misconduct in prison, if there was serious risk of his committing further crimes of violence, or if the crime had been particularly atrocious. Shortly afterwards the period was again shortened by the adoption of the practice of detaining the prisoner, unless there were special grounds for earlier release, "as for 20 years", that is, of releasing him when he had served 15 years and would have earned his discharge by remission for good conduct if he had originally been sentenced to 20 years' penal servitude.

646. In the period between the two World Wars the normal period of detention was further reduced. By 1939 most life sentence prisoners were released after serving between 10 and 13 years. During the recent war the period was again shortened on account of the need for man-power, the shortage of prison accommodation and the exceptional opportunities for making a fresh start in life; the majority of prisoners were released after serving 6 to 10 years, according to the gravity of their crime. Since the War this period has been slightly lengthened in consequence of the increase in crimes of violence generally and the tendency of the courts to impose heavier sentences for them. We were told that "only most exceptionally would anybody serve more than 15 years under the present practice; but the normal is much less than that".<sup>6</sup> As the Table shows, it is by no means uncommon for life sentence prisoners to be released after a very short period of detention. Early release is ordinarily granted to such persons as "mercy killers", the survivors of suicide pacts, and mothers who have killed their children in circumstances which do not come within the scope of the Infanticide Acts, and in other cases where the circumstances of the crime are pathetic and there is no reason to keep the offender in prison for a long period.

647. Similar statistics for Scotland are given in Table 13 in Appendix 3. The principles governing the length of detention have been generally similar to those followed in England and Wales, except that the normal period of detention was not reduced during the recent war. Mr. (now Sir Charles) Cunningham told us that the present period would probably be "somewhat shorter than ten to twelve years".<sup>7</sup> It is noticeable that the number of prisoners serving life sentences is proportionately less in Scotland than in England and Wales. This is probably due to the operation of the doctrine of "diminished responsibility", which in Scotland results in convictions of culpable homicide and determinate sentences of imprisonment in cases where in England there would be a conviction for murder followed by the passing of the death sentence and eventual commutation to life imprisonment. The doctrine of diminished responsibility, as well as the wider discretion exercised by the prosecution in selecting charges, tends to result in conviction of crimes other than murder, and so may account for the fact that no Scottish life sentence prisoner has been released after serving less than five years.

648. Appendix 16 summarises the information obtained about the length of life sentences in foreign and Commonwealth countries. They are in general longer in these countries than in Great Britain, but in many of them the period has tended to decrease in recent years. In South Africa, for example, the average dropped from 15.9 years in 1924 to 9.4 years in 1939; in the United States as a whole from 11 years 10 months in 1939 to 10 years 7 months in 1946; and in Sweden from 17-18 years between

6. Newsam, Q. 125.

7. Scottish Home Department, pp. 61-2 (24-5); Cunningham, Q. 640-1.



the two wars to about 10 years in 1950. Any comparison with the United States must take into account that determinate sentences imposed for crimes other than murder are often very long in comparison with those commonly imposed in Great Britain, and also that many murderers who would be executed in this country may there be sentenced to life imprisonment as a result of the systems of degrees of murder and jury discretion. In comparing life sentences in Europe with sentences in Great Britain, it must be remembered that in all the countries in question (except France) capital punishment has been abolished or is in abeyance, and that only the worst murderers are sentenced to imprisonment for life, whereas in Britain it is ordinarily the less heinous cases that receive that punishment.

649. *Deterrence.* Several witnesses emphasised the point made by the Home Office that the sentence must be long enough to assure the public that the penalty for a similar crime will be severe and to deter potential offenders.<sup>8</sup> But we received no evidence that the public regards as inadequate the periods at present served by life sentence prisoners, which are on the whole longer than those served for any other crimes. During the years 1940-49 only four sentences of penal servitude or imprisonment were imposed by English courts for offences other than murder which, subject to the normal remission for good conduct, would involve detention for more than ten years.<sup>9</sup> In Scotland there was none. The sharp difference of opinion that exists on the question whether imprisonment is in all cases a sufficient punishment for murder does not seem to be reproduced in any strong feeling about the length of sentence that should be served by murderers who are in fact so punished. We have no reason to conclude that any general increase in the periods served at present is necessary in order to ensure the deterrent effect of the life sentence. And we do not believe that, if our recommendations were accepted, the quality of life sentence prisoners would be altered to such an extent as would affect the validity of this conclusion, though there might be occasional cases where a sentence up to 15 or 20 years was needed to mark the gravity of the crime.

650. *The protection of society.* Figures given in 1948 in the White Paper on Capital Punishment<sup>1</sup> show that released murderers rarely commit fresh crimes of violence. Of 174 life-sentence prisoners convicted between 1st April, 1928 and 31st March, 1948, 112 had been released by May, 1948; only five of them had been convicted of serious offences up to that date, and only one of murder. The Central After-Care Association<sup>2</sup> said that in England and Wales 156 life-sentence prisoners were discharged to their care during the years 1934-48, of whom 127 had no previous conviction; only 16 of these prisoners had, to the knowledge of the Association, been reconvicted since release. One of these prisoners was subsequently sentenced to death and executed for murder (the same case as that referred to by the Home Office), but there were no other certain cases of crimes of violence against the person. In Scotland 11 reprieved murderers were released to the care of the Scottish Central After-Care Council<sup>3</sup> during the years 1931-49, of whom four had no previous convictions; only two of the 11 had, to the knowledge of the Council, been reconvicted, neither of them for crimes of violence against the person.

651. Even in countries which have abolished capital punishment, the protection of society is rarely thought to require that murderers who are mentally normal should be detained in prison for the remainder of their life, or

8. e.g., Scott, Q. 1638; Templewood, Q. 8660-1.

9. One of 20 years for unnatural offences; one of 20 years for attempted murder; one for life for attempted murder; and one for life for offences against the Defence Regulations.

1. Cmd. 7419.

2. pp. 237-8.

3. pp. 457-9\*.

even for very long periods. Evidence from the Howard League<sup>4</sup> shows that life-long detention is very rare except in the United States, where in North Dakota, Michigan, Maine and Minnesota (the four States that replied to the Howard League questionnaire on the subject) some prisoners have been detained for the whole of their natural lives. Illustrative cases from Michigan, however, suggest that, at least in that State, the cases are likely to be those of sexual murderers showing symptoms of mental abnormality. The Howard League evidence about Europe, surveying the last 30 years, gives two examples from Belgium and four from Denmark of murderers who on release have committed second murders or murderous assaults; but records that neither Denmark, the Netherlands, Norway nor Sweden has ever thought it necessary to detain sane murderers for life, nor do they expect that they will ever need to do so. The evidence that we ourselves received in these countries was also to the effect that released murderers who commit further crimes of violence are rare, and those who become useful citizens are common.<sup>5</sup>

652. The evidence seems conclusive that the release of life-sentence prisoners involves little risk at present, and we have given our reasons (reinforced by the experience of countries where capital punishment has been abolished) for thinking that the risk would not be significantly increased if our proposals for limiting the death penalty were put into effect. We agree with the Home Office (paragraph 614 above) that any convicted murderers whom it would be unsafe ever to release are likely to be in the category of the mentally abnormal, and for these we have made separate proposals.

653. *The effect on the prisoner.*—In the course of his evidence before the Select Committee in 1930, Sir Alexander Paterson said:

“Whatever means of education, stimulation and recreation may be employed, however you may seek to ring the changes on handicrafts and literature, skittles or chess or ping-pong, despite the invaluable labours of most devoted voluntary workers, it requires a superman to survive 20 years of imprisonment with character and soul intact. . . . I gravely doubt whether an average man can serve more than ten continuous years in prison without deterioration.”<sup>6</sup>

The Home Office at that time did not dissent from that view. But in giving evidence before us, though they still said that “prolonged detention for more than ten or twelve years makes it increasingly difficult for [the prisoner] to re-establish himself in outside life and increases the risk of mental or physical deterioration”, they added that developments in prison administration in the last twenty years have materially altered the conditions of confinement for prisoners serving long sentences, and continued:

“While therefore the Commissioners remain of the opinion expressed [in 1930] that a very long sentence of imprisonment is and must always be a dreadful thing, they do not consider that in present conditions its effect on prisoners would be such that it ought not to be contemplated.”<sup>7</sup>

654. The Scottish Home Department were less sanguine. Mr. Cunningham told us that “those with considerable experience of prison administration would view with grave concern a sentence of imprisonment extending beyond ten years”.<sup>8</sup> Other witnesses with similar misgivings included the Prison Chaplains,<sup>9</sup> who considered that ten years should be the maximum and that

4. App. A, V and VI (p. 597) and App. C (p. 599–600).

5. More detailed information will be found in Appendix 15.

6. Minutes of Evidence, pp. 485–6.

8. Q. 642.

7. p. 5 (36), p. 7 (53).

9. Q. 1485, 1503–6, 1539–42.

many prisoners deteriorated after five years, and the Scottish Central After-Care Council,<sup>1</sup> who felt that any period beyond ten years might lead to deterioration. A representative of the Prison Officers' Association<sup>2</sup> was disposed to agree that a man would find difficulty in rehabilitating himself in the outside world if he had spent much more than ten to twelve years in prison, though he was reluctant to generalize, since a man with more will-power would be able to make good when others would have become "thoroughly automatic and institutionalised".

655. One prison governor thought that a man could be detained for more than twelve years without deterioration.<sup>3</sup> Another said that if the term served were more than twenty years "the probability is that after that he is no use in ordinary life". On the other hand, Mr. Pinker of the Central After-Care Association said:

"In the old days, if a man had served ten years, I think there was a very grave danger of his becoming institutionalised. . . . Under present conditions I think that a man could serve ten years in one of our modern prisons and go out and fit in with modern conditions quite easily".<sup>4</sup>

He told us that of nine men known to him who served sentences of fifteen years and more, only three failed to settle down afterwards. The Howard League<sup>5</sup> considered that, under modern conditions, a prisoner could be detained for much longer than ten years without ill effect. Sir Norwood East<sup>6</sup> doubted whether the subsequent careers of released murderers showed any particular relation to the time they had served in prison. A Scottish Prison Governor<sup>7</sup> thought that under present-day conditions a prisoner could serve a very long term without becoming "institutionalised".

656. This divergence of view no doubt reflects the difficulty of generalisation on such a subject; so much depends on the idiosyncrasy of the individual prisoner. Moreover, we think that "deterioration" is not always used in the same sense. Some mean by it an actual degeneration of mental and physical powers that makes it impossible for a released prisoner to become a useful member of the community. To others it denotes no more than that gradual weakening of the capacity to make decisions and to take responsibility that sooner or later must affect all those who have their lives ordered for them in the artificial environment of a prison unless they are exceptionally strong characters. Deterioration in its graver sense, is, we think, no longer a serious risk for those who serve the maximum normal term of ten years or so. The conditions of prison life have been greatly changed in the last twenty-five years; improvements are constantly being made; we have suggested others; and so long as the present policy continues the risk will grow steadily less. We agree with the Home Office that even now the risk is not such that we ought to shrink from contemplating an occasional prisoner serving a term of fifteen or twenty years. Of the less grave form of deterioration known as "institutionalisation" some risk must always remain; it is an unavoidable incident of prolonged confinement of any kind. "If the cage were roomier and more comfortable, it would remain a cage".<sup>8</sup>

## APPENDIX 16

### LIFE SENTENCES IN FOREIGN AND COMMONWEALTH COUNTRIES

1. The tables in this Appendix summarise the information obtained by the Commission about the periods actually served by prisoners undergoing sentences of imprisonment for life in Commonwealth States and countries, in the United States of America and in those European countries which were invited to reply to the questionnaire. Most of the information is derived from the replies to the questionnaire, but supplementary information, obtained during the Commission's visits to Europe and America, has also been incorporated in the tables. Information has also been obtained from the White Paper on Capital Punishment published in May, 1948 (Cmd. 7419).

2. As will be seen from the tables, the actual terms served by life sentence prisoners vary widely in different countries; but there are also certain variations in the principles on which a life sentence is evaluated, to which a brief reference should first be made.

#### COMMONWEALTH

3. In most countries and States of the Commonwealth the life sentence is regarded as an indefinite sentence, release being granted when it is considered appropriate in the circumstances of the individual case. In Victoria and New South Wales, however, the term to be served is based on the expectation of life at the time of sentence. The following table shows the notional sentence for men and women sentenced to imprisonment for life at the age of 20, 30, 40, 50 and 59:—

Age			Men	Women
			years	years
20	...	...	44·737	47·521
30	...	...	36·520	39·327
40	...	...	28·557	31·473
50	...	...	21·163	23·688
59	...	...	14·992	16·902

In most cases, normal remission (usually one-quarter) can be earned on these notional sentences and a prisoner can be released after serving 20 years if his conduct has been uniformly good. In India and Pakistan a life sentence is treated as equivalent to 20 years' imprisonment and remission of one-quarter to one-third may be earned on this period. In Ceylon a life sentence is almost invariably commuted at the first quadrennial review to a fixed term of imprisonment, on which normal remission can be earned.

#### UNITED STATES OF AMERICA

4. In the United States a life sentence is regarded as an indefinite sentence and the prisoner is released on parole when this is considered appropriate. In some States, such as New York, although the sentence of death is ordinarily commuted to life imprisonment, an indeterminate sentence (e.g., for from 20 years to life or from 30 years to life) is commonly imposed by the courts, and the prisoner can then earn remission on the minimum term of years. In some States it is provided by statute that a life sentence prisoner is eligible for release on parole after serving a specified number of years, which is shown in the "Remarks" column of Table B. In many States, the court by which the prisoner was sentenced must be consulted before his release and in some a public inquiry must be held.



## EUROPE

5. In European countries a life sentence is regarded as indefinite, although in some a life sentence prisoner may become eligible for release after serving a prescribed number of years (see "Remarks" column in Table C). In Sweden and the Netherlands it is the usual practice to commute the life sentence to a sentence for a fixed term, so calculated that (allowing for remission on the substituted sentence) the prisoner will be released in 18 months to two years after the date of commutation. In some countries the prosecuting authorities must be consulted before release may be authorised.

TABLE A  
LIFE SENTENCES IN COMMONWEALTH COUNTRIES

Country or State	Number of Cases	Period	Length of terms served			Remarks
			Shortest	Actual Sentences Average (A) or Median (M)	Longest	
Australia	—	—	—	Slightly over 20 years(A)	39 years	Longest period of any prisoner serving life sentence in 1949.
New South Wales	—	—	—	—	25½ years	
Queensland ...	—	—	—	—	—	No information as to actual terms served. Prisoner may be released after 20 years if conduct has been good.
South Australia...	(a) 14	1918-39	1 year 1 month	10 years 3 months (M)	17 years 11 months	
	(b) 4	1918-39	4 years 8 months	9 years 2 months (A)	13 years 8 months	
Tasmania ...	(a) 3	Released 1937-48	11 years 10 months	14 years 3 months (A)	15 years 10 months	
Victoria ...	—	—	—	—	—	
Western Australia	(a) 6	Sentenced 1918-39	3 years 1 month	10 years (A)	20 years	Length of detention shorter in earlier part of the period.
	(b) 3	Sentenced 1918-39	6 years 8 months	9 years 8 months (M)	11 years 2 months	
Canada ...	(a) 42	Released 1923-39	1 year 3 months	12 years 7 months (M)	20 years 2 months	
	(b) 46	Released 1920-39	2 years 2 months	10 years 9 months (M)	18 years 10 months	Length of detention shorter in earlier part of the period.
Ceylon ...	—	—	—	12 years 6 months (A)	—	Average shown is notional length less maximum ordinary remission.
India ...	—	—	—	15 years (A)	—	
New Zealand ...	(a) 7	Released 1918-39	10 years	14 years 7 months (M)	21 years 11 months	Each case considered after 15 years. Figures are average sentences of those released in the year shown.
	(a) 3	Released 1945-49	10 years	12 years 3 months (M)	17 years 8 months	
	(b) 4	Released 1932-39	12 years	13 years 10 months (M)	32 years 7 months	
Pakistan (Province of Sind).	(a) 26	1918-49	Less than 6 years	8-9 years (M)	12-14 years	
	(c) 388	1918-49	Less than 6 years	9-12 years (M)	Over 18 years	
	(d) 17	1918-49	Less than 6 years	9-12 years (M)	Over 18 years	Figures are average sentences of those released in the year shown.
Southern Rhodesia	—	—	—	—	—	
South Africa ...	(a) —	1924-39	9.4 years (1939)	12.5 years (1926) (M)	15.9 years (1924)	Figures are average sentences of those released in the year shown.
	(b) —	1928 and 1931	12.2 years (1931)	—	13.6 years (1928)	

(a) Commuted Death Sentences. (b) Original Life Sentences. (c) Original Life Sentences for Murder, (d) Original Life Sentences for offences other than Murder.

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Country or State	Number of Cases	Period	Length of terms served			Remarks
			Shortest	Actual Sentences Average (A) or Median (M)	Longest	
1. The following figures apply to prisoners released over the whole of the United States in 1939 and 1946:						
	433	Released in 1939	—	11 years 10 months (M)	—	
	683	Released in 1946	—	10 years 7 months (M)	—	
2. The following particulars relate to individual States:—						
California ...	—	Released 1945-49	—	14 years (A)	—	Sentenced for first-degree murder. Sentenced as habitual offenders. Life sentence prisoners are eligible for release on parole after serving 7 years. Commuted Death Sentences. Sentenced for second-degree murder.
	—	Released 1945-49	—	11 years (A)	—	
Massachusetts ...	5* 183	1900-50 1900-50	6 years 1-5 years	28 years (A) About 17 years (A)	41 years Over 40 years	Sentenced for murder. Sentenced for offences other than murder. Life sentence prisoners sentenced for offences other than first-degree murder are eligible for release on parole after serving 10 years.
Michigan ...	— —	Released 1942-48 Released 1942-48	— —	17 years 4 months (A) 13 years 6 months (A)	— —	
Missouri...	—	—	—	About 17 years (A)	—	Sentenced for murder. Sentenced for murder. Sentenced for offences other than murder. Life sentence prisoners are eligible for parole after serving 14 years 8 months. Release after pardon or commutation. Prisoners serving original or commuted life sentences in Eastern State Penitentiary. Life sentence prisoners are eligible for parole after serving 11 years 3 months.
New Jersey ...	63	Released 1939-50	8 years	16 years 10 months (A)	26 years	
	35	Released 1949-51	14 years	19 years 7 months (A)	25 years	
	3	Released 1939-50	2 years 10 months	6 years 3 months (A)	8 years	
New York ...	11	Released 1944-49	12 years 7 months	24 years 5 months (M)	26 years 8 months	
Pennsylvania ...	166*	Released 1900-April 1951	2 years	15 years (A)	30 years	
Wisconsin ...	589	1849-1947	5 days	12 years 1 month (A)	54 years 3 months	

NOTE: All sentences are original life sentences except for those marked \*.

TABLE C  
LIFE SENTENCES IN EUROPE

Country or State	Number of Cases	Period	Length of terms served			Remarks
			Shortest	Actual Sentences Average (A) or Median (M)	Longest	
Belgium ... ..	(a) — (b) —	— —	— —	18 years (A) 14 years (A)	47 years —	Life sentence prisoners may be released after serving 10 years or, if recidivists, 14 years.
Denmark ... ..	(a) 39 20	Released 1931-47 Released 1915-47	12 years About 10 years	20 years (M) 15-16 years (A)	34 years About 21 years	The average period is being reduced to 14 years.
France ... ..	—	—	—	—	—	Life sentence prisoners are not normally released until they have served 10 years.
Italy ... ..	—	—	—	—	—	Prisoners usually released at age of 70 or after serving 30 years.
Netherlands ... ..	—	—	—	16½ years (A)	One case not likely to be released before 40 years	Normal practice to commute life sentence to a sentence of 25 years imprisonment when the prisoner has served 15 years; allowing for remission, this means that prisoner becomes eligible for release after serving 16½ years.
Norway ... ..	17 6 3	Released 1900-47 Released 1918-39 Released 1945-49	7-9 years 10 years 8 years	11½ years (A) — —	15-16 years 14 years 14 years	During the years 1918-48, 8 persons were sentenced to imprisonment for life for murder and 7 for aggravated homicide. Life sentence prisoners are eligible for provisional release after serving 20 years. In fact, they are invariably pardoned before and no prisoner released during this century has served more than 16 years.

Sweden ...	(c) 35	Released 1918-39	10-11 years	17-18 years (M)	26-27 years	The length of a life sentence is being reduced to 10 years or less. Four prisoners sentenced for a gang murder were recently released after serving 7½, 9, 10 and 10½ years. Prisoners may be released conditionally after serving 15 years.
	(d) 25	Released 1918-39	2-3 years	16-17 years (M)	24-25 years	
	(c) 5	Released 1945-49	9-10 years	14-15 years (M)	28-29 years	
	(d) 2	Released 1945-49	5-6 years	—	16-17 years	
Switzerland ...	—	—	—	—	—	

(a) Commuted death sentence.

(b) Original life sentence.

(c) Life sentence for murder.

(d) Life sentence for offence other than murder.

January - December, 1972

INFORMATION RECEIVED BY THE FBI THROUGH THE UNIFORM CRIME  
REPORTING PROGRAM CONCERNING LAW ENFORCEMENT OFFICERS KILLED IN  
THE LINE OF DUTY DUE TO CRIMINAL ACTION

January 11, 1973

LAW ENFORCEMENT OFFICERS KILLED - 1972  
UNIFORM CRIME REPORTS  
Summary

Total Officers Killed - 112  
Total Officers Killed Same Time Last Year - 126  
Total Officers Killed in December - 13  
Number of Murders Cleared - 103

Officers Killed by Firearms - 108  
    Handgun - 75  
    Rifle - 15  
    Shotgun - 18  
    Officers Killed with Own Firearms - 17

Number of Officers Utilizing Service Firearms - 43  
Number of Officers Firing Service Firearms - 30  
Number of Officers' Service Firearms Stolen by Offenders - 22

Highest Categories:

    State - Texas (10)  
    City - New York City (4)  
    Hour - 10 to 11 p.m. (16)  
    Region - South (57)  
    Month, 1972 - January (13), December (13)  
    Type of Activity: Robberies in Progress (25)  
    Type of Assignment: 1-man vehicle, alone, 4 p.m. - 8 a.m. (23)  
                            2-man vehicle, 4 p.m. - 8 a.m. (20)  
    Fatal Wound Location - Upper Torso (54)  
    Distance between Officer and Offender: 1 - 5 Feet (62)

Number of Offenders Committing Suicide - 6  
Number of Offenders Justifiably Killed - 18  
    Justifiably Killed by Victim Officer - 7  
    Justifiably Wounded by Victim Officer - 14

Number of Ambush Deaths This Year - 14  
Number of Ambush Deaths Cleared - 11  
Number of Ambush Deaths Same Time Last Year - 20  
Total Number of Ambush Deaths 1961 - 1971 - 62

Number of Officers Killed Answering Silent Alarms - 9



# LAW ENFORCEMENT OFFICERS KILLED, BY CITY AND STATE, 1972

## UNIFORM CRIME REPORTS

STATES	CITIES	TOTAL	CLEARED	FIREARMS			OTHER
				Hdgn	Rif	Stgn	
Alabama-----		(3)	(3)	(1)	(1)	(1)	
	Birmingham	1	1	1			
	Tuscaloosa	1	1			1	
	Ala. Dept. of Public Safety	1	1		1		
Alaska-----		(1)	(1)			(1)	
	Bethel	1	1			1	
Arkansas-----		(3)	(3)	(1)		(2)	
	Clay County	3	3	1		2	
California-----		(6)	(6)	(4)	(2)		
	Sunnyvale	1	1	1			
	San Francisco	1	1		1		
	Pinole	1	1	1			
	Calipatria	1	1		1		
	Calif. Highway Pat'l	1	1	1			
	Buena Park	1	1	1			
Colorado-----		(1)	(1)	(1)			
	Steamboat Springs	1	1	1			
Delaware-----		(2)	(2)	(2)			
	Delaware St. Police	2	2	2			
Florida-----		(5)	(5)	(4)		(1)	
	Coral Gables	1	1	1			
	Duval County	1	1	1			
	Lee County	1	1	1			
	Hollywood	1	1	1			
	Game & Fresh Water Fish Comm.	1	1			1	
Georgia-----		(6)	(6)	(6)			
	Forsyth County	2	2	2			
	De Kalb County	1	1	1			
	Cochran	1	1	1			
	Hogansville	1	1	1			
	Rome	1	1	1			

STATES	CITIES	TOTAL	CLEARED	FIREARMS			OTHER
				Hdgn	Rif	Stgn	
Idaho-----		(1)	(1)				
	Lewiston	1	1				(1) 1 (Bomb)
Illinois-----		(3)	(3)	(2)			(1)
	Chicago	1	1	1			
	Rockford	1	1	1			
	Ill. Bu. of Invest.	1	1				1 (Knife)
Indiana-----		(3)	(3)	(2)		(1)	
	French Lick	1	1			1	
	Marion County	2	2	2			
Kansas-----		(1)	(1)	(1)			
	Hutchison	1	1	1			
Kentucky-----		(2)	(1)		(1)	(1)	
	Floyd County	1				1	
	Harlan County	1	1		1		
Louisiana-----		(5)	(4)	(4)		(1)	
	East Baton Rouge Parish	2	2	2			
	Farmerville	1	1			1	
	Bossier City	1	1	1			
	New Orleans	1		1			
Maryland-----		(2)	(2)	(1)		(1)	
	Montgomery County	1	1	1			
	Baltimore	1	1			1	
Michigan-----		(5)	(5)	(4)			(1)
	Detroit	3	3	3			
	Michigan St. Police	1	1	1			
	Dept. of Natural Resources	1	1				1 (Auto)
			- 3 -				

STATES CITIES TOTAL CLEARED FIREARMS OTHER

			Hdgn	Rif	Stgn
Minnesota-----	(4)	(4)	(3)		(1)
Minneapolis	2	2	2		
Redwood County	1	1			1
Roseville	1	1	1		
Mississippi-----	(1)	(1)	(1)		
Drew	1	1	1		
Missouri-----	(5)	(5)	(2)	(2)	(1)
Harrisonville	2	2		2	
Crestwood	1	1			1
St. Louis	2	2	2		
New Jersey-----	(1)	(1)	(1)		
South Plainfield	1	1	1		
New York-----	(5)	(3)	(5)		
New York City PD	4	2	4		
Binghamton	1	1	1		
North Carolina-----	(7)	(7)	(6)	(1)	
Asheville	1	1		1	
Bessemer City	1	1	1		
Cabarrus County	1	1	1		
N. C. Hwy. Patrol	2	2	2		
Elizabethtown	1	1	1		
Clayton	1	1	1		
Ohio-----	(7)	(6)	(5)	(1)	(1)
Columbus	2	2	1		1
Canton	1		1		
Akron	1	1	1		
Parma Heights	1	1	1		
Miami County	1	1		1	
Cincinnati	1	1	1		

STATES	CITIES	TOTAL	CLEARED	FIREARMS			OTHER
				Hdgn	Rif	Stgn	
Oklahoma-----		(4)	(3)	(2)		(2)	
	Bokchito	1	1			1	
	Tulsa County	1	1	1			
	Norman	1	1			1	
	Okla. Hwy. Patrol	1		1			
Pennsylvania-----		(7)	(7)	(4)	(2)	(1)	
	Philadelphia	1	1			1	
	Penn Hills	2	2	2			
	Bristol Twp.	1	1	1			
	Penn. St. Police	1	1	1			
	Kennett Square	2	2		2		
South Carolina-----		(1)		(1)			
	S. C. Hwy. Patrol	1		1			
South Dakota-----		(1)		(1)			
	Custer	1		1			
Tennessee-----		(2)	(2)	(1)		(1)	
	Williamson Co.	1	1			1	
	Fentress Co.	1	1	1			

STATES	CITIES	TOTAL	CLEARED	FIREARMS			OTHER
				Hdgn	Rif	Stgn	
Texas-----		(10)	(9)	(5)	(3)	(1)	(1)
Dallas	2	2	2	2			
San Antonio	1	1	1			1	
King County	1	1	1		1		
Texas Hwy. Pat'l	1	1	1		1		
Pittsburg	1	1	1		1		
Hunt County	1	1	1	1			
Houston	2	1	1	1			1 (Knife)
Wheeler County	1	1	1	1			
Vermont-----		(1)	(1)	(1)			
Manchester Center	1	1	1	1			
Virginia-----		(2)	(2)	(2)			
Arlington Co.	1	1	1	1			
Alexandria	1	1	1	1			
Washington-----		(1)	(1)	(1)			
Wash. St. Patrol	1	1	1	1			
West Virginia-----		(2)	(2)	(1)		(1)	
Milton	1	1	1			1	
Welch	1	1	1	1			
Wisconsin-----		(1)	(1)		(1)		
Wis. St. Patrol	1	1	1		1		
Wyoming-----		(1)	(1)		(1)		
Teton County	1	1	1		1		
Totals-----		(112)	(103)	(75)	(15)	(18)	(4)
Grand Total Firearms--		(108)					
Officers Killed with Own Firearms-----		(17)					

**LAW ENFORCEMENT OFFICERS KILLED**  
**By Type of Weapon, 1966 - 1972**  
**Uniform Crime Reports**

	1966	1967	1968	1969	1970	1971	(Jan. - December) 1972	TOTAL
Handgun	41	55	48	69	73	94	75	455
Rifle	6	10	9	6	8	16	15	70
Shotgun	8	7	6	10	12	11	18	72
<b>TOTAL Firearms</b>	<b>55</b>	<b>72</b>	<b>63</b>	<b>85</b>	<b>93</b>	<b>121</b>	<b>108</b>	<b>597</b>
Knife	2				3	2	2	9
Bombs					2		1	3
Personal Weapons		3	1		1	1		6
Other (clubs, etc.)		1		1	1	2	1	6
<b>GRAND TOTAL</b>	<b>57</b>	<b>76</b>	<b>64</b>	<b>86</b>	<b>100</b>	<b>126</b>	<b>112</b>	<b>621</b>

LAW ENFORCEMENT OFFICERS KILLED - 1972  
BY REGION  
UNIFORM CRIME REPORTS

NORTHEASTERN STATES

14

Northeast

1

Middle Atlantic

13

NORTH CENTRAL STATES

30

East North Central

19

West North Central

11

SOUTHERN STATES

57

South Atlantic

27

East South Central

8

West South Central

22

WESTERN STATES

11

Mountain

3

Pacific

8

TOTAL

112



# LAW ENFORCEMENT OFFICERS KILLED - 1972

By Hour of Day

UNIFORM CRIME REPORTS

A.M.

8 - 9 3

9 - 10 1

10 - 11 4

11 - 12 4

P.M.

12 - 1 9

1 - 2 4

2 - 3 2

3 - 4 3

4 - 5 5

5 - 6 5

6 - 7 3

7 - 8 4

8 - 9 6

9 - 10 3

10 - 11 16

11 - 12 7

A.M.

12 - 1 6

1 - 2 7

2 - 3 9

3 - 4 1

4 - 5 2

5 - 6 4

6 - 7 2

7 - 8 2

LAW ENFORCEMENT OFFICERS KILLED - 1972  
DISTANCE BETWEEN VICTIM OFFICER AND OFFENDER  
UNIFORM CRIME REPORTS

<u>Feet</u>	<u>Number of Officers</u>
1 - 5	62
6 - 10	26
11 - 20	12
21 - 49	5
Over 50	6
Unknown	1

LOCATION OF FATAL WOUNDS  
SUFFERED BY VICTIM OFFICER

<u>Point of Entry</u>	<u>Head</u>	<u>Upper Torso</u>	<u>Lower Torso</u>
Total	45	54	13
Front	34	41	11
Rear	11	13	2

# LAW ENFORCEMENT OFFICERS KILLED By Day of Week, 1966 - 1972

	1966	1967	1968	1969	1970	1971	January - December 1972	TOTAL
Monday	12	8	13	14	16	15	18	96
Tuesday	3	11	13	10	14	17	7	75
Wednesday	7	14	7	6	12	16	20	82
Thursday	5	13	8	17	11	14	15	83
Friday	10	10	9	10	19	28	15	101
Saturday	9	13	9	9	16	15	20	91
Sunday	11	7	5	20	12	21	17	93
TOTAL	57	76	64	86	100	126	112	621

Uniform Crime Reports

LAW ENFORCEMENT OFFICERS KILLED - 1972  
POPULATION GROUP AND TYPE OF ASSIGNMENT  
UNIFORM CRIME REPORTS

Population Group	TOTAL	Type of Assignment														TOTAL
		2-man vnl (S)		1-man vehicles (S)				Foot Patrol				Det., Special Assignment				
		4 pm- 8 am	8 am- 4 pm	Along		Assisted		Along		Assisted		Along		Assisted		
				4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	
Group I Over 250,000	26	4	2	2	2	2	1		1	2	1	1	1	1		6
Group II 100,000 to 250,000	5	1		1	1								1			1
Group III 50,000 to 100,000	9	1		1		2		1							2	2
Group IV 25,000 to 50,000	7	2				1	1						2	1		
Group V 10,000 to 25,000	3					1									1	1
Group VI Under 10,000	21	5		8		2				2		1	1	2		
County, State Police and Highway Patrol	41	7		11	3	2	1					1		10	4	2
TOTAL	112	20	2	23	6	10	3	1	1	4	1	3	5	14	7	12

# LAW ENFORCEMENT OFFICERS KILLED - TYPE OF ASSIGNMENT, 1972 UNIFORM CRIME REPORTS

Type of law enforcement officer circumstance	TOTAL	Type of Assignment														OFF DUTY
		2-man vnl (s)		1-man Vehicle(s)				Foot Patrol				Det., Special Assignment				
		Alone		Assisted		Alone		Assisted		Alone		Assisted				
		4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm	4 pm- 8 am	8 am- 4 pm			
Responding to "disturbance" calls (family quarrels, man with gun)	15	5		1	1	3							1	3		1
Burglaries in progress or pursuing burglary suspects	9	1		5		2										1
Robberies in progress or pursuing robbery suspects	25	3		1	3	2	2						4	1	1	8
Attempting other arrests (exclusive traffic stops)	24	3		3		3	1		1			1		10	2	
Civil disorders (mass disobedience, riot, etc.)	2														2	
Handling, transporting, custody of prisoners	2			1											1	
Investigating suspicious persons and circumstances	5	2	1	1												1
Assault (premeditated and without warning or provocation)	14	3	1	1				1		4	1	2				1
Mentally deranged	2	1													1	
Traffic stops	14	2		10	2											
TOTAL	112	20	2	23	6	10	3	1	1	4	1	3	5	14	7	12

22 7 13

# LAW ENFORCEMENT OFFICERS KILLED

BY MONTH, 1966 - 1972

	1966	1967	1968	1969	1970	1971	TOTAL	1972
January	3	4	6	6	15	10	44	13
February	3	5	7	4	4	19	42	8
March	6	2	0	8	5	5	26	8
April	5	2	4	10	8	15	44	8
May	6	10	6	10	8	11	51	9
June	5	3	5	4	15	8	40	9
July	8	7	10	10	4	7	46	8
August	4	8	5	4	8	9	38	8
September	5	6	1	9	9	8	38	10
October	3	11	5	6	9	11	45	9
November	4	7	7	8	6	9	41	9
December	5	11	8	7	9	14	54	13
TOTAL	57	76	64	86	100	126	509	112

UNIFORM CRIME REPORTS

## Police Murderers

1972

Total Police Officers Killed	<u>112</u>
Total Police Murders Solved	<u>104</u>
Total Murders in Which No Subjects Identified Within 48 Hours of Attack	<u>19</u>
Total Number of Murderers of Police Still in Fugitive Status After 48 Hours	<u>22</u>



APPENDIX D

PAROLE HISTORY OF "DEATH COMMUTED" OFFENDERS, 1959 to 1972  
\*\*\*\*\* (Nov.15,1972)

Source: Summary of paroles granted to offenders serving life sentences,  
prepared in the statistical office of the Nat.Parole Service  
(Mrs M. Semple)  
Abstracted by: G.W.Koz, Correctional Policy Branch  
Department of the Solicitor General

Calendar Year	Number of 'death commut- ed' paroled	Parole terminated	Second parole granted	Died	R e m a i n	
					In Custody	On Parole (incl. Deport- ations)
1959	5			1		4
1960	4	1 (revoked)			1	3
1961	2	1 -"-		1		1
1962	9	1 (forfeited)	1	2		7
1963	9	1 (revoked)	1			9
1964	3					3
1965	2					2
1966	-					
1967	-					
1968	6					6
1969	3					3
1970	16	4 (3 rev. 1 forf.)			4	12
1971	6					6
1972	3					3
till Nov.15						
	<u>68</u>	<u>8</u>	<u>2</u>	<u>4</u>	<u>5</u>	<u>59</u>
		<u>6</u>				

FORFEITURES:

Case No.	Year sentenced	Year paroled	Year forfeit- ed	Reason for termination	Second parole	R e m a i n	
						In Cust.	On Parole
1	1947	1962	1964	Obstruct police	1971		x
2	1957	1970	1971	Break & Enter		x	

REVOCATIONS:

1.	1945	1960	1961	Not submitting to supervision		x	
2.	1952	1961	1964	Left area without permission			/died in custody/
3.	1958	1963	1966	Threats to wife	1971		x
4.	1957	1970	1970	Drinking, suspected in a hold up		x	
5.	1950	1970	1971	At his own request: unable to cope		x	
6.	1956	1970	1971	Left area without permission		x	

PAROLE HISTORY OF "LIFERS-for-MURDER", 1959 to 1972 (nov.15.1972)  
\*\*\*\*\*

Source: Summary of paroles granted to offenders serving life sentences,  
prepared in the statistical office of the Nat.Parole Service  
(Mrs M. Semple)  
Abstracted by: G.C.Koz, Correctional Policy Branch  
Department of the Solicitor General

Calendar Year	Number of offenders paroled	Parole termi- nated	Second parole granted	Died	R e m a i n	
					In Custody	On Parole
1959	---					
1960	-					
1961	-					
1962	-					
1963	-					
1964	1	1 forfeited	1			1
1965	1					1
1966	3	1 revoked		1	1	1
1967	-					
1968	8	2 (1 rev. 1 forf.)			2	6
1969	18	3 (1 rev. 2 forf.)		2	3	13
1970	19	7 (5 rev. 2 forf.)			7	12
1971	8					8
1972	2					2
till Nov.15	----	---	---	---	---	-----
	<u>60</u>	<u>14</u>	<u>1</u>	<u>3</u>	<u>13</u>	<u>44</u>
		<u>13</u>				

FORFEITURES:

Case No.	Year sentenced	Year paroled	Year termi- nated	Reason for termination	Second parole granted	R e m a i n	
						In Cust.	On Parole
1.	1950	1964	1965	Theft, Forgery	1967		x
2.	1961	1968	1969	Theft		x	
3.	1963	1969	1971	Robbery		x	
4.	1962	1969	1969	Kidnapping, Armed Robbery -- 15 yrs		x	
5.	1962	1970	1971	Break,Enter & Theft		x	
6.	1964	1970	1971	Threats to wife and police		x	

REVOCATIONS:

1.	1962	1966	1968	Drinking, bizarre be- haviour		x	
2.	1961	1968	1970	Stabbing		x	
3.	1962	1969	1972	Left area without permission		x	
4.	1963	1969	1972	Left area " "		x	
5.	1963	1970	1971	Poor companions		x	
6.	1961	1970	1970	Drinking, attempted sexual assault		x	
7.	1962	1970	1971	/not verified/		x	
8.	1964	1970	1971	Fight in tavern, Possess weapon		x	

PAROLE HISTORY OF "LIFERS for NON-MURDER", 1959 to 1972 (Nov.15,1972)  
\*\*\*\*\*

Source: Summary of paroles granted to offenders serving life sentences,  
prepared in the statistical office of the N.P.Service  
(Mrs M.Semple)

Abstracted by: G.V.Koz, Correctional Policy Branch,  
Department of the Solicitor General

Calendar Year	Number of offenders paroled	Parole termi- nated	SeCond parole granted	SeCond parole termi- nated	Died	R e m a i n	
						In Custody	On Parole
1959	2						2
1960	6	3 (rev)	1		1	1	4
1961	11	3 (2 forf)	1		2	1	8
1962	15	6 (1 forf)	3		4	3	8
1963	6	2 (1 forf)	1		2		4
1964	2						2
1965	-						
1966	7	2 (1 forf)	2	1		1	6
1967	1						1
1968	3						3
1969	6						6
1970	3				1		2
1971	5				1		4
1972	2						2
-----		16	-----	1	-----	-----	-----
		17	8				
<u>69</u>		<u>9</u>			<u>11</u>	<u>6</u>	<u>52</u>

FORFEITURES:

Case No.	Year senten <sup>c</sup> e	Year paroled	Parole termi- nated	Reason for ter- mination	SeCond parole granted	R e m a i n	
						In Cust.	On Parole
1. Manslght.	1954	1961	1965	Robbery w/Violen <sup>c</sup> e		x	
2. Rape	1951	1961	1965	Rape	1971		x
3. Intent	1953	1962	1969	Assault police		x	
4. Manslght.	1954	1963	1964	Theft	1969		x
5. Robbery	1958	1966	1967	Break, Enter & Theft	1970		
						Forfeited in 1971 (Body harm, Ind.assault)	x

REVOCATIONS:

1. Manslght.	1950	1960	1960	Left area		x	
2. Rape	1946	1960	1964	Indec. exposure	1967		x
3.	/not verified/					Died in Cust.	
4.	" "					Died " "	
5. Manslght.	1955	1962	1963	Threaten wife, Attempt B-&-E	1967		x
6. Manslght.	1954	1962	1964	Drinking, Attempt sexual assault	1969		x
7. Manslght.	1954	1962	1966	Robbery w/Assault Escape Custody		x	
8. Manslght.	1954	1962	1966	Left area, Robbery		x	
9. A/Robbery	1952	1962	1963	Poor Companions	1966		x
10. Rape						Died	
11. Manslght.	1956	1966	1966	Drinking	1968		x

PAROLE SUMMARY FOR OFFENDERS SERVING LIFE SENTENCES AND GRANTED PAROLE  
for the period: 1920 to Nov.22,1972  
\*\*\*\*\*

Source: Records kept in the statistical office of the Nat.Parole Service  
Abstracted by: Mrs M.Semple, Nat.Parole Service.

	Death Commuted	Life *)	Total
No. of offenders paroled	152	202	354
Deportations & voluntary departures	9	4	13
Executed	1		1
Revoked	11	21	32
Forfeited	7	16	23
Known to have died on parole	14	19	33
Died in custody, after termination	2		2
Pardon		1	1
Discharged from parole		3	3

\*) LIFE includes all offences : Robbery, Rape, Manslaughter,  
Non-capital murder

Parole Performance:

	Death commuted	Life
Released on 1-st parole	152	202
-"- on 2-nd "	10	15
-"- on 3-rd "	1	2
<u>Terminations:</u>		
on 1-st parole: Revoked	11	21
Forfeited	7 18	16 37
on 2-nd parole: Revoked	1	2
Forfeited	1 2	2 4
on 3-rd parole: Revoked	-	-
Forfeited	- -	- -



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# MEMORANDUM

# NOTE DE SERVICE

TO  
A THE DEPUTY SOLICITOR GENERAL


FROM  
DE SPECIAL ADVISER,  
CORRECTIONAL POLICY

SUBJECT  
OBJET Capital Punishment - paroling of lifers  
and offenders whose death sentence has  
been commuted

SECURITY-CLASSIFICATION-DE SÉCURITÉ
CONFIDENTIAL
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE December 21, 1972

With reference to your memorandum of December 6 last,  
I attach some material for the Minister's purposes in connection  
with the matter of commuted death sentences.

Atts.

  
A. J. MacLeod.

BEST AVAILABLE COPY

DEPARTMENT OF THE SOLICITOR GENERAL

CANADA

MINISTÈRE DU SOLICITEUR GÉNÉRAL

POUR PUBLICATION:

FOR RELEASE:

December 15, 1972

le 15 décembre 1972

Two extensive studies on capital punishment have been made public today by the Solicitor General, Hon. Warren Allmand.

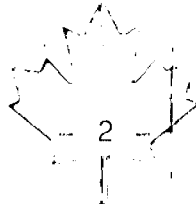
The first publication, "Capital Punishment - New Material, 1965-1972" is an up-dating of the 1965 Department of Justice paper entitled "Capital Punishment". Containing information on developments in relation to capital punishment that have transpired in Canada, the United States, Great Britain and other nations since 1965, the new paper is intended to provide Canadians and their elected representatives with the factual background to aid them in their examination of the pros and cons of capital punishment.

The second publication, "A Study of the Deterrent Effect of Capital Punishment", is the report

Le Solliciteur général du Canada, l'hon. Warren Allmand, a rendu publiques aujourd'hui deux études approfondies sur la peine de mort.

La première publication, "La peine de mort. Données nouvelles: 1965-1972", est une mise à jour de l'ouvrage que le ministère de la Justice avait publié en 1965 sous le titre de "La peine capitale". Cette nouvelle publication apporte de nombreux renseignements sur les faits survenus depuis 1965, au Canada, aux États-Unis, en Grande-Bretagne et ailleurs dans le monde, relativement à la peine de mort. Elle vise à présenter aux Canadiens et à leurs représentants au Parlement les données de base dont ils ont besoin s'ils veulent peser le pour et le contre de la peine capitale.

La seconde publication, "Une étude de l'effet intimidant de la peine



of research carried out by Dr. Ezzat Abdel Fattah, University of Montreal criminologist, under a contract with the Solicitor General's Department.

The project conducted by Dr. Fattah was part of the Department's continuing program of research in the fields of crime and corrections. Its purpose was to provide a critical analysis of research that has been done and of factual data that exists, in connection with the death penalty as a judicial punishment, with special reference to the questions of deterrent effect and discrimination. It was also intended to provide a comprehensive analysis of criminal statistics to determine whether any consistent trends have been demonstrated in relation to the deterrent effect of capital punishment.

Both studies are available to the public at Information Canada bookshops.

de mort à partir de la situation canadienne", constitue le rapport des recherches faites par le professeur Ezzat Abdel Fattah, criminologue à l'Université de Montréal, par suite d'un contrat du ministère du Solliciteur général.

L'étude du professeur Fattah s'inscrit dans le cadre du programme continu de recherches que poursuit le ministère en criminologie et en sciences correctionnelles. Elle a pour but de présenter une analyse critique des recherches et des données existantes sur la peine de mort considérée comme châtiment judiciaire et examinée surtout du point de vue de l'intimidation. Elle cherche aussi à fournir une analyse d'ensemble de la statistique du crime qui permette de vérifier s'il existe ou non des tendances constantes en matière d'effet intimidant de la peine capitale.

Ces deux publications sont en vente dans les librairies d'Information Canada.





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# MEMORANDUM

# NOTE DE SERVICE

File  
Classified

TO  
A

FILE

FROM  
DE

ASSISTANT DEPUTY SOLICITOR GENERAL

SUBJECT  
OBJET

Capital Punishment

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE Dec. 15th, 1972

I had a call from Mr. Boileau of the Privy Council concerning a proposed paragraph in the speech from the throne on the subject of Capital Punishment. This paragraph read as follows:

"Legislation will be introduced early in the session to extend the trial period of the 1967 amendment to the Criminal Code concerning capital punishment".

I recommended to Mr. Boileau that if I were to make a recommendation to my Minister it would be to the effect that any reference to capital punishment be less specific. I indicated that I did not think the government would want to be too specific in the speech from the throne because, although it may not be a problem in the House with opposition parties, it may present serious problems with the public at large.

I suggested therefore that the paragraph be reworded as follows:

" Legislation will be introduced early in the session to deal with the question of capital punishment."

If it was decided to be more specific, then then the paragraph could be reworded as follows:

"Legislation will be introduced early in the session to extend the legislation in relation to capital punishment that was enacted by Parliament in 1967."

B.C. Hofley

001183

CONFIDENTIAL

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Ottawa, Ontario  
K1A 0P8

Dec. 13, 1972

Mr. Gérard Patenaude,  
Head, Publishing Decisions and  
Printing Procurement,  
Information Canada,  
Ottawa K1A 0S9

Capital Punishment: Additional Material  
The Deterrent Effect of Capital Punishment

Dear Mr. Patenaude:

I have already informed Mr. Gratton and the necessary action has been taken to withhold from publication and distribution the two publications described above.

Please note that this letter cancels the authorization given in my letter of Dec. 12 for the release and publication of the two books.

After the Solicitor General has returned to Ottawa and re-considered the decision to release the publications, I hope we will be able to arrange another publication date. In the meantime, all copies of both publications remain confidential and are not to be given to any individual officer in the Public Service outside myself and your staff without clearance from me.

Yours sincerely,

*S.L. Roberts*  
S.L. Roberts,  
A/Director, Information

cc/ Deputy Solicitor General ←

PEINE  
CAPITALE

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

Il est rappelé aux lecteurs que le moratoire sur la peine capitale se termine le 27 décembre 1972 et qu'il faudra décider avant cette date d'abolir ou de rétablir la peine capitale. Tout groupe ou toute personne qui ont des vues sur la question devraient les faire connaître. Nous vous rappelons de nouveau également que le ministère du Solliciteur général, à Ottawa, a commandé deux études sur la question; on peut en obtenir les rapports d'Information Canada:

La peine capitale, par Bernard Grenier \$2.00

L'effet dissuasif de la peine capitale, \$4.75  
par Ezzat Abdel Fattah

On peut aussi obtenir de la même source le livre blanc sur la peine capitale publiée par l'honorable Guy Favreau en 1965.

Un nouveau livre américain renferme de la bonne matière sur la question, y compris des statistiques qui serviront aux Canadiens à des fins de comparaison:

McCafferty, James A. (éd.)

Capital Punishment, Chicago: Aldine-Atherton Inc.,  
1972.

Autre source: Ryan, Stuart, "Notes on Capital Punishment in Canada", dans le British Journal of Criminology, Vol.9 (1) 1969.

CAPITAL PUNISHMENT

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

Readers are reminded that the moratorium on capital punishment ends December 27, 1972, and a decision whether to abolish or reinstate the death penalty will have to be made before then. Any group or individual who has a position on the topic should make these views known. Again, may we also remind you that the Department of the Solicitor General in Ottawa has commissioned two studies of the topic and copies of these reports may be obtained from Information Canada:

Capital Punishment by Bernard Grenier \$2.00

The Deterrent Effect of Capital Punishment by Dr. Ezzat Fattah \$4.75

Also available from the same source is the original white paper on Capital Punishment released by the Hon. Guy Favreau in 1965.

A new USA book has good material on the topic including statistics that will be useful for Canadians for comparison purposes:

McCafferty, James A. (ed.)  
Capital Punishment. Chicago: Aldine-Atherton Inc.,  
1972.

Another source is by Ryan, Stuart, "Notes on Capital Punishment in Canada" in British Journal of Criminology, Vol. 9 (1) 1969.

Confidential

Public Reaction to Capital Punishment  
Jan. 2 - Sept. 29, 1972

As 1972 began the media interpreted the public mood as favouring the return of capital punishment for all murders.

In a CBC radio interview Dec. 30 Warren Allmand, M.P. for Notre Dame de Grace expressed the opinion that the period between a murder conviction and the review of the murderer's suitability for parole should be increased from 10 to 20 years. Mr. Allmand also noted that capital punishment provides no protection to the public from murder; he thought the emphasis should be on preventive deterrents against killings by criminals and others, e.g. gun control, more effective police protection.

Later, on Jan. 3, 1972, Mr. Allmand was interviewed in company with Eldon Wooliams, M.P. and John Gilbert on CTV News. In his comment, CTV news commentator Finlay MacDonald stated the greatest support for the reinstatement of capital punishment was found among Quebeckers and that this opinion was reflected in public statements by Justice Minister Jerome Choquette and the Creditiste Members of Parliament. MacDonald also reviewed the stand on retention that had been taken by various police associations, a former RCMP commissioner (Kelly) and the Canadian Bar Association. The latter association had defeated a resolution that would have extended the trial moratorium on capital punishment for another two years.

The murder of a Hull police officer by a parolee on Jan. 8 sparked further retentionist sentiment. Foremost among the prominent spokesman in Hull was the then Mayor, Marcel D'Amour, who publicly called not only for a return of capital punishment but also demanded a review of the criteria used for parole.

In his widely distributed column, Richard Jackson, Ottawa Journal Parliamentary Correspondent, and a champion of the harshest possible penalties for all criminals, gave editorial support to John Diefenbaker's proposal that all convictions on murder charges automatically obtain a sentence of mandatory life imprisonment with no possibility of parole.

Early in February the Canadian Institute of Public Opinion reported in its syndicated Gallup Poll that 63 per cent of Canadians wanted the death penalty for murder reinstated and 30 per cent opposed the return of capital punishment. In French Canada the opinion was very clear; 74 per cent of those polled wished for the return of the death penalty and only three per cent were undecided on the question.

- 2 -

Around the same time Raymond Rock, M.P., released the results of a poll of his constituents in the Lachine constituency. Seventy six per cent of those answering the poll question relating to capital punishment favored restoration of the death penalty for murder.

On March 8, meeting at Kingston, the Police association of Ontario voted to ask the federal government to retain the death penalty for both capital and non-capital murder.

John Cline, professor of sociology at the University of Saskatchewan, presented his viewpoint on capital punishment as a deterrent to crime on CBC Viewpoint March 23. Professor Cline dismissed with sound logic the proposition that capital punishment serves as a deterrent to murder.

The alternative punishment, life imprisonment, was viewed as a "considerable deterrent" and "a harsher punishment" than execution by Charles King, Editor of the Ottawa Citizen, in an editorial page column March 22. Charles King took issue with the editorial position of the Hamilton Spectator who saw the consistent commutation of sentence for those convicted of capital murder as Cabinet's eagerness to share in a "general permissiveness and overconcern with the welfare of those who commit acts of brutality". While there's life (for convicted murderers), there's hope, King suggested. So long as the possibility of judicial error remains, the State must avoid the error of executing an innocent person. Capital punishment also is an indirect admission that society is not able to rehabilitate criminals.

Réal Caouette, Creditiste leader in the House, said he was "100 per cent for the restoration of death penalty" when interviewed on CBC TV April 2.

In his Ottawa Journal Column of April 22, Rev. A.C. Forrest expressed the shock of "liberal protestant churchmen" at the revelation that 63 per cent of Canadians wanted the death penalty reinstated. He remarked on the attitude of the Social Credit Party towards capital punishment as extreme.

During the debate in May of the omnibus bill amending the Criminal Code several M.P.s expressed themselves on the subject of capital punishment. John Diefenbaker and Frank Howard were opposed to the reinstatement of capital punishment although Mr. Howard took up a theme that is popular with the press and public. The argument, based on over-simplification of the moral and political responsibilities shouldered by any Cabinet faced with a commutation decision, is that the Cabinet of the present Government has been both "undermining the law" and "encouraging the murder of police officers" by commuting death sentences imposed on those convicted of murder.

- 3 -

On May 1 the Municipal Council of Verdun adopted a resolution calling upon the federal government to re-establish the death penalty for all premeditated murders, murders committed during a criminal act, and murders committed by notorious criminals with long police records.

On the same day in Vancouver, the British Columbia Association of Social Workers voted for the indefinite extension of the moratorium on capital punishment.

News of the U.S. Supreme Court decision on the unconstitutionality of the death penalty brought increased attention to the Canadian situation stand against capital punishment taken by the Canadian Junior Chamber of Commerce.

Hon. Otto Lang was asked to react to the U.S. court decision. In his opinion (CBC radio interview, June 29) the country was very divided on the issue of capital punishment. There seemed to be a general feeling among many Canadians that retention of the death penalty would serve as a deterrent against crime, he said. Peter Louckes, who interviewed Mr. Lang, interpreted Mr. Lang's views as that public opinion on capital punishment had not changed greatly since 1967 and that the trial period hadn't proved anything about the effectiveness of the death penalty. He was reported by Mr. Louckes as saying that it's (a decision on capital punishment) "a matter of logical inference rather than statistical analysis".

In July, the Canadian Police Association asked for a national referendum on capital punishment, an idea that was rejected by both Solicitor General Jean-Pierre Goyer and Prime Minister Trudeau. In a CBC Radio interview, July 12, Mr. Goyer suggested that it was possible that an extension of the trial period be encouraged so that the data on the five-year period could be analyzed on a scientific basis and made available to the Members of Parliament.

The conference of Mennonites in Canada (22,000 members) voted 417-140 against capital punishment at its annual meeting on July 7.

On August 30, the president of the Canadian Association of Chiefs of Police, during its annual conference at Quebec City, urged the return of capital punishment in Canada.

Of passing interest there is also the result of a poll conducted in California during the summer. The result showed 66 per cent in favor of the death penalty and 24 per cent opposed. Californians will vote in November on the restoration of the death penalty and thus the issue is of great public interest in the state.

... 4

- 4 -

Unlike other police associations, the Quebec Police and Fire Chief's Association took a moderate stand on the issue. It recommended, at its September meeting, that the trial moratorium on capital punishment be extended for another five years. The thinking of the Quebec police chiefs on the subject was clarified largely as a result of Mr. Goyer contributing some infrequently quoted statistics to the argument.

July was the month for most public comment on capital punishment. Aware of the news value of controversy and the morbid preoccupation of the public with matters related to death, even the legal execution of convicted murderers, the media have tried to whip up public interest in the issue of capital punishment before the issue is debated in Parliament. These attempts have not succeeded because up to the end of September there has not been a controversial statement made publicly on the issue to which they could tie a running story. The police can be expected to present a public consensus in support of a return of capital punishment; churches, socially aware professionals, intellectuals, and reformers can be expected to favour abolition of capital punishment. Neither position is news. At this time, the hope of the media is that capital punishment may develop as an issue in the national election campaign. So far it hasn't, probably because all candidate are unsure of public opinion on the issue.

Of Letters to the Editor in Canadian daily newspapers during the period 26 writers were in favor of capital punishment and one was opposed. Another writer expressed no opinion on the death penalty, objecting only to the incompetence of the police to express any useful opinion on the subject. A mini-poll carried out on the street by a Charlottetown reporter provided perhaps as relevant reading of the public pulse as any more scientifically conducted examinations. The reporter found four persons in favor of, and four persons opposed to, capital punishment; a ninth person was undecided.

Editorial stances taken by newspapers have been as follows:

St John's Evening Telegram- government has interfere with Parliament by commuting death sentences; perhaps Parliament is not able to interpret and reflect public opinion on the issue.

Winnipeg Free Press- the government ignores its own law; it should make up its mind. - police must be protected by law; the government is too lenient.

... 5



- 5 -

Kingston Whig-Standard- life imprisonment now meaningless; perhaps neither police nor Parliament able to judge the issue.

Moncton Times- Parliament should listen to the police on the subject.

Vancouver Sun- it is difficult to justify capital punishment; those concerned about the increase in crime should devote their energy and support to seeking the causes of crime and finding cures.

Toronto Sun- Capital punishment is finished in Canada. There should be capital punishment for the most outrageous crimes and society must be protected but we think capital punishment will be abolished permanently in Canada.

Ottawa Citizen- Cabinet should give leadership. Liberal party should support complete abolition.

Charlottetown Guardian- favors capital punishment.

Le Soleil- opposed to capital punishment except for those who murder police officers and prison guards.

Globe and Mail- opposed to capital punishment.

Montreal Gazette- Parliament is not taking its responsibilities seriously.

Ottawa Journal- Government must lead in making the decision.

Hamilton Spectator- Capital punishment is necessary to diminish criminality and violence.

Edmonton Journal- Cabinet is frustrating Parliament by commuting death sentences; the moratorium should be continued for another five years.

THE DEATH  
PENALTY

an official statement  
of policy

of the  
\*CANADIAN CRIMINOLOGY AND CORRECTIONS ASSOCIATION  
55 Parkdale Avenue, Ottawa, Canada, K1Y 1E5

November 1972

\*Affiliated with The Canadian Council on Social Development

### THE DEATH PENALTY

The last execution in Canada was a double hanging in Toronto on December 11, 1962. Since that time all death sentences have been commuted to life imprisonment by the Cabinet. Five years ago legislation was proclaimed providing for temporary suspension of the death penalty for all murder except that of a policeman or prison officer killed while on duty. During the trial period all death sentences have been commuted, thus making the de facto suspension of executions complete.

The trial period ends December 27, 1972, and at that point the Parliament of Canada must decide what action to take. Three possibilities are open. The death penalty may be abolished entirely, the range of types of murder punishable by death may be extended, perhaps to what it was when the period of partial abolition was introduced, or the trial period of partial abolition may be extended to give time for further study before a decision is made.

In the opinion of the Canadian Criminology and Corrections Association it would be a serious mistake for the Government and people of Canada to rush into a decision for which we are not prepared. No thorough study of the situation related to murder has been made available for public discussion. Further, no assessment of public opinion has been undertaken and no formal opportunity has been provided for citizen groups and individuals to express their views. In the absence of these necessary preliminary steps, the Association would urge the Government of Canada to do two things:

1. Extend the period of partial abolition for a further two years.
2. Appoint a royal commission charged with responsibility for collecting the needed factual information and conducting public hearings where citizen groups can express their views.

The seriousness of this subject and the wide diversity of opinion among Canadians suggest that the proposed study could be carried out effectively only by a body with the status of a royal commission.

Incidence of Murder in Canada The following statistics will illustrate the uncertain state of present knowledge about murder in Canada and the dangers in assuming that any data are correct without subjecting them to careful scrutiny. Table 1 shows the number of purported murders reported to the police during the four-year period 1966 to 1969 and the outcome up to December 31, 1970 (giving the police and the Crown a full year to get each case settled). Of the 1,157 cases reported to the police during this period only 176 resulted in a conviction for murder (9 capital and 167 non-capital). This is only fifteen per cent. It would appear that the great majority of cases of so-called murder reported to the police were not murder at all, and to include them in murder statistics only causes confusion.

TABLE 1

Murders Reported by the Police in Canada  
for the Years 1966 - 1969 and Results to  
December 31, 1970.

Number reported by the police	1,157
Cleared (by charge, suicide, etc.)	1,010
Charged	952 ←
Not sent to trial	198
Sent to trial	754 ←
Found insane	36
Acquitted	121
Awaiting Trial	32
Convicted	565 ←
Capital murder	9
Non-capital murder	167
Manslaughter	365
Lesser offence	24
	565

Source: Statistics Canada. Murder Statistics 1970.

- 3 -

If we look at the sentences given those who were convicted of the reduced charge of manslaughter or of a lesser offence, we get a further picture of the degree of seriousness of the occurrences that led to the charge of murder, at least in the eyes of the sentencing court. The following table shows that of the 444 individuals convicted of these reduced charges during the five-year period 1966-1970, 4 were fined or placed on probation. Eighteen were sentenced to less than one year in prison. Another 45 were also sentenced to provincial institutions, although the sentence was over a year. One hundred and five received a sentence between two and five years. In only 118 cases out of the 444 did the court see fit to give a sentence of ten years or more.

TABLE 2

Length of Sentence for Persons Convicted of  
Manslaughter and Lesser Offences upon Reduction  
of Charge from Murder in Canada, 1966 - 1970

	Manslaughter	Lesser Offences	Total
Suspended Sentence, Probation and Fine	3	1	4
Under 1 Year	11	7	18
1 and under 2 years	38	7	45
2 and under 5 years	102	3	105
5 and under 10 years	148		148
10 Years and over	116		116
Life	2		2
Indefinite (Juvenile)		6	6
TOTALS	420	24	444

Source: Statistics Canada. Murder Statistics 1970.

- 4 -

Obviously, any decision based on such data will be open to question. The alternative is to extend the period of partial abolition to permit a thorough study of the issue and to establish a body with the prestige of a royal commission to undertake it.

W. T. McGrath,  
Executive Director

- 4 -

Il est évident, que toute décision fondée sur de telles données est contestable. Une autre mesure serait de prolonger la période d'abolition partielle pour permettre une étude approfondie de la question et de charger un organisme d'une compétence du même niveau qu'une commission royale d'enquête de faire ce travail.

le directeur général,  
W. T. McGrath

- 3 -

Si nous examinons les sentences prononcées à l'endroit de ceux qui ont été condamnés sous inculpation réduite d'homicide involontaire ou d'un moindre délit, il se révèle une autre optique du degré de gravité des faits qui conduisent à l'inculpation de meurtre, du moins aux yeux du tribunal qui prononce la sentence. Le tableau ci-dessous démontre que sur 444 particuliers condamnés pour délits moindres au cours de la période de cinq ans (1966-1970) 4 ont reçu une amende ou ont été placés en probation. Dix-huit ont été condamnés à moins d'un an de prison. 45 ont été condamnés à l'incarcération dans des institutions provinciales, même si leur sentence dépassait un an. 105 se sont vus condamnés à des peines de deux à cinq ans. Dans 118 cas seulement, sur les 444, le tribunal a estimé qu'il leur fallait une sentence de 10 ans ou plus.

TABLEAU 2

Durée de la peine dans le cas de personnes reconnues coupables d'homicide involontaire ou d'infractions de moindre gravité après réduction de l'accusation pour meurtre, - 1966 et 1970 - Canada

	Homicide involontaire	Autres délits	Total
Suspension de sentence			
Probation et Amende	3	1	4
Moins d'un an	11	7	18
1 et moins de 2 ans	38	7	45
2 et moins de 5 ans	102	3	105
5 et moins de 10 ans	148		148
10 ans et plus	116		116
A vie	2		2
Indéfinie (jeunes)		6	6
TOTAUX	420	24	444

Source: Statistiques Canada. La Statistique de l'homicide 1970.



- 2 -

2. Charger une commission royale d'enquête de réunir les données requises et de tenir des audiences publiques pour permettre aux citoyens d'exposer leurs points de vue.

La gravité de la question et la vaste diversité d'opinions qu'ont les Canadiens à ce sujet indiquent que seul un organe de l'envergure d'une commission royale d'enquête serait en mesure d'effectuer l'étude proposée de façon compétente.

Incidence du meurtre au Canada Les données statistiques ci-dessous, exposent la connaissance peu précise que possèdent les Canadiens aujourd'hui en ce qui concerne le meurtre et aussi le danger de se fier aux données, sans les soumettre à un examen rigoureux. Le tableau 1 indique le nombre de prétendus meurtres signalés à la police au cours de la période de quatre ans, de 1966 à 1969 et les résultats jusqu'au 31 décembre 1970 (la police et la Couronne ayant eu une année entière pour décider de chaque cas). Sur les 1,157 cas signalés à la police durant cette période, seuls 176 ont été résolus par une condamnation pour meurtre (9 qualifiés et 167 non qualifiés). Ce qui n'est que quinze pour cent. Il semble que la grande majorité des cas de prétendus meurtres signalés à la police ne l'étaient aucunement; les inclure aux statistiques des meurtres ne fait que créer de la confusion.

TABLEAU 1

Homicides signalés par la police  
au cours des années 1966 - 1969  
et les résultats au 31 décembre 1970 - Canada

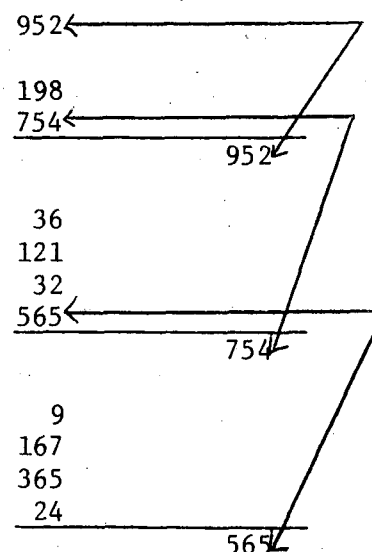
Nombre d'homicides signalés par la police	1,157
Crimes classés (inculpation, suicide, etc.)	1,010

Personnes inculpées

Non mises en jugement	198
Mises en jugement	754

Déclarées aliénées	36
Acquittées	121
En suspens	32
Reconnues coupables	565

Meurtres qualifiés	9
Meurtres non qualifiés	167
Homicides involontaires	365
Moindres délits	24



Source: Statistiques Canada. La Statistique de l'homicide 1970

## LA PEINE DE MORT

La dernière exécution au Canada a eu lieu à Toronto, le 11 décembre 1962, soit une double pendaison. Depuis, toutes les condamnations à mort ont été commuées par le Cabinet à l'emprisonnement à perpétuité. Il y a cinq ans, une loi a été promulguée prescrivant la suspension provisoire de la peine de mort pour tout meurtre sauf celui d'un agent de la police ou d'un gardien de prison tué en service. Au cours de cette période d'essai, toutes les peines de mort ont été commuées, ce qui a rendu complète la suspension des exécutions.

La période d'essai prend fin le 27 décembre 1972 et le Parlement du Canada doit alors décider de l'action à prendre. Il y a deux alternatives: abolir la peine de mort ou augmenter le nombre de genres de meurtre punissable de mort en revenant, peut-être, au point où l'on en était lorsque la période d'abolition partielle a été adoptée ou prolonger la période d'abolition partielle aux fins de permettre un examen plus poussé avant de prendre une décision.

De l'avis de la Société canadienne de criminologie, le gouvernement canadien et la population commettraient une grave erreur s'ils prenaient une décision hâtive pour laquelle nous ne sommes pas préparés. Aucune étude approfondie des circonstances rattachées au meurtre n'a été présentée aux fins de discussion publique. De plus, aucune évaluation de l'opinion publique n'a été entreprise et aucune occasion formelle n'a été offerte aux groupes de citoyens et aux particuliers pour qu'ils expriment leurs points de vue. En l'absence de ces indispensables mesures préliminaires, la Société engage instamment le gouvernement du Canada à accomplir deux choses:

1. Prolonger de deux ans la période d'abolition partielle de la peine de mort.

LA PEINE  
DE MORT

exposé officiel  
de politique

de la  
\*SOCIÉTÉ CANADIENNE DE CRIMINOLOGIE  
55, avenue Parkdale, Ottawa, Canada, K1Y 1E5

Novembre 1972

\*Affiliée au Conseil canadien de Développement social

**THE SOLICITOR GENERAL**

**SPECIAL ADVISER,  
CORRECTIONAL POLICY**

**December 8, 1972**

**The Death Penalty - Official Statement  
of Policy of the Canadian Criminology and  
Corrections Association**

The Canadian Criminology and Corrections Association publishes an official statement of policy in which it states that

- (a) no thorough study of the situation related to murder has been made available for public discussion; and
- (b) no assessment of public opinion has been undertaken and no formal opportunity has been provided for citizen groups and individuals to express their views.

The foregoing statements are made in the light of the forthcoming (December 29 next) expiration of the five-year period during which capital punishment has been authorized only for persons convicted of the murder of police or prison officers acting in the course of their duties.

The Association accordingly urges the Government of Canada to:

- "1. Extend the period of partial abolition for a further two years.
- 2. Appoint a royal commission charged with responsibility for collecting the needed factual information and conducting public hearings where citizen groups can express their views."



-2-

As far as the first recommendation is concerned, my understanding is that you propose (in conjunction with the Minister of Justice) to recommend to your colleagues in Cabinet that the current moratorium on the death penalty be extended for an additional three years in order to permit, by 1975, an evaluation of three periods of approximately six years each, during each of which the law of murder was different:

- (i) the period 1955 to 1961, when all murder was capital, and the only penalty was death,
- (ii) the period 1961 to 1967, when murder was either capital or non-capital, and the penalty for non-capital murder was life imprisonment, and
- (iii) the period 1967 to 1973, during which capital murder will have been limited to cases involving the death of a police or prison officer.

Such an extension would allow one full year for comparison and evaluation of the effect of the law during each of the three distinct periods and a further year for consideration of the entire issue by the Government and Parliament.

The second matter urged by the Association is the appointment of a royal commission charged with responsibility

- (a) for collecting the needed factual information, and
- (b) for conducting public hearings where citizen groups can express their views.

I think that it would be unusual to appoint a royal commission to fulfil a purely fact-finding function. It is not suggested by the Association that such a royal commission should consider and report upon the merits of capital punishment under the law.

In Canada, in relatively recent years, the following studies have taken place in the matter:

- (a) a study by a Joint Committee of the Senate and House of Commons, 1954-1956;
- (b) a "White Paper", entitled "Capital Punishment: Material Relating to Its Purpose and Value, 1965", which has now been brought up to date by this Department by a document entitled "Capital Punishment - New Material: 1965-1972";

-3-

- (c) a study, supported financially by this Department, prepared by Professor E. A. Fattah, entitled "A Study of the Deterrent Effect of Capital Punishment" (1972);
- (d) a study, supported by the Department of the Solicitor General, by Professor Justin Ciale of the University of Ottawa, entitled "Characteristics of Persons Charged and Convicted of Murder", to be completed in March, 1973; and
- (e) a 10-Year study by Statistics Canada, supplementary to the annual report of that Department relating to murder, which will be completed by January, 1973.

In my opinion there is no purpose to be served by the appointment of a royal commission for the purposes proposed by the Association that would not be served by the appointment of a joint committee of the Senate and House of Commons. In short, it is my opinion that, since Parliament must make the decision in the matter of capital punishment, any fact-finding that is required to be carried out should be done by an agency of Parliament. Such a committee could, of course, travel to various parts of the country to hear representations from individuals and organizations.

A. J. MacLeod.

AJMACLEOD/EGM

CONFIDENTIAL

BY HAND

Ottawa, Ontario,  
K1A 0P8

December 8, 1972

Dear Mr. Leach:

Enclosed please find 100 copies of a Memorandum to Cabinet, dated December 8, 1972 relating to Capital Punishment, which has been signed by the Solicitor General and the Minister of Justice.

It would be appreciated if this Memorandum could be placed on the Cabinet Agenda as soon as possible.

Yours sincerely,

ORIGINAL SIGNED BY  
ORIGINAL SIGNÉ PAR

R. TASSE

Roger Tassé,  
Deputy Solicitor General

Attach.

/R.O.PESKETT

Mr. D. J. Leach,  
Supervisor of Cabinet Documents,  
Privy Council Office,  
Room 321, East Block,  
Parliament Buildings,  
Ottawa, Ontario,  
K1A 0A3

*Dec 11/72*

*Copies sent to S.G. +  
A. J. MacLeod  
for info*



DHC/mk.

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DEPARTMENT OF JUSTICE  
MINISTÈRE DE LA JUSTICE

OTTAWA  
K1A 0H8

*Received - Dec 8/72*  
*R.O.P. 2:15 PM*

December 8, 1972.

BY HAND

Mr. Roger Tassé,  
Deputy Solicitor General,  
Department of the Solicitor General,  
Sir Wilfred Laurier Building,  
Ottawa, Ontario  
K1A 0P8

Dear Roger:

I enclose herewith the Memorandum to Cabinet on  
Capital Punishment which was signed by our Minister today.

Yours truly,

*D. C.*

Assistant Deputy  
Attorney General.

Enc.



# **We've just added a couple of new tellers.**

One hails from Floral, Saskatchewan.

The other, from Victoriaville, Quebec.

One will be doing his telling in English. The other in French.

Our new tellers will be telling you a lot about us and the services we offer on Wednesday nights this winter. On the televised Hockey Night in Canada games.

They'll be telling children a lot about playing better hockey too. In our regular Scotiabank Hockey College bulletin.

It just takes a one dollar deposit to become a Scotiabank Hockey College member. And a membership card, crest, a special passbook cover plus the opportunity to win prizes are included, too.

They'll be telling us and our customers about what's happening in hockey. And talking to us about banking.

So try and give our new tellers a listen. We know when they say something about us, we've got a lot to live up to.

That's why, if you visit us, we'll honestly try to give you the best banking service you've ever had.

That's why they're telling.

That's why we're asking.

## **The Bank of Nova Scotia**

**We're not a slogan. We're a bank.**



ON. THE country's top criminologists, Dr. Ezzat Abdel Fattah of the University of Montreal's criminology department, thinks that those who want the death penalty restored are getting carried away by their emotions. He says there is no scientific evidence that the old eye-for-an-eye system has any deterrent effect on potential criminals or can reduce the number of murders.

Dr. Fattah has made a thorough study on the effect the suspension has had on crime in Canada. The study is in preparation for the capital punishment debate that will take place when the five-year period ends in December. Armed with tables, charts and crime statistics for all provinces, he systematically quashes the arguments of those in favor of the death sentence.

Referring to the interviews on these pages, Dr. Fattah says they are mainly the alarmist views of retentionists. "Most of the ideas about the climate on the streets are based on outmoded, 19th-century thinking, as though the only thing that keeps people in line is the death penalty."

He points out that the actual rate of increase in homicides from 1962, when the last hangings took place in Canada, to 1971 has not doubled, as police officers claim. If population increases are taken into account, the rate of increase is really 35.3 percent. Also, he points out, figures used by police are usually based misleadingly on the number of victims, rather than on the number of incidents.

For instance, an arson incident at a home for the elderly at Notre Dame du Lac, Que., in 1969 took 40 lives. It was reported to Statistics Canada in 1970, after the arsonist was convicted, as a murder incident with 40 victims, inflating the total figure for murders in Quebec.

There are many factors — sociological and cultural — responsible for the increase in the homicide rate, Dr. Fattah states.

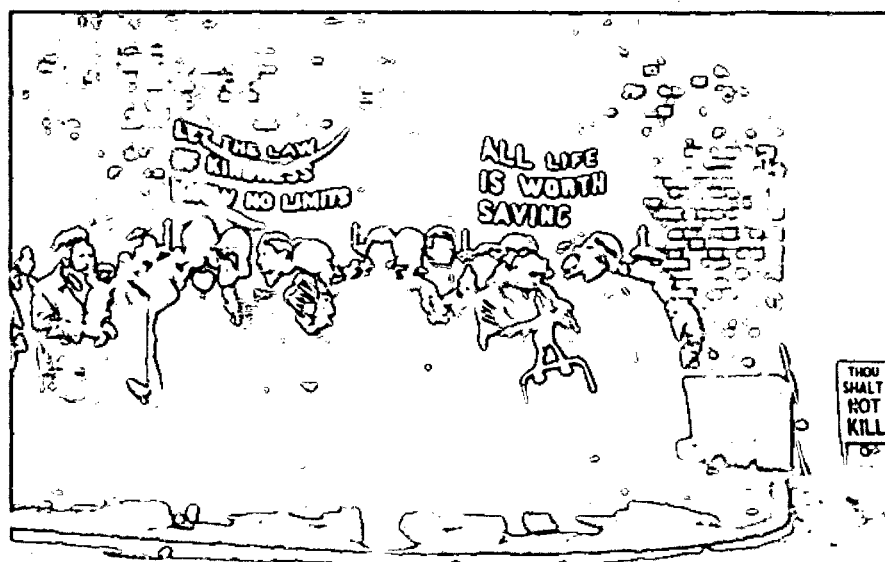
"We are living in violent times. The rise in murder is no greater than the rise in alcoholism, drug addiction, divorce, suicide and violent crimes in North America generally. Without a doubt, there would have been a substantial increase in homicides, whether the death penalty had been suspended or not.

"In fact," Dr. Fattah adds, "the increase in homicides is lowest among all crimes of violence studied, indicating that it has nothing to do with the removal of the death threat."

The increase in Canada, he says, is much less than in the United States, where each state has its own capital punishment policy. In the US in 1970 there were 7.8 murder victims per 100,000 population, compared to only 2.3 in Canada. The overall increase in the homicide rate in the US from 1960 to 1970 was 56 percent; the increase

# The Case Against Capital Punishment

By Don Bell



in Canada from 1962 to 1970 was only 35.3 percent.

"In spite of two years difference in the two periods, it's safe to say that Canadian homicides are increasing at a much lower pace than in the United States."

An investigation of the Canadian figures shows that the increase over the eight-year period varied greatly from province to province, ranging from a 5.1 percent rise in British Columbia to 82.4 percent in Alberta.

Says Dr. Fattah: "If the increase in homicides was due to the removal of the death penalty, it would follow that the rate should at least be similar in different provinces, but this is not so, again indicating that it cannot be attributed to one factor."

The Egyptian-born criminologist notes that homicide and suicide are usually complementary phenomena. "The proportion of one to the other in any country remains fairly constant over the years. If the suspension of the death penalty was responsible for an increase in homicides, then you would think that it would upset the balance, and the increase in homicides would be much greater than that of suicides.

"But again, this isn't so. Actually, the increase in suicides during the past years has been higher than that of homicides.

"All our findings suggest that the cause cannot be found in any single

factor, but in a total social situation in which a special law or particular punishment can have little or no effect..."

Arguments in favor of the death penalty, he says, are based on the premise that criminals are afraid of capital punishment, "but again, evidence shows this isn't true."

As extreme examples, Dr. Fattah cites such cases as those of an Ohio convict named Charlie Justice who devised the clamps that held a condemned man in the electric chair; after his release, he was convicted of murder and electrocuted. And of Alfred Wells, who helped install San Quentin's gas chamber in 1938. Four years later, he was back at San Quentin for a triple murder, and died in the chamber.

"Often, capital punishment may contribute to a murder taking place, such as when a criminal has a strong suicide wish and wants to put himself inextricably in a situation from which he can't escape, or if he wishes to be executed out of a sense of martyrdom."

Even when there is the death penalty, Dr. Fattah points out, the chance of a criminal being killed by his intended victim or the police is always higher than that of his being executed. A study made in crime-ridden Chicago from 1923 to 1954 showed, for instance, that there were 1,993 criminals killed by police or citizens, and only

81 executions. "If this doesn't deter a criminal," Dr. Fattah asks, "why should he be deterred by the remote possibility of being hanged?"

Even retentionists, he points out, would probably agree that the deterrent has no effect on spontaneous, emotional killings. But what about the cold-blooded, premeditated murder?

"There is a paradox here," Dr. Fattah notes. "If a would-be murderer sat down and, using rationale, carefully weighed his chances of getting away with it, he would come to the conclusion that the odds of him committing a perfect murder are in his favor when capital punishment exists.

"If you have the death penalty, there is a much higher rate of acquittal for first degree murders; a jury is less likely to file a guilty verdict if the life of a human being is at stake. This can be backed up statistically. There were probably a lot more murderers walking along the streets, free, when we had capital punishment than there are now."

Dr. Fattah brought his argument against the deterrent theory a step further:

"In order to be effective, you would have to execute all those who commit premeditated murder. If you execute many people, it becomes so common it's obviously not a deterrent. It loses its unique character. And if you execute only one or two, then it becomes so rare that the chances of escaping are very high and it loses its effectiveness too."

As for retaining the death penalty to deal with murderers of policemen and prison guards, here too its deterrent value is exaggerated, Dr. Fattah says. "There is solid, statistical evidence showing that death penalty states in the US provide no more protection to police than abolitionist states.

"The greatest danger to the security of policemen or prison guards are insane murderers. Yet, these killers are not liable to get the death penalty because of their insanity.

"The fears of the public that we will have a lawless society rampant with criminals if we permanently abolish capital punishment are unfounded," Dr. Fattah says. "In all countries where the supreme penalty has been removed, the public eventually came to accept it and does not want it reintroduced.

"In Canada, we're not yet used to the idea, but it would be a retrograde step to reintroduce it.

"In a few years," Dr. Fattah says, "we may be comparing the attitude of our present retentionists to that of Sir Robert Peel, who in 1832 in England declared he was 'by no means decided' that the remission of capital punishment for horse-stealing wouldn't spell the ruin of society."

Don Bell is a Montreal freelance writer.

# Morbid curiosity seekers jammed the road on the night Martin was hanged

(3)

Mackey explains. "But it should be a jury that decides whether a person should, or should not, forfeit his life. Let the jury decide whether the murder case before it is capital or non-capital."

Mackey says that all too often people direct their sympathy to the imprisoned killer and forget about the victim.

This was not the case, however, when Quebec Labor Minister Pierre Laporte was murdered by terrorists near Montreal in 1970. Mackey says that if a public poll had been taken at the time, the vote would have been overwhelmingly in favor of the death penalty.

(A Gallup Poll early this year showed 63 percent of Canadians wanting capital punishment reinstated. Thirty percent thought it should not be brought back and seven percent were undecided. In a further breakdown, the figures indicated that 74 percent of French Canada wanted the death penalty as against only 58 percent of English Canada.)

If there is one thing that gets policemen upset, it's abolitionist claims that most murders are unpremeditated and thus could not have been deterred by the threat of capital punishment. It just isn't logical that the incidence of unpremeditated murder would nearly double in nine years, they say.

The whole question of premeditation infuriates Chief Moir B. MacBrayne of West Vancouver, former president of the Canadian Association of Chiefs of Police.

"They'll tell you that a man murders only once," he says. Then he explodes, "That's no argument. You can't just say, 'Well, he's not likely to do it again.'"

Paul Gascon of Ottawa is a man who knows the importance of the death penalty as a deterrent. He is executive secretary-treasurer of the Solicitor-General's Component of the Public Service Alliance of Canada, the association which represents penitentiary guards.

The threat of the death penalty, he says, was the dominant feature of the infamous four-day revolt by 500 inmates of Kingston Penitentiary in April of last year. (*Weekend Magazine*, April 15, 1972.) The riot ended in the deaths of two inmates and injuries to 10 others.

The six guards who were taken hostage in the riot may owe their lives to the fact that the death penalty was still on the books. "The inmates were told that if a guard were killed, the responsible people would be hanged," he says.

Gascon says a survey after the Kingston riot made it quite clear that Canada's 4,500 penitentiary employees supported the death penalty.

"Many guards are worried that capital punishment may be rescinded altogether," Gascon goes on. "There is a real sense of insecurity in some areas. It's true that the Cabinet has been commuting death sentences. But the threat is still there. The potential killers know it is legally possible for them to be hanged."

Gascon draws a frightening picture of life for a guard in the big maximum security complexes of Quebec, Ontario and British Columbia:

"There are men who are a constant danger to society on the outside and a real danger to other inmates when they are imprisoned.

"We have the reports from guards. They know the strong-arm boys in prison, the ones who lay down the laws for the other inmates. They know how often inmates come to them asking for protection against the musclemen."

Gascon says prisons should be run as humanely as possible. But he warns that there are inmates who cannot be rehabilitated and guards must be protected from them.

## There were letters from citizens offering to act as executioner

"If the law doesn't protect guards on duty, they'll have to find their own means of protection," he says. "And if they remove the death penalty and a guard is killed, I hate to think what the reaction of our men will be."

Charles Sanderson, justice of the peace for Ontario's Wellington County, who spent 30 years in penal service, says capital punishment doesn't deter everyone from committing murder — but it does deter some people.

"A lot of crazy motorists flaunt the Highway Act," he points out. "But the act is there — and some people

abide by its rules because they know there are penalties for offenders. The same is true of murder."

Sanderson got to know nine condemned men and actually walked three of them to the scaffold as governor of the Port Arthur Jail in what is now Thunder Bay, and later as governor of the Don Jail in Toronto.

His capsule comment on hanging: "It's repugnant."

Sanderson says that every time a hanging was scheduled, there would be letters from citizens offering to act as executioners. He remembers, too, the morbid curiosity seekers who gathered outside the jail at execution time.

## "Sentences are phoney. Life imprisonment no longer means life"

He recalls the night Charles Martin went to his death in Port Arthur for the murder of two prospectors in northern Ontario. That was in January of 1948 but the memory is still vivid.

"Shortly after 11 PM, the cars started coming. From the jail window I could see the street filling up. In an hour's time, there must have been 200 cars there. There was a veritable traffic jam. We hanged Martin and a few minutes later posted a notice to the effect on the jail door. Then the cars began pulling away from the curb. Eventually, the street was empty again. We were all disturbed by the morbidity of it."

The horror-show aspects of hanging aside, Sanderson says he is still convinced that capital punishment has a place in society.

"In a way, it's like surgical amputation," he explains. "Amputation is a terrible thing — but sometimes there is no other way. Hanging, too, is a terrible thing. But again, sometimes there is no alternative."

According to many policemen, restrictions on the death penalty have resulted in more than just an increase in the number of murders. They have contributed to an increase in crime generally.

Chief W. J. (Jack) Shrubbs, new president of the Canadian Association of Chiefs of Police, can tell you something about the crime increase in his

once-quiet city of Peterborough.

In 1967, he says, there were 3,866 criminal offences reported. In 1971, there were 5,253. Assaults, robbery, break and entry, auto theft — every category of crime has shown an increase.

What have these got to do with capital punishment?

Says Chief Shrubbs:

"Take the case of the hardened criminal with a holdup and robbery record the length of his arm. If he gets caught in a robbery, he might have to face several consecutive sentences. He could be sentenced to 15 or 20 years. So he calculates the risk. If he kills the cop who's got him cornered, he might get away. If he doesn't get away, well, at worst he should be out on parole in a few years."

Chief Robert T. McCarron, of Guelph, Ont., past president of the Ontario Association of Chiefs of Police, puts it this way:

"The climate on the street is getting tougher. When they took away the death penalty, they took away the threat that kept people in line."

McCarron is shocked by what he sees in his area:

"We never had violence in our streets before. We could go a whole year without an armed holdup. We never had purse-snatchings. We can't make these claims any more. We have had armed holdups recently. Old ladies have been knocked to the ground and their purses stolen. Our police officers have been assaulted, two of them seriously."

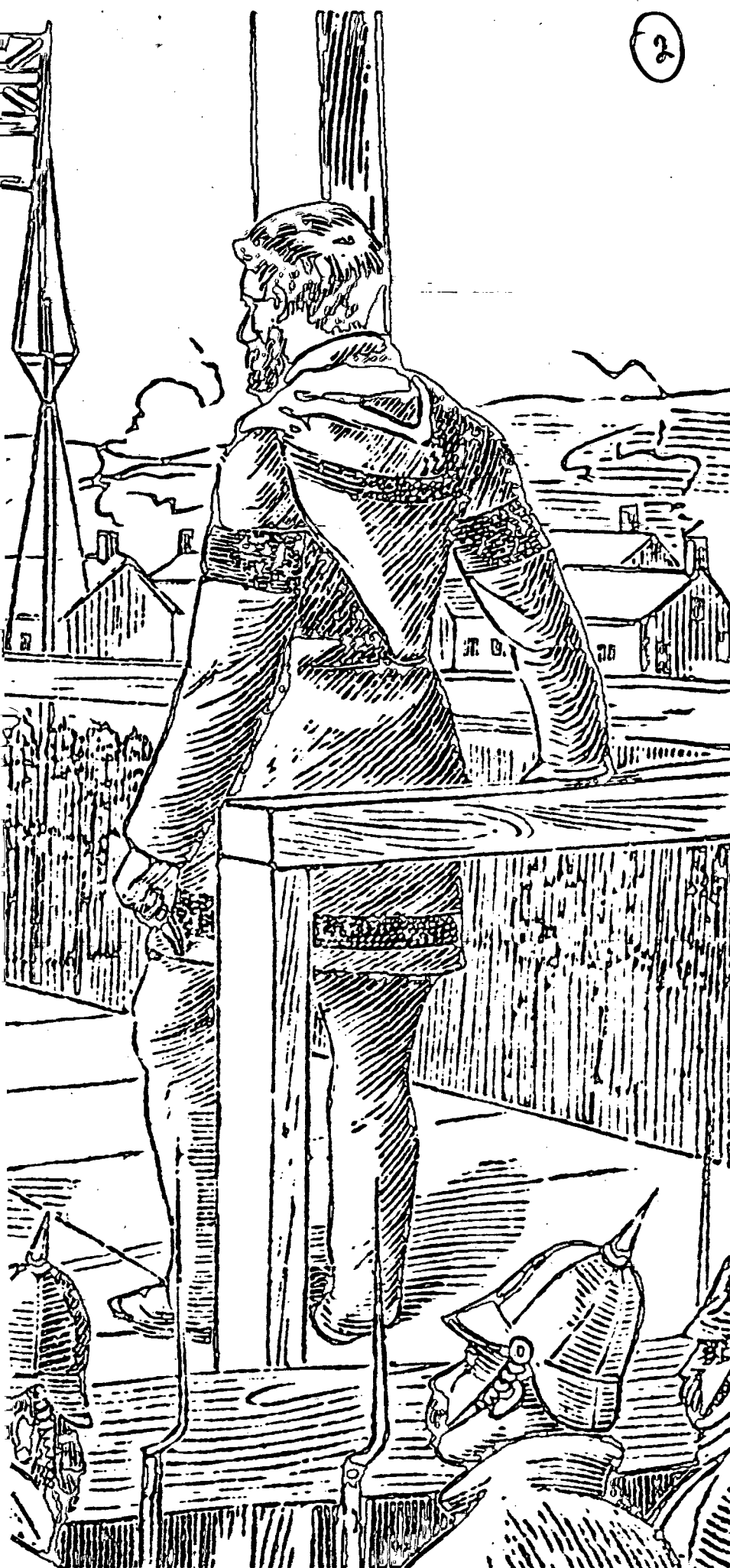
He says the deterrent effect is gone:

"The holdup man knows that if he kills he won't be hanged for it. Sentences are phoney and he's aware of it. Life imprisonment no longer means life. Fifteen-year sentences never mean 15 years."

He believes the death penalty should apply to all killers, not just police murderers:

"A holdup man may think nothing of killing a defenceless old man. However, he fears an armed officer. He's afraid he'll be shot between the eyes. Or that, if he kills the policeman, he may be executed."

"The threat of death for police killers has made the law officer's job a relatively safe one across the country. If the threat works for the killers of policemen, it should also work for murderers of ordinary citizens." ◀



"Twenty-five years ago, a cop knew where he stood. So did the criminal. If the criminal didn't want to live by the rules of society, he knew he was in trouble.

"Now we think in terms of reform. Well, reform methods haven't worked. Reform is nonsense. The criminal doesn't want reform."

Cookson doesn't mind telling you he's disturbed by the government's five-year trial period in which the death penalty is restricted to cases of murder of policemen and prison guards. The period is up in December of this year.

"What do they mean by trial period?" he asks. "It's a hoax. Since 1963, the Cabinet has commuted every single person under sentence of death. We've had total abolition for 10 years and nobody can deny it."

(The death penalty was last carried out in Canada on Dec. 11, 1962, when Arthur Lucas and Ronald Turpin dropped back to back through the trap door of the gallows at Toronto's Don Jail. Lucas, of Detroit, had slashed the throats of a Toronto couple. Turpin had killed a police constable in a downtown Toronto gun battle.)

"We'll have total abolition until the lid blows off — and blow off it will. Then we'll have stricter laws than ever before."

Cookson may speak more forcefully than some but his sentiments are

echoed by many of the law officers I spoke to across the country.

Not all policemen favor capital punishment. Some, like Vancouver's Deputy Chief Constable Thomas F. Stokes, for example, believe it is "uncivilized" to hang a man.

Most are agreed, however, that law and order depend on the existence of the supreme penalty. In keeping with this, two of the country's biggest police fraternal organizations, the Canadian Association of Chiefs of Police and the Canadian Police Association, are on record as favoring retention of the death penalty.

Policemen are paid to enforce the law, not attack it. So, officially they're cautious about public utterances. But talk to almost any lawman over coffee in the municipal cafeteria, or sit and chat with one in a quiet office behind a county courtroom, and put it to him straight. Ask him what he thinks about crime and punishment in Canada and, off the record, you may find some very agitated policemen.

They're worried about the spectacular rise in the number of murders in Canada during the years since the last execution. Their worries seem justified in the light of figures from Statistics Canada.

In 1963, the first year in which there were no executions, there were 215 murders. In 1971, there were 426.

The murder rate has almost doubled in those nine years and the police are quick to point out that figures like that can't be tied to population growth.

When the government launched in 1967 its trial suspension of capital punishment, except for the murder of policemen or prison guards, the police generally were unhappy. Many could not see how you could separate the murder of a policeman from that of the ordinary man in the street.

Many still don't and some, like Syd Brown, of Toronto, president of the Canadian Police Association, have been vocal about it.

"I am not arguing the pros and cons of capital punishment because I am not sure in my own mind that capital punishment is or is not a deterrent to capital murder," Brown says. "I am only citing what I think is an incredible law.

"What makes the killer of a police officer more susceptible to capital punishment than the killer of a child, or a wife, or mother, or for that matter any law-abiding citizen?"

One of Canada's most respected policemen, James P. Mackey, chief of the Metropolitan Toronto Force until 1970 when he became head of the Liquor Licensing Board of Ontario, says flatly that capital punishment should apply to anyone who murders — and not just to police-killers.

"Everybody convicted of murder should not necessarily be hanged,"

Continued

Joe Thouburger



L: a contemporary sketch of Louis Riel's execution. Above: Arthur G. Cookson, Regina police chief for 18 years and now head of a private investigation firm, strongly urges the retention of the death penalty.



The Ottawa Journal

Vol. 22, No. 43 - Oct. 21, 1972

# Weekend

MAGAZINE

## CAPITAL PUNISHMENT

For

☐

Against

☐

Mark your choice and send it to  
Weekend Magazine,  
231 St. James St. W., Montreal 126, Quebec.



**Lester  
Bowles  
Pearson  
remembers**

**And:  
Color colors  
your world**



# Why The Police Want To Bring Back Hanging

In December, the five-year trial suspension of capital punishment will be up for debate. Here, senior Canadian policemen tell why they think the "supreme penalty" is necessary

By Bill Trent  
Weekend Magazine

HIS NAME is Arthur G. Cookson and with his jaw squared and his eyes looking clean through you, he tells you there's trouble brewing in this country and you'd better believe it.

He's talking about the suspension of capital punishment and the erosion of law and order and he's telling you in no uncertain terms that the people have had it up to here.

"You hear the rumblings now among the people and it doesn't sound good . . ."

Cookson, chief of police of Regina for "18 stupid years" — he says he was pressured into resigning after an inquiry into his department last year — measures his words:

"People tell you they're buying guns. That's frightening. You hear

them say, 'The way things are going, we may have to take the law into our own hands.' I hope to God that never happens."

Cookson's outspoken criticism of the law and the courts during his years as police chief won him the reputation of being a hard-line cop. It was a description he never bothered to refute. Today, head of a Regina investigation firm, he's still the big, erupting prairie lawman, calling the shots as he sees them.

"The criminals are laughing," he says. "They know we've thrown out the rules. They know they can commit murder and get away with it."

Cookson, who got his early training with the RCMP, worries about the role of the policeman.





THE SOLICITOR GENERAL

SPECIAL ADVISER,  
CORRECTIONAL POLICY

December 8, 1972

The Death Penalty - Official Statement  
of Policy of the Canadian Criminology and  
Corrections Association

The Canadian Criminology and Corrections Association publishes an official statement of policy in which it states that

- (a) no thorough study of the situation related to murder has been made available for public discussion; and
- (b) no assessment of public opinion has been undertaken and no formal opportunity has been provided for citizen groups and individuals to express their views.

The foregoing statements are made in the light of the forthcoming (December 29 next) expiration of the five-year period during which capital punishment has been authorized only for persons convicted of the murder of police or prison officers acting in the course of their duties.

The Association accordingly urges the Government of Canada to:

- "1. Extend the period of partial abolition for a further two years.
- 2. Appoint a royal commission charged with responsibility for collecting the needed factual information and conducting public hearings where citizen groups can express their views."

② Mr. J.H. Haller:  
I thought you  
might like a copy  
of the paper.  
J.H. Haller  
8 Dec 72

③ noted - PA  
Holler  
11 Dec 72  
..2

-2-

As far as the first recommendation is concerned, my understanding is that you propose (in conjunction with the Minister of Justice) to recommend to your colleagues in Cabinet that the current moratorium on the death penalty be extended for an additional three years in order to permit, by 1975, an evaluation of three periods of approximately six years each, during each of which the law of murder was different:

- (i) the period 1955 to 1961, when all murder was capital, and the only penalty was death,
- (ii) the period 1961 to 1967, when murder was either capital or non-capital, and the penalty for non-capital murder was life imprisonment, and
- (iii) the period 1967 to 1973, during which capital murder will have been limited to cases involving the death of a police or prison officer.

Such an extension would allow one full year for comparison and evaluation of the effect of the law during each of the three distinct periods and a further year for consideration of the entire issue by the Government and Parliament.

The second matter urged by the Association is the appointment of a royal commission charged with responsibility

- (a) for collecting the needed factual information, and
- (b) for conducting public hearings where citizen groups can express their views.

I think that it would be unusual to appoint a royal commission to fulfil a purely fact-finding function. It is not suggested by the Association that such a royal commission should consider and report upon the merits of capital punishment under the law.

In Canada, in relatively recent years, the following studies have taken place in the matter:

- (a) a study by a Joint Committee of the Senate and House of Commons, 1954-1956;
- (b) a "White Paper", entitled "Capital Punishment: Material Relating to Its Purpose and Value, 1965", which has now been brought up to date by this Department by a document entitled "Capital Punishment - New Material: 1965-1972";



-3-

- (c) a study, supported financially by this Department, prepared by Professor E. A. Pattah, entitled "A Study of the Deterrent Effect of Capital Punishment" (1972);
- (d) a study, supported by the Department of the Solicitor General, by Professor Justin Ciale of the University of Ottawa, entitled "Characteristics of Persons Charged and Convicted of Murder", to be completed in March, 1973; and
- (e) a 10-Year study by Statistics Canada, supplementary to the annual report of that Department relating to murder, which will be completed by January, 1973.

In my opinion there is no purpose to be served by the appointment of a royal commission for the purposes proposed by the Association that would not be served by the appointment of a joint committee of the Senate and House of Commons. In short, it is my opinion that, since Parliament must make the decision in the matter of capital punishment, any fact-finding that is required to be carried out should be done by an agency of Parliament. Such a committee could, of course, travel to various parts of the country to hear representations from individuals and organizations.

A. J. MacLeod.

AJMACLEOD/EGW



Gouvernement  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

141-206

TO  
A

THE DEPUTY SOLICITOR GENERAL

FROM  
DE

SPECIAL ADVISER,  
CORRECTIONAL POLICY

①

SECURITY-CLASSIFICATION-DE SÉCURITÉ
OUR FILE-N/RÉFÉRENCE
YOUR FILE-V/RÉFÉRENCE
DATE December 8, 1972

SUBJECT  
OBJET

The Death Penalty - Official Statement  
of Policy of the Canadian Criminology and  
Corrections Association

With reference to your memorandum herein of  
December 5 last, I attach some comments concerning the  
Association's official statement.

*Osgood signed  
by*

Att.

A. J. MacLeod.

AJM:EOM

①  
CR  
La to Corral Pamb.  
file phre.  
J. D. 22

Copy to: 105-C1



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
A

THE SOLICITOR GENERAL

FROM  
DE

SPECIAL ADVISER,  
CORRECTIONAL POLICY

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE December 8, 1972

SUBJECT  
OBJET

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-2-

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-3-

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*Original signed*  
*by*  
A. J. MacLeod.

AJMACLEOD/EGH



FILE NO.—DOSSIER N°

DATE

6 Dec 1972

TO—A

A. S. G.

FROM—DE

Geo. Koz

☐

PLEASE CALL  
PRIÈRE D'APPELER

TEL. NO.—N° TEL.

EXTENSION—POSTE

☐

WANTS TO SEE YOU  
DÉSIRE VOUS VOIR

DATE

TIME—HEURE

☐

WILL CALL AGAIN  
DOIT RAPPELER

☐

ACTION  
DONNER SUITE

☐

APPROVAL  
APPROBATION

☐

COMMENTS  
COMMENTAIRES

☐

DRAFT REPLY  
PROJET DE RÉPONSE

☐

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FAIRE .....COPIES

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NOTE AND FILE  
NOTER ET CLASSER

☐

NOTE & RETURN  
NOTER ET RETOURNER

☐

NOTE & FORWARD  
NOTER ET FAIRE SUIVRE

List of Death sentences and  
commutations — as requested  
ACK

CALL RECEIVED BY  
MESSAGE REÇU PAR

TIME  
HEURE

001220

DEPARTMENT OF THE SOLICITOR GENERAL  
MINISTÈRE DU SOLICITEUR GÉNÉRAL

MEMORANDUM

Dec. 7th, 1972

183-9-288-284/3  
MR. HOFLEY

Mr. Hollies called to say -

The amendment on capital murder in 1967 continues for 5 years from the 29th of December - it will expire on midnight December 29th, 1972 as under the Interpretation Act you don't count the first day.

DJB

001221

**DEPARTMENT OF THE SOLICITOR GENERAL**  
**MINISTÈRE DU SOLICITEUR GÉNÉRAL**

**MEMORANDUM**

*Terry Hasser*  
*(183-9) 282-2843*  
*Cofiber finished*

001222



Appendix 3

# The History of the DEATH PENALTY in Canada

Source: Department of the Solicitor General,  
departmental survey, up to Dec. 1972

<u>Year</u>	<u>Death Sentence</u>	<u>Executed</u>	<u>Commuted</u>	<u>otherwise disposed of</u> <u>Reduced in NEW TRIAL</u>	<u>Reduced by COURT of APPEAL</u>
1963	12	-	8	4	-
1964	5	-	4	1	-
1965	17	-	12	3	2
1966	11	-	10	1	-
1967	10	-	8	1	1
1968	1	-	1	-	-
1969	-	-	-	-	-
1970	3	-	3	-	-
1971	-	-	-	-	-
1972	2	-	-	-	-

(up to Dec. 6, 1972) } pending appeal

/ Larry MacNamara -- B.C. /  
/ Raul Chartrand - Que /



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

MR. A.J. MacLEOD, Q.C.

FROM  
DE

DEPUTY SOLICITOR GENERAL

SECURITY - CLASSIFICATION - DE SÉCURITÉ
<b>CONFIDENTIAL</b>
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE <b>December 6, 1972</b>

SUBJECT  
OBJET

Capital punishment, paroling of lifers  
and offenders whose death sentence has  
been commuted

1. The Solicitor General believes that one of the questions that will be raised in the forthcoming debate on capital punishment is the whole question of parole regarding lifers for murders and persons against whom the death penalty has been imposed and whose sentence has been commuted.
2. We need a study of this whole question. Firstly, the study should briefly describe the law and the rules on this question. Secondly, we should have an outline of the pros and cons of the system. For example, why is it that a lifer doesn't have to spend his whole natural life in an institution? If the mandatory period of confinement is now ten years, why should it not be increased to fifteen years? Thirdly, I think that we should have some statistics (they are probably available from the Correctional Statistics Centre - M. Semple) on the system for the last five or ten years. It would also be interesting to have some data on the number of lifers for murders who have been granted parole and have committed a subsequent offence.
3. If you have any questions as to this, would you please talk to me.

RT/h1

CL  
ORIGINAL  
R TASSÉ

Roger Tassé.

CONFIDENTIAL

BY HAND

Ottawa, Ontario,  
K1A 0P8

December 6, 1972

Dear Don:

Thank you very much for your letter of December 1st. I now attach the original and one copy of a revised Memorandum to Cabinet which Mr. Allmand has signed.

I am especially drawing your attention to paragraphs 9 and 10 which have been added to the Memorandum. Otherwise it is much the same as the one which you have seen except for minor changes here and there.

It would be appreciated if you would arrange for this Memorandum to be brought to the attention of your Minister as soon as possible and to have him sign it should he concur with it, and then return it to me.

If you have any question do not hesitate to be in touch with me.

YOURS SINCERELY,

ORIGINAL SIGNED BY  
ORIGINAL SIGNÉ PAR  
R. TASSE

Roger Tassé,  
Deputy Solicitor General

RT/ROP  
Attach.

Mr. D. H. Christie, Q.C.,  
Assistant Deputy Attorney General,  
Justice Building,  
Kent and Wellington Streets,  
Ottawa, Ontario,  
K1A 0H8

Rec'd Dec 4/72  
12115

DHC/mk.

227500-218.



DEPARTMENT OF JUSTICE  
MINISTÈRE DE LA JUSTICE

OTTAWA  
K1A 0H8

December 1, 1972.

Mr. Roger Tassé,  
Deputy Solicitor General,  
Department of the Solicitor General,  
Sir Wilfred Laurier Building,  
Ottawa, Ontario  
K1A 0P8

Dear Roger:

I acknowledge your letter of yesterday's  
date enclosing copy of the draft Memorandum to Cabinet  
on Capital Punishment.

I have to advise that, subject to the following  
observations, I agree with the Memorandum and will recommend  
to the Minister and the Deputy Minister that the former  
approve it.

There appears to be an oversight in relation to  
the law pertaining to the murder of a police or prison officer  
which was in force prior to December 29, 1967. Prior to that  
date it was capital murder to counsel or procure another  
person to do any act causing or assisting in causing the  
death of a police or prison officer.

Our Minister has indicated to us that he would  
prefer the extension to be for a period of five years.

As soon as our Minister has had an opportunity  
to consider the Memorandum I will let you know.

Yours truly,

*D. H. Chrétien*  
Assistant Deputy  
Attorney General.

P.S. Could we have 10 or 15 copies of the document mentioned  
in paragraph 14 of the Memorandum to Cabinet.



Government  
of Canada

Gouvernement  
du Canada

# MEMORANDUM

# NOTE DE SERVICE

s.23

TO  
À

DEPUTY SOLICITOR GENERAL

FROM  
DE

DEPARTMENTAL COUNSEL

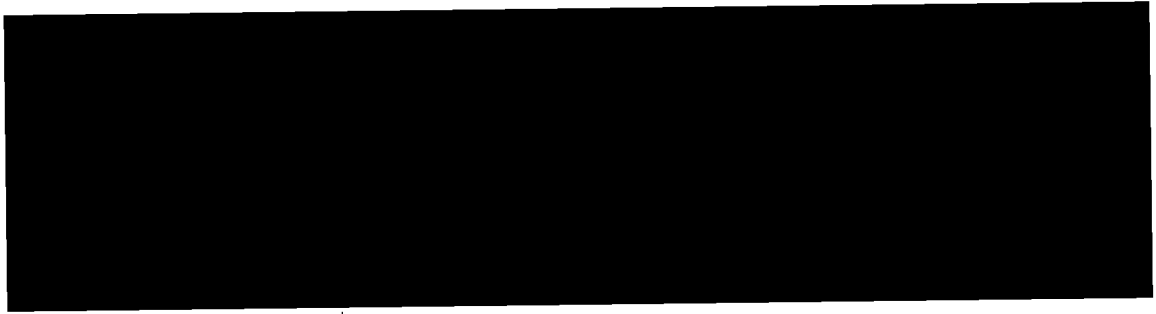
SUBJECT  
OBJET

Submission to Cabinet -  
Capital Punishment

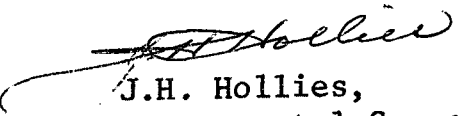
SECURITY - CLASSIFICATION - DE SÉCURITÉ
<b>CONFIDENTIAL</b>
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE December 5, 1972

s.23

- 2 -



JHH/mab

  
J.H. Hollies,  
Departmental Counsel

MEMORANDUM

GOVERNMENT OF CANADA



NOTE DE SERVICE

GOUVERNEMENT DU CANADA

141-206

FROM  
DE

S.L. Roberts

TO  
À

Mr. Tassé

SUBJECT  
SUJET

Draft Press Release on Capital Punishment Publications

I am forwarding for your consideration and Ministerial approval a proposed press release that could be issued in anticipation of the publication of the Grenier and Fattah reports.

My view is that the Grenier Report, being essentially and primarily a parliamentary paper, should be tabled in Parliament by the Solicitor General. Distribution to Members, Senators and the Parliamentary Press Gallery would be initiated at the same time as tabling and publication, distribution, and sale by Information Canada would follow immediately after.

The Fattah Report is the report of research by a criminologist who concludes as the result an examination of all evidence that capital punishment is no deterrent to unpremeditated or premeditated murder. To protect the Solicitor General from the accusation that he appears to be firing a major salvo in a calculated campaign to influence parliamentary and public opinion in favour of abolition, Dr. Fattah's study could be published by Information Canada without being tabled in Parliament and any fanfare of publicity. Senators, M.P.'s and others who receive the Daily Checklist will be notified of its publication and can request free copies through the Checklist.

The press release I have prepared is based on these assumptions and, of course, can be easily amended or completely rewritten to accurately reflect the Minister's wishes. I do feel that some public statement by the Solicitor General about the publication of the two reports is called for as knowledge of the existence of the reports has become widespread and some groups and individuals are openly calling for their publication.

*S.L. Roberts*  
S.L. Roberts

*Copies on:*  
62-616-15  
62-616-18  
165-23

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE — N/RÉFÉRENCE
YOUR FILE — V/RÉFÉRENCE
DATE Dec. 5, 1972

141-206



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

s.23

TO  
A

DEPUTY SOLICITOR GENERAL

FROM  
DE

DEPARTMENTAL COUNSEL

SUBJECT  
OBJET

Submission to Cabinet -  
Capital Punishment

SECURITY - CLASSIFICATION - DE SÉCURITÉ
<b>CONFIDENTIAL</b>
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE <b>December 5, 1972</b>



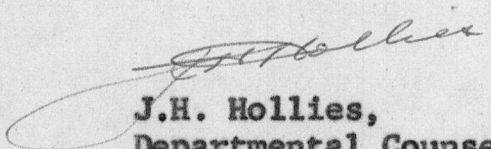


s.23

- 2 -



JHH/mab

  
J.H. Hollies,  
Departmental Counsel

141-206



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
A

THE DEPUTY SOLICITOR GENERAL

FROM  
DE

SPECIAL ADVISER,  
CORRECTIONAL POLICY

SUBJECT  
OBJET

Capital Punishment

SECURITY - CLASSIFICATION - DE SÉCURITÉ	
CONFIDENTIAL	
OUR FILE - N/RÉFÉRENCE	
YOUR FILE - V/RÉFÉRENCE	File <i>ROP</i> Classer
DATE December 4, 1972	

With reference to the recent revised memorandum herein, my only comments are as follows:

I wonder if the following should not be considered as a substitution for the second sentence in paragraph 7. on page 2:

However, in the light of the lack of statistics and data to ascertain the effect, in every respect and to the extent possible, of capital punishment in its various phases over a period of some twenty years (including the 5-year term of partial abolition that will expire on December 29, 1972), the course set out in paragraph (c) of Appendix "A" would appear to be a logical one.

The only other comment is that the last word in the first line of paragraph 2. should be spelled "predecessor".

A. J. MacLeod.

AJM\*EGM



Government of Canada  
Gouvernement du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

THE DEPUTY SOLICITOR GENERAL

FROM  
DE

SPECIAL ADVISER,  
CORRECTIONAL POLICY

SUBJECT  
OBJET

Capital Punishment

SECURITY - CLASSIFICATION - DE SÉCURITÉ
CONFIDENTIAL
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE December 4, 1972

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*OK*

The only other comment is that the last word in the first line of paragraph 2. should be spelled "predecessor".

  
A. J. MacLeod.

141-206

①

Ottawa, Ontario;  
K1A 0P8,

December 1, 1972.

Dear Reverend Libby,

The Honourable Warren Allmand, Solicitor General of Canada, has asked me to acknowledge your letter of November 28, 1972 in which you conveyed to him the resolution against Capital Punishment passed by the St. Leonard's Society of Canada at its quarterly meeting of November 25, 1972.

I am to say that the Solicitor General is very grateful to receive an expression of the views of the St. Leonard's Society of Canada on this very important subject. You may be assured that the expression of the views of the Society will be given full consideration in the continuing study of this matter.

Yours sincerely,

JOHN R. CAMERON

J.R. Cameron  
Departmental Assistant

Reverend T.N. Libby, M.S.W., L.Th.,  
1787 Walker Road,  
Windsor 20, Ontario.

⇒ c.c. with attachment - Deputy Solicitor General.

JRC/jm

② CB  
Per to Capital Punishment.  
for please.  
J.R. Cameron  
7 Dec 72

Copy on 105-53



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

DEPUTY SOLICITOR GENERAL

FROM  
DE

ASSISTANT DEPUTY SOLICITOR GENERAL

SECURITY CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N <sup>o</sup> RÉFÉRENCE
YOUR FILE - N <sup>o</sup> RÉFÉRENCE
DATE Nov. 30th, 1972

SUBJECT  
OBJET

Capital Punishment

As requested I have reviewed Dr. Fattah's research study on capital punishment as well as the report prepared by Bernard Grenier on the same subject and I am of the opinion that these should be released to the public immediately for the following reasons:

- a) Mr. Goyer has made a number of statements both in the house and out, indicating that these studies were underway and that they would be made available when completed;
- b) A number of organizations have requested these reports and will be after the Minister for their release. You will recall that the Canadian Criminology and Corrections Association referred to these reports last May, as being available at the Queen's Printer;
- c) The statistics for 1971 are now published by Statistics Canada and if we wait too much longer, Mr. Grenier's report will not be current;
- d) There is always the possibility of a leak to the press.

It may be that there are reasons why the government would not want these reports published at this time and therefore the Minister will have to consult his colleagues in this regard. The Grenier report was written primarily to inform members of parliament and Senators and this report the Minister may want to table in the House, although this may not be possible if Parliament does not meet before January.

Assuming there are no impediments of which I am not aware, I would recommend that both these reports be made available for sale through Information Canada. If the Minister agrees, I will have Mr. Roberts prepare the necessary press release in cooperation with Information Canada.

BERNARD C. HOFLEY

B.C. Hofley

001235



Government  
of Canada

Gouvernement  
du Canada

s.23

# MEMORANDUM

# NOTE DE SERVICE

TO  
À

DEPUTY SOLICITOR GENERAL

FROM  
DE

DEPARTMENTAL COUNSEL

SUBJECT  
OBJET

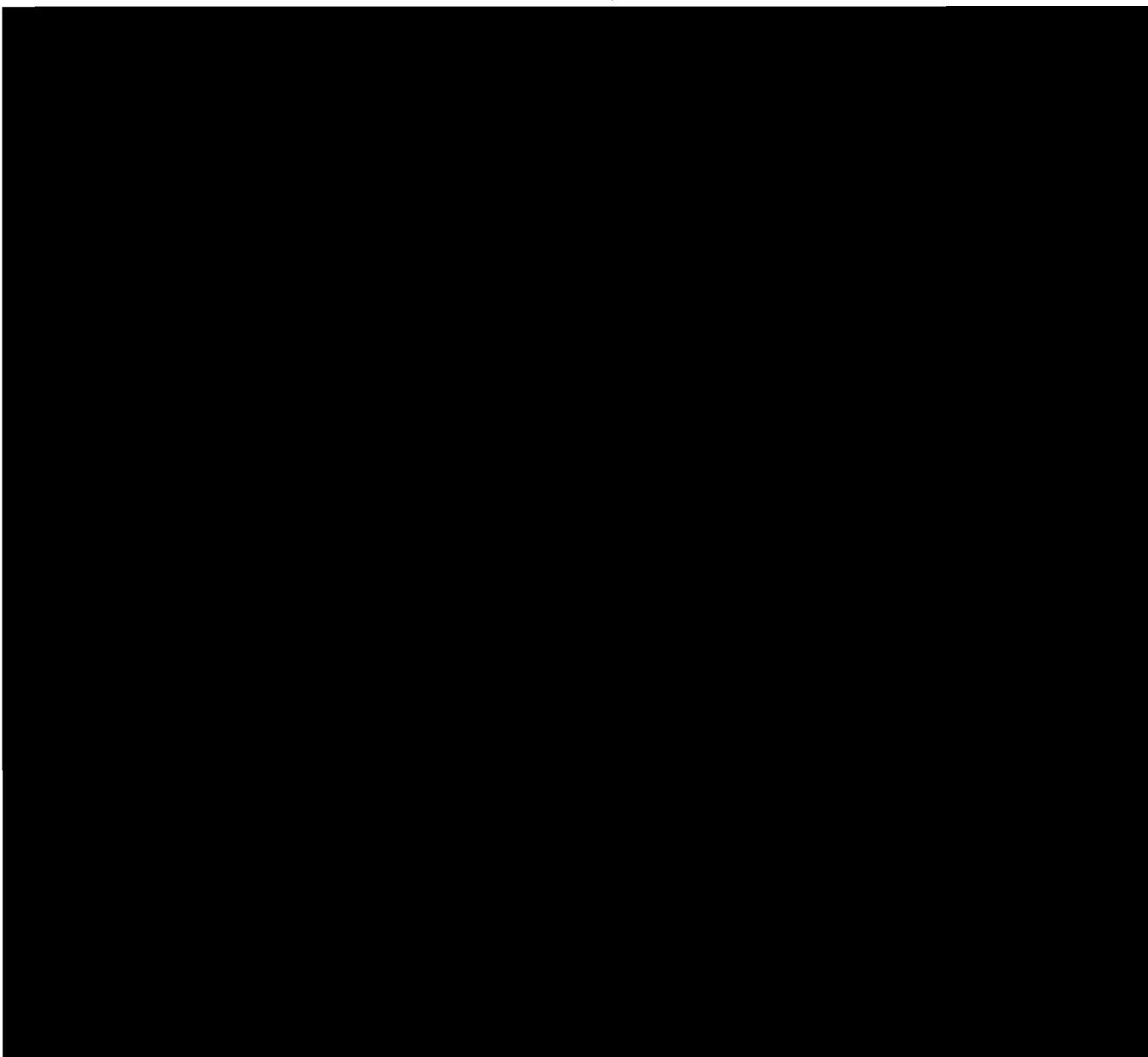
Capital Punishment

SECURITY - CLASSIFICATION - DE SÉCURITÉ
<b>CONFIDENTIAL</b>
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE <b>November 30, 1972</b>

*O.K.*

*O.C.*

*O.K.*



*J.H. Hollies*  
J.H. Hollies,  
Departmental Counsel

JHH/mab

001236

CONFIDENTIAL

BY HAND

Ottawa, Ontario,  
K1A 0P8

November 30, 1972

Dear Don:

As I indicated to you over the telephone yesterday, I am pleased to attach a copy of a draft Memorandum to Cabinet relating to capital punishment.

This memorandum has not yet been approved by Mr. Allmand.

I would appreciate it if you could let me have the benefits of your views and comments as soon as possible and preferably before the end of this week as we have been asked by the Privy Council Office to provide them with a memorandum on this matter by next Monday.

Yours sincerely,  
ORIGINAL SIGNED DE  
ORIGINAL SIGNÉ PAR  
R. TASSE

Roger Tassé,  
Deputy Solicitor General

Encl.  
RT/ROP

Mr. D. H. Christie, Q.C.,  
Assistant Deputy Attorney General,  
Department of Justice,  
Justice Building,  
Wellington Street,  
Ottawa, Ontario,  
K1A 0H8

Copies of the Memorandum sent to Messrs. Hofley, MacLeod and Hollies for comments.



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

s.23

TO  
A

DEPUTY SOLICITOR GENERAL

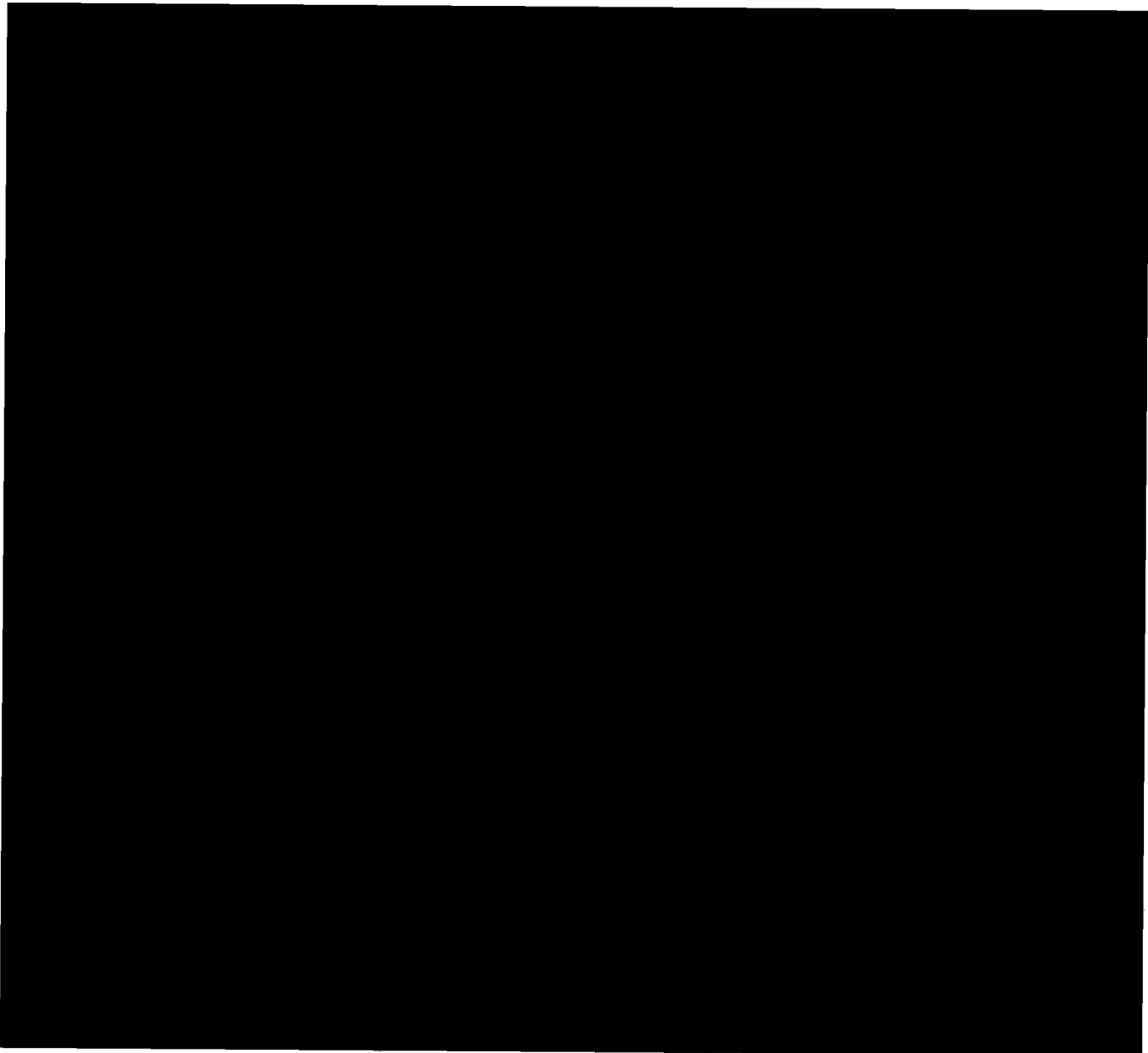
FROM  
DE

DEPARTMENTAL COUNSEL

SUBJECT  
OBJET

Capital Punishment

SECURITY CLASSIFICATION - DE SÉCURITÉ	
<b>CONFIDENTIAL</b>	
OUR FILE - VOTRE RÉFÉRENCE	<b>File Classer</b>
YOUR FILE - VOTRE RÉFÉRENCE	
DATE	
November 30, 1972	



JHH/mab

J.H. Hollies,  
Departmental Counsel

001238





Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

DEPUTY SOLICITOR GENERAL

FROM  
DE

ASSISTANT DEPUTY SOLICITOR GENERAL

SECURITY CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
OUR FILE - V/RÉFÉRENCE
DATE Nov. 30th, 1972

SUBJECT  
OBJET Capital Punishment

As requested I have reviewed Dr. Fattah's research study on capital punishment as well as the report prepared by Bernard Grenier on the same subject and I am of the opinion that these should be released to the public immediately for the following reasons:

- Mr. Goyer has made a number of statements both in the house and out, indicating that these studies were underway and that they would be made available when completed;
- A number of organizations have requested these reports and will be after the Minister for their release. You will recall that the Canadian Criminology and Corrections Association referred to these reports last May, as being available at the Queen's Printer;
- The statistics for 1971 are now published by Statistics Canada and if we wait too much longer, Mr. Grenier's report will not be current;
- There is always the possibility of a leak to the press.

It may be that there are reasons why the government would not want these reports published at this time and therefore the Minister will have to consult his colleagues in this regard. The Grenier report was written primarily to inform members of parliament and Senators and this report the Minister may want to table in the House, although this may not be possible if Parliament does not meet before January.

Assuming there are no impediments of which I am not aware, I would recommend that both these reports be made available for sale through Information Canada. If the Minister agrees, I will have Mr. Roberts prepare the necessary press release in cooperation with Information Canada.

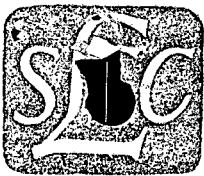
*II. Mr. Hoffer*  
*Thanks -*  
*I have asked Mr. Roberts to do.*  
*4/21/72 JS.*

*B.C. Hoffer*

B.C. Hoffer

*Copies in: 62-6/6-15*  
*62-6/6-18*

001239



**ST. LEONARD'S SOCIETY OF CANADA**  
**LA SOCIÉTÉ SAINT LEONARD DU CANADA**

1787 WALKER RD., WINDSOR 20, ONTARIO • TELEPHONE 519-254-9430

Windsor, Vancouver, Quebec City, London, Halifax-Dartmouth, Toronto, Sudbury, Fredericton,  
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The Most Rev. G. E. Carter, D.D.

November 28, 1972

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Mrs. W. G. Waugh

Eldon Woolliams, Q.C., M.P.

The Hon. Warren Allmand  
Solicitor General of Canada  
House of Commons  
Ottawa, Ontario

Dear Sir:

At the last quarterly meeting of the St. Leonard's Society of Canada held in London, Ontario on Saturday, November 25th, the following resolution was passed:

"That a formal stand be taken against Capital Punishment and that this stand be communicated to the Prime Minister, the Solicitor General and the Minister of Justice."

We trust, as a national organization assisting communities to establish Residential and Ancillary Services for offenders after their release from penal institutions, that the matter will be dealt with early in the new session of Parliament and will be abolished once and for all in Canada.

With kindest regards,

Yours sincerely,

(Rev.) T. N. Libby  
Executive Director

TNL:jl

1,150

141-202

Ottawa K1A 0P8

November 28, 1972.

Dear Mr. Thompson:

Re: Instructions on Capital Cases

Further to our telephone conversation, I  
enclose a copy of some ancient material appearing on  
our files.

Yours truly,

  
J.H. Hollies,  
Departmental Counsel.

Encl.

Mr. R.S.G. Thompson,  
Department of Justice,  
Room 423,  
Justice Building,  
Ottawa, Ontario.  
K1A 0H8

JHM/cd

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA

---

# CAPITAL CASES PROCEDURE

UNDER SECTION 1063 C. C.

▼

## Résumé of Instructions

Issued by the Department of the Secretary of State in  
recent years relative to the procedure to be  
followed under Section 1063 of the  
Criminal Code



OTTAWA  
EDMOND CLOUTIER  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1931

*As a result of frequent enquiries regarding departmental procedure in capital cases a "Résumé of Instructions" has been compiled from past correspondence and is now presented in this booklet.*

**Section 1063 of the Criminal Code reads as follows:**

1. In the case of any prisoner sentenced to the punishment of death, the judge before whom such prisoner has been convicted shall forthwith make a report of the case to the Secretary of State for the information of the Governor General; and the day to be appointed for carrying the sentence into execution shall be such as, in the opinion of the judge, will allow sufficient time for the signification of the Governor's pleasure before such day.

2. If the judge thinks such prisoner ought to be recommended for the exercise of the royal mercy, or if, from the non-decision of any point of law reserved in the case, or from any other cause, it becomes necessary to delay the execution, he, or any other judge of the same court, or any judge who might have held or sat in such court, may, from time to time, either in term or in vacation, reprieve such offender for such period or periods beyond the time fixed for the execution of the sentence as are necessary for any of the purposes aforesaid.

3. In the Northwest Territories and in the Yukon Territory, when any person is convicted of a capital offence and is sentenced to death the judge or stipendiary magistrate who tried the case shall forthwith forward to the Secretary of State of Canada full notes of the evidence with his report upon the case, and the execution shall be stayed until such report is received and the pleasure of the Governor General therein is communicated to the Commissioner of the Northwest Territories or of the Yukon Territory, as the case may be. R.S., c. 146. s. 1063; 1913, c. 13. s. 31.

## RÉSUMÉ OF INSTRUCTIONS

---

### 1. The Date of Execution should be set at least:

- (a) Two months from the date of passing of the sentence in the Provinces of:.....
  - { Ontario
  - { Quebec
  - { Nova Scotia
  - { New Brunswick
  - { Prince Edward
  - { Island
- (b) Two months and a half in the Provinces of:.....
  - { Manitoba
  - { Saskatchewan
  - { Alberta
  - { British Columbia
- (c) Three months in the Yukon Territory.
- (d) It should not be set for a legal or religious holiday.
- (e) Mondays and Saturdays have been found inconvenient as days for execution.

## **2. During the Two Weeks following the Trial:**

- (a) The trial judge should send directly to the Secretary of State his report containing a *substantial summary of the salient facts of the case*, together with any remarks or recommendations from his personal notes taken during the trial with reference to the exercise of executive clemency.

The report is then referred to the Minister of Justice, who, after perusing the evidence, gives to each capital case the most anxious consideration. When reaching a decision before making his report to Council, he finds it very helpful to have the views of the trial judge regarding any feature of the case which has a bearing upon the exercise of executive clemency.

- (b) It is also imperative that the trial judge should give instructions to the stenographer to complete and forward to the Secretary of State the transcript of evidence at the earliest possible date, together with his address to the jury.



3. Plan and sketches of the "locus" and also photographs, if any, which may have been filed as exhibits should be sent to the Secretary of State, but only after the time for lodging an appeal has elapsed. If, in the opinion of the trial judge, certain other exhibits are essential for the consideration of the case, they should also be sent. During the review of the case, if other exhibits should be needed, they will be asked for by the Department.

4. The Secretary of State should be notified by telegram of any proceedings in appeal as soon as they are instituted and of their disposal.

5. In the event of an appeal being dismissed such of the exhibits as are mentioned above should be sent to the Department of the Secretary of State together with both factums submitted upon the hearing of the appeal.

6. Should the Secretary of State be officially notified that an appeal has been launched in a case where the exhibits are with the Department, they will be promptly returned to the Registrar.

7. The trial judge, when making his report, is invited to give his personal detailed observations regarding medical testimony on any insanity issue and concerning the prisoner himself.

8. If a reprieve is granted in any case, the Secretary of State should be notified by telegram as soon as it is granted.

## RE PREPARATION OF TRANSCRIPT

---

1. A copy of the evidence should be forwarded to the Secretary of State within fifteen days after the trial regardless of an appeal or possibility of an appeal being taken.

2. This copy should be an original one and well done, on good paper, not transparent, which can be easily read

3. The blank back of the preceding page in the evidence should be arranged to be on the left when bound.

4. It is customary for transcripts in all capital cases to include all proceedings subsequent to the judge's charge, and including the sentence, namely:—

- (a) the time the jury retired and returned.
- (b) whether or not a rider was attached to the verdict.
- (c) judge's query of accused prior to passing of sentence.
- (d) accused's response, if any.
- (e) remarks of judge prior to passing of sentence.
- (f) sentence.

5. A complete index, with page number opposite, as to witnesses and exhibits should be contained in the volume of evidence.

6. The addresses of counsel to the jury need not be included in the transcript unless specially asked for.

7. If on account of illness or some other unavoidable causes, the transcription of the evidence should be delayed over the given time, it should be forwarded in sections (100 to 150 pages) so that the necessary review of the case may be started as soon as possible.

8. Reporter's account for transcription of evidence should be presented in triplicate.

## **RE DETAILS OF EXECUTION**

---

1. Instructions concerning details of executions in particular cases are not given by the Federal authorities; preparations are under Provincial control. The rules respecting executions issued by the Federal authorities are as follows:—

**Rules respecting executions, pursuant to the provisions of 32 and 33 Vict., Chap. 29, for regulating the execution of Capital sentences, approved by Order in Council of the 6th January, 1870, viz:—**

1. For the sake of uniformity, it is recommended that executions should take place at the hour of 8 a.m.
2. The mode of execution and the ceremonial attending it to be the same as heretofore.
3. A black flag to be hoisted at the moment of execution upon a staff placed on an elevated and conspicuous part of the prison and to remain displayed for one hour.
4. The bell of the prison, or, if arrangements can be made for that purpose, the bell of the parish or other neighbouring church to be tolled for 15 minutes before and after the execution.

2. Contrary to popular belief, there is no official hangman or executioner for the Dominion. The Sheriff or any person delegated by the Sheriff should act as such.

3. Since in Capital Cases the decision of His Excellency the Governor General in Council is seldom reached and announced before the last few days preceding the date for execution, the Sheriff, in every case, should make preparations for the execution. The usual period allowed between the date of the sentence and the date fixed for execution leaves barely sufficient time for all the work that has to be done in Ottawa by officials concerned with each Capital Case. No matter how favourable or unfavourable to commutation the jury and judge may be, the evidence must be analysed before submission to the Minister of Justice, and studied by him before the case goes to Council.

4. The decision of His Excellency the Governor General in Council is made known by telegram from the Department of the Secretary of State, and confirmed by letter. It is the rule in all cases that the Sheriff should repeat back the telegram, word for word, immediately upon its receipt.

5. Immediately after the execution, documents as called for under Section 1072 of the Criminal Code should be forwarded to the Department of the Secretary of State with all possible despatch.

## INDEX

SECTION 1063 OF THE C.C.....	5
RESUME OF INSTRUCTIONS.....	6
RE PREPARATION OF TRANSCRIPT.....	9
RE DETAILS OF EXECUTION.....	11

Appendix B

From Mr S. L. Roberts

Re by.

Would please  
have this typed -  
to be used as Appendix "B" -  
to memo to Cabinet on  
Capital punishment -

Urgent  
RD.

27/1/72.



DEPARTMENT OF THE SOLICITOR GENERAL

MINISTÈRE DU SOLICITEUR GÉNÉRAL

---

## PRESS RELEASE

## COMMUNIQUÉ

---

Date:

For Release:

Pour Publication:



PRIVY COUNCIL OFFICE



BUREAU DU CONSEIL PRIVÉ

OTTAWA, K1A 0A3

24 novembre, 1972

*Received - Nov 24/72*

*4:45 PM  
ROP*

Monsieur Roger Tassé  
Solliciteur général adjoint  
Edifice Sir Wilfrid Laurier  
Ottawa, Ontario

Cher Roger,

J'ai eu l'occasion ce matin de discuter avec le Président du Comité de Politique sociale; comme tu le sais, les Ministres ont à faire face à un ordre du jour très serré qui leur donne peu de latitude.

Aussi pourrais-je espérer obtenir de ton Ministère les documents concernant les nouveaux règlements pour les libérations conditionnelles et la peine de mort, pour lundi, 4 décembre, 1972. Ils seraient alors considérés par la Comité dès le 6 décembre et par le Cabinet à une date ultérieure.

Selon un désir du Cabinet, les documents devraient être courts et précis.

Dans l'espoir que cette requête ne te causera pas de sérieux ennuis, je te prie d'agréer l'expression de mes sentiments dévoués.

Michel Trottier  
Secrétaire adjoint au  
Cabinet (Politique sociale)

*F.A.*  
*NS*  
*20/11/72*  
copie à: L'honorable R. Basford  
Ministre d'Etat aux  
Affaires Urbaines



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

SOLICITOR GENERAL

FROM  
DE

DEPUTY SOLICITOR GENERAL

SUBJECT  
OBJET

CAPITAL PUNISHMENT

RECEIVED OFFICE OF THE SOLICITOR GENERAL SECURITY CLASSIFICATION - DE SÉCURITÉ CONFIDENTIAL 2 AH '72 NOV 24 3 42 AM '72	
OUR FILE - N/RÉFÉRENCE	
YOUR FILE - V/RÉFÉRENCE	
DATE	November 23, 1972

This is a copy of the draft Memorandum to the Cabinet with reference to Capital Punishment. We agreed that you would first have a look at it before we review it early next week.

M. Tassé  
27-11-72  
Attach.

15.  
Roger Tassé

- Il serait fort intéressant d'ajouter :
- 1) les résultats de l'enquête d'opinion publique sur la peine capitale à l'occasion du centenaire de la G.R.C.
  - 2) les deux solutions qui doivent avoir lieu en fin de semaine.
  - 3) la consultation du conseil à une majorité en faveur du prolongement de la période d'essai à un vote libre.

A.P.S.

001256

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

November 22, 1972

MEMORANDUM TO THE CABINET

Re: Capital Punishment

PROBLEM

By Memorandum to the Cabinet (copy attached) dated February 25, 1972, the undersigned noted that by Chapter 15 of the Statutes of Canada, 1967-68, Parliament amended the Criminal Code to limit the death penalty for capital murder to cases where the accused, by his own act, caused or assisted in causing the death of a police or prison officer, acting in the course of his duties, or counselled or procured another person to do any act causing or assisting in causing the death; that the legislation had been proclaimed in force as of December 29, 1967; and that the Act provided that it should continue in force for a period of five years from the day fixed by proclamation for its coming into force, and stated that it should then expire unless before the end of that period Parliament, by joint resolution of both Houses, directed that it should continue in force. It provided that upon the expiration of the Act the law existing immediately prior to the coming into force of the Act should again operate.

By Cabinet decision dated June 8, 1972, it was agreed that:

- (a) the question of capital punishment be left to a free vote if it were brought before Parliament in the Fall;
- (b) if questioned about the government position on the matter in the meantime, Ministers should feel at liberty to express their private views as Members of Parliament, preferably indicating a minimum position that legislation should not revert to the situation obtaining before 1967 and that the effects of the present legislation needed to be tested for a few more years, suggesting therefore its prolongation for some years as the likely course of action;
- (c) the Solicitor General should consult with the Caucus on the matter.

OBJECTIVES

This memorandum seeks the approval of Cabinet for the preparation of legislation to be introduced in Parliament, as soon as possible during 1973, to extend, for a period of three years from December 29, 1972, Chapter 15 of the Statutes of Canada, 1967-68.

## FACTORS

Parliament did not deal with the matter in 1972. Parliament has been summoned to meet on January 4, 1973, but the 1967 legislation, referred to above, will have reverted to what it was immediately prior to December 29, 1967, i.e., when murder was "capital" if it was "planned and deliberate" on the part of the murderer, was done by the murderer's "own act" or was the death of a police or prison officer caused by the murderer's "own act".

The Statistics Canada report on murder statistics for 1972 will not be available until February, 1974. What is perhaps of more significance (if capital punishment - or the lack of it - is considered as having any effect on crime generally) is that statistics of criminal and other offences for 1971 and 1972 will not be available until the months of December in 1973 and 1974, respectively.

Statistics Canada say that a 10-Year Special Study on the death penalty is scheduled to be released in February, 1973.

## COURSES OPEN TO THE GOVERNMENT

These are set out on pages 3 and 4 of the memorandum of February 25, 1972, attached. However, in the light of the lack of the availability of time to consider the effect, in every respect, of the five-year term that will expire on December 29, 1972, paragraph (c) of the courses open is repeated here as follows:

- (c) extend the life of the 1967 amendment by a period of time that would enable a comparison of three periods of approximately six years each, during each of which the law of murder was different:
  - (i) the period 1955 to 1961, when all murder was capital, and the only penalty was death,
  - (ii) the period 1961 to 1967, when murder was either capital or non-capital, and the penalty for non-capital murder was life imprisonment, and
  - (iii) the period 1967 to 1973, during which capital murder will have been limited to cases involving the death of a police or prison officer;

such an extension should be for three years, to December 29, 1975, to allow one full year for comparison and evaluation of the effect of the law during each of the three distinctive periods and a further year for consideration of the entire issue by the government and Parliament.

## FEDERAL PROVINCIAL RELATIONS CONSIDERATIONS

No change from the memorandum of February 25, 1972.

-3-

#### INTERDEPARTMENTAL CONSULTATION

The undersigned has consulted with his colleague, the Minister of Justice, who agrees with this memorandum.

#### PUBLIC RELATIONS CONSIDERATIONS

There have been no changes under this heading from the material set out at page 6 of the memorandum of February 25, 1972. It should be noted, however, that there have been no surveys published on the question of the abolition of the death penalty since that of the Canadian Institute of Public Opinion in February, 1972, which stated that 30% of Canadians felt it should be abolished, 63% felt it should not be abolished and 7% were of no opinion.

The following studies, commenced by the undersigned in 1971, have been completed and are available for distribution to Members of Parliament and for purchase by members of the public:

- (a) a study by Mr. Bernard Grenier, Barrister, which brings up to date the 1965 Department of Justice Paper entitled "Capital Punishment - Material Relating to Its Purpose and Value"; and
- (b) a study by Professor E. A. Fattah of the Department of Criminology, University of Montreal, entitled "The Deterrent Effect of Capital Punishment."

#### CAUCUS CONSULTATION

The Cabinet decision of June 8, 1972, directed that the undersigned should consult with the Caucus on the matter.

#### LIBERAL FEDERATION

No change from the memorandum of February 25, 1972.

#### RECOMMENDATIONS

The undersigned, therefore, has the honour to recommend that Cabinet should

- (a) instruct the Department of Justice to prepare legislation to amend the Criminal Code in order to extend Chapter 15 of the Statutes of Canada, 1967-68, for a period of three years, with the consequential amendments necessary to ensure that all capital murder cases between December 29, 1972, and the coming into force of the new legislation are dealt with as though Chapter 15 had not expired;
- (b) direct the legislative priority that the Bill should have; and
- (c) consider again and direct whether the issue is to be the subject of a free vote by members of the government.

Respectfully submitted,

\_\_\_\_\_  
Solicitor General

I concur

\_\_\_\_\_  
Minister of Justice

001259



Government  
of Canada

Gouvernement  
du Canada

## MEMORANDUM

## NOTE DE SERVICE

TO  
À

SOLICITOR GENERAL

FROM  
DE

DEPUTY SOLICITOR GENERAL

SUBJECT  
OBJET

CAPITAL PUNISHMENT

SECURITY - CLASSIFICATION - DE SÉCURITÉ
<b>CONFIDENTIAL</b>
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE November 23, 1972

This is a copy of the draft Memorandum to the Cabinet with reference to Capital Punishment. We agreed that you would first have a look at it before we review it early next week.

Attach.

Roger Tassé

RT/ROP



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

141-206

TO  
À

THE DEPUTY SOLICITOR GENERAL

FROM  
DE

SPECIAL ADVISER,  
CORRECTIONAL POLICY

SUBJECT  
OBJET

Capital Punishment

SECURITY-CLASSIFICATION-DE SÉCURITÉ	
CONFIDENTIAL	
OUR FILE - N/RÉFÉRENCE	
YOUR FILE - V/RÉFÉRENCE	File <i>ROP</i> Classer
DATE November 22, 1972	

Pursuant to our discussion of Monday afternoon (Nov. 20), I attach a draft Memorandum for Cabinet in connection with this matter. In its draft form the memorandum deals with the new situation (on the basis of what I understand is the Minister's direction), by reference to the Cabinet memorandum of February 25, 1972. Therefore this package for the Minister's consideration consists of:

- (a) the memorandum of November 22, 1972;
- (b) the memorandum of February 25, 1972; and
- (c) a copy of Bill C-168 of 1967-68, in the form in which it was finally enacted by Parliament and came into force on December 29, 1967.

I think that the Minister should consider my draft memorandum of today and let us know whether it has the form and substance of which he approves.

If the Minister does not approve, I think that we should have some quite specific direction concerning the manner in which the form or the substance, or both, as the case may be, should be changed.

When the material has been settled in English it should then be translated and sent to Cabinet in both languages.

I have a note from you today saying that the Fattah Report, referred to in both memoranda, is now to be made available for release. I have heard nothing of the Grenier Report, which is also available, but of which the release has not been authorized.

I cannot fail to bring to your attention the difficulties that the Minister is bound to face by virtue of the facts that, for example,

- (a) in the Minister's Foreword to the Fattah Report he states that "there is no doubt, consequently, that

-2-

before the end of 1972, this matter will be taken up again in Parliament and members once more will be called upon for a decision; and

- (b) in the Grenier Report the Minister's Foreword is dated January 15, 1972, and the Report has not, as of November 22, yet been released.

I think that the Minister should be alerted to the fact that the Department's failure to release the documents before the end of 1972 raises questions that undoubtedly he will be called upon to answer. It would be unfortunate, from the Minister's point of view, if the circumstances immediately foregoing were not brought to his attention prior to the opening of Parliament.

Atts.

A. J. MacLeod.

AJTP:EMH





Government  
of Canada

Gouvernement  
du Canada

# MEMORANDUM

# NOTE DE SERVICE

TO  
A

THE DEPUTY SOLICITOR GENERAL

FROM  
DE

SPECIAL ADVISER,  
CORRECTIONAL POLICY

SUBJECT  
OBJET

Capital Punishment

SECURITY-CLASSIFICATION-DE SÉCURITÉ
CONFIDENTIAL
OUR FILE-N/RÉFÉRENCE
YOUR FILE-V/RÉFÉRENCE
DATE November 22, 1972

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Atts.

*A. J. MacLeod*  
A. J. MacLeod.



Government  
of Canada

Gouvernement  
du Canada

# MEMORANDUM

# NOTE DE SERVICE

TO  
À

MR. A.J. MacLEOD, Q.C.

FROM  
DE

DEPUTY SOLICITOR GENERAL

SUBJECT  
OBJET

Capital punishment - Mr. Fattah's study

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE <b>November 21, 1972</b>

The Minister has now agreed to the release  
of the study prepared by Mr. Fattah on Capital Punishment.

I would appreciate it if you would draft a short press  
release for the Minister announcing the release of this  
publication.

OBK  
ORIGINAL IN FILE  
R TASSE

RT/h1

Roger Tassé.

**SOLICITEUR GÉNÉRAL  
ADJOINT**

**DEPUTY  
SOLICITOR GENERAL**

*Please  
1st hand  
no.*

~~Speak to  
MacLeod.~~

Ruby: please send  
copy of cabinet  
decision to  
MacLeod.

*Done  
Nov. 20/72  
R.D.P.*

to return

001266

# SOLICITOR GENERAL

## MEMORANDUM

- up date information
- statistics - 1 - 1 - 1
- trip packing -
- communication
- résumé - of Fattah Summer
- further study -

ROP

PRIVY COUNCIL OFFICE



BUREAU DU CONSEIL PRIVÉ

OTTAWA, K1A 0A3

le 20 novembre 1972.

SECRET

Cher monsieur Tassé,

*Cafri tel  
poursuivre 8*

A sa réunion du 16 novembre, le Cabinet a approuvé un certain nombre de projets de loi pour la première session de la 29<sup>ième</sup> législature. Vous trouverez ci-joint le titre des mesures législatives qui concernent votre ministère.

Il est essentiel que les projets de loi soient prêts pour présentation à la Chambre au début de la session ou le plus tôt possible après. A cette fin, je vous serais reconnaissant de bien vouloir prendre les mesures suivantes:

1. Indiquer à monsieur Gérard Bertrand du Secrétariat de la planification législative et parlementaire (tél: 5-7987) si les mémoires déjà soumis au Cabinet ou projets de loi présentement rédigés sont toujours acceptables ou si une nouvelle soumission aux ministres est nécessaire; si oui, à quelle date le mémoire sera-t-il prêt;

2. Communiquer avec monsieur D.S. Thorson, Sous-ministre-adjoint du ministère de la Justice, afin de convenir des dispositions à prendre concernant la rédaction de ces mesures législatives.

L'attention personnelle que vous voudrez bien accorder à cette demande sera vivement appréciée.

*D.S. Thorson*

Monsieur R. Tassé,  
Solliciteur général adjoint,  
Ottawa.

SOLICITOR GENERAL DEPARTMENT

Capital Punishment



141-206

TO  
À

DEPUTY SOLICITOR GENERAL

FROM  
DE

DEPARTMENTAL COUNSEL


SUBJECT  
OBJET

SECURITY CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE November 16, 1972

I am told by Mr. Hofley that you wish to have a resumé of certain of the cases in which the death sentence was commuted by Cabinet.

I enclose as appendix "A" a resumé of the four cases which have been dealt with under the 1967 amendment to the Criminal Code. I also attach as appendix "B" a resumé of the three most recent cases prior to the 1967 amendment that would still constitute capital murder under the revised legislation.

Encls.

  
J.H. Hollies,  
Departmental Counsel

JHH/mab

Copy on: 141-206-1





Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
A

DEPUTY SOLICITOR GENERAL

FROM  
DE

DEPARTMENTAL COUNSEL

SUBJECT  
OBJET

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE November 16, 1972

*Capital punishment*

I am told by Mr. Hofley that you wish to have a resumé of certain of the cases in which the death sentence was commuted by Cabinet.

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Encls.

JHH/mab

*J.H. Hollies*  
J.H. Hollies,  
Departmental Counsel

[REDACTED]

[REDACTED] strangled his common-law wife, having previously killed a woman with whom he had been living. He called the police, telling them what he had done. When the police arrived he was lying in ambush and shot and killed one of the R.C.M. Police officers. He said he had long intended to kill a policeman.

He had a lengthy criminal record and was thirty years of age at the time of the offence. Psychiatric evidence was produced at the trial indicating he was suffering from a disease of the mind manifested by chronic lack of control over sexual or homicidal impulses. Psychiatric examination after trial differed, one psychiatrist finding that the man suffered from no mental illness, but rather a gross character defect arising from a very unhappy childhood. The other psychiatrist characterized him as an anti-social personality of an aggressive and explosive type. On July 3, 1969, Cabinet commuted his sentence to life imprisonment. The jury very strongly recommended clemency.

[REDACTED]

[REDACTED] shot a police constable when he was surprised in the course of an attempted hold-up. After hitting the constable with his first shot he fired directly at him again as the constable was wholly or partially on the ground. He next ran toward the other constable who was at the scene and continued to fire his weapon until it would fire no longer.

He had a minor criminal record beginning when he was aged thirty-nine, being fifty-two years of age at the time of the offence. The psychiatric assessment carried out post trial indicated a character disorder, but no psychosis.

The jury unanimously recommended clemency and on December 23, 1970, Cabinet commuted his sentence to life imprisonment.

- 2 -

[REDACTED]

Following a major domestic quarrel during which a shot was fired, [REDACTED] called the police. When they arrived he opened fire without warning and engaged in a protracted gun battle with the constables. In the course of this Rosik killed one constable, shot a second constable in the face, causing him to lose an eye, and seriously injured a third constable. In all he fired some twenty shots.

He had no previous criminal record, but had a history of admission to hospital on psychiatric grounds on two previous occasions. The jury made no recommendation for or against clemency. Cabinet commuted his sentence on February 4, 1971.

[REDACTED]

Two detectives attempted to apprehend Shand, who was observed apparently peeping in the window of an apartment block. One of the detectives identified himself as belonging to the Winnipeg Police, whereupon Shand ran away. The detective chased Shand and caught him, at which time a struggle began. In the struggle, Shand knifed the detective, using a weapon about nine inches in length. The other detective came to the assistance of his colleague and Shand, who had meanwhile dropped his knife, picked it up again and stabbed the second detective twice, causing his death. The first detective had one lung collapsed and the other partially collapsed as a result of the stabbing. Shand did not give evidence or call witnesses in his own defence. There was some evidence that Shand had been drinking.

Psychiatric examination of [REDACTED] disclosed no mental illness, but an explosive personality. The jury made no recommendation for or against clemency.

The conviction was appealed to the Supreme Court of Canada, but was dismissed. Cabinet commuted the sentence to one of life imprisonment on February 24, 1972.

s.19(1)

[REDACTED]

This was the "Santa Claus" murderer. While fleeing from a robbery he murdered two policemen firing additional shots into the body of one of them after the policeman was on the ground. He was convicted March 1, 1963, but was given sundry reprieves during his appeals. Cabinet twice decided against commutation but on both occasions reconsidered and ordered further reprieves, in one instance, on the day before execution was to take place. The final date for execution was set as December 4, 1964. On December 3, 1964, sentence was commuted.

[REDACTED]

This was murder during the course of escape from penitentiary. An R.C.M. Police constable ordered another escaping inmate to drop his weapon, and the accused, using a revolver, shot and killed the constable. The accused was eighteen years old at the time of the offence. The judge and jury both recommended mercy and the sentence was commuted in November, 1965.

[REDACTED]

While at exercise in a penitentiary yard, Colpitts expressed to another inmate his intention to knife a guard. He approached his victim and without warning, stabbed him in the chest, spun around and stabbed him again in the back. He had not previously known his victim. Colpitts was nineteen years old at the time of the offence and was described as not being psychotic, but as an aggressive criminal psychopath. Three of the jury recommended mercy, the other nine did not nor did the judge. His sentence was commuted in January, 1966.



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

MR. R. TASSE  
DEPUTY SOLICITOR GENERAL

FROM  
DE

ASSISTANT DEPUTY SOLICITOR GENERAL

SUBJECT  
OBJET

Vickers & Benson Ltd  
Capital Punishment

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE November 15, 1972

F.A.  
15.  
17/x/72.

I have given further thought to the question of capital punishment in preparation for your meeting with Pierre Pelletier of Vickers & Benson Ltd, and have come to the same conclusions as those contained in my memo to you of September 27th, a copy of which is attached.

Much will depend on whether Parliament is re-convened before December 29th and we will have to look to the Minister for guidance in this respect.

The steps I see then are as follows:

- a) The Minister should consult with Cabinet and Caucus;
- b) instruct the Department of Justice re required legislation;
- c) have someone draft a speech for the Minister in the House;
- d) depending on the results, we should allow Information Canada to publish the Grenier and Fattah Report with an appropriate publication brochures to accompany the publication ( this is usually done by Information Canada); and
- e) have the Canadian Corrections Association make a further reference to the Report in their next publication.

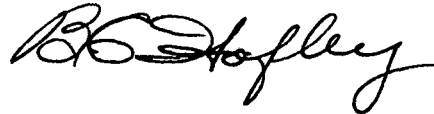
Until the above points are dealt with, I don't see how we can hold out any hope of using Vickers & Benson Limited.

. . . 2

001275

- 2 -

I am also of the impression that there will be considerable pressure to institute the capital punishment for hijacking and possibly drug trafficking. Some thoughts should be given to the consequences of such a decision in the House.

A handwritten signature in cursive script, appearing to read 'B. C. Hofley'.

B. C. Hofley

Att.

Government  
of CanadaGouvernement  
du Canada

## MEMORANDUM

## NOTE DE SERVICE

TO  
À

MR. A.J. MacLEOD,  
SPECIAL ADVISER,  
CORRECTIONAL POLICY

FROM  
DE

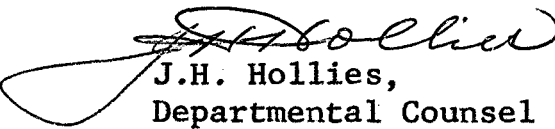
DEPARTMENTAL COUNSEL

SUBJECT  
OBJET

Capital Punishment -  
United States Questionnaire

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
141-206
YOUR FILE - V/RÉFÉRENCE
DATE
November 7, 1972

JHH/mab

  
J.H. Hollies,  
Departmental Counsel

001277

Government  
of CanadaGouvernement  
du Canada

## MEMORANDUM

## NOTE DE SERVICE

TO  
À**MR. A.J. MacLEOD,  
SPECIAL ADVISER,  
CORRECTIONAL POLICY**FROM  
DE**DEPARTMENTAL COUNSEL**SUBJECT  
OBJET**Capital Punishment -  
United States Questionnaire**

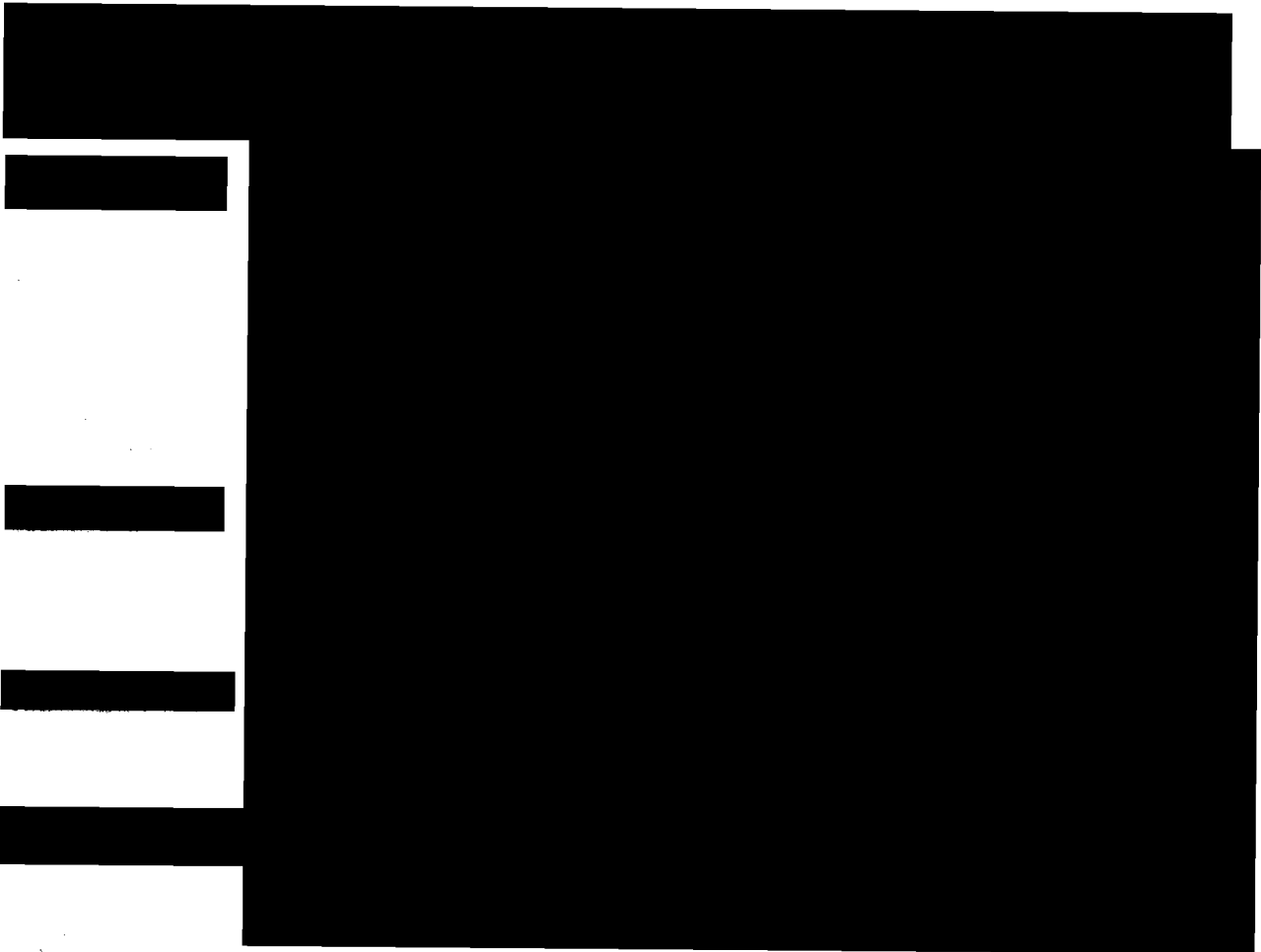
SECURITY - CLASSIFICATION - DE SÉCURITÉ

OUR FILE - N/RÉFÉRENCE

**141-206**

YOUR FILE - V/RÉFÉRENCE

DATE

**November 7, 1972**

JHH/mab

  
**J.H. Hollies,  
Departmental Counsel**

001278



FROM  
DE17  
1  
Deputy Director, InformationTO  
À  
Mr. Roger Tassé  
Deputy Solicitor GeneralSUBJECT  
SUJETAnnual Report and Capital Punishment Publications

For your reference and information, I am forwarding one copy of the 1971-72 Annual Report, one copy each of the French and English editions of "Capital Punishment", and a French copy of the 1965 Department of Justice Paper on capital punishment.

Except for the latter publication, all are being protected from disclosure. The Annual Report will be disclosed at the time it is tabled in the House of Commons and disposition of the 1972 Paper on Capital Punishment will be decided by the Solicitor General.

At this time, the only copies of the annual report and the 1972 Paper on Capital Punishment I have distributed are those enclosed. The remainder of the small supplies of advance copies are under locked storage in my office.

*S.L. Roberts*  
S.L. Roberts

SECURITY - CLASSIFICATION - DE SÉCURITÉ

OUR FILE - N<sup>o</sup> RÉFÉRENCEYOUR FILE - V<sup>o</sup> RÉFÉRENCE


DATE

6-Nov.-1972

DEPARTMENT OF THE SOLICITOR GENERAL  
MINISTÈRE DU SOLLICITEUR GÉNÉRAL

MEMORANDUM

November 2, 1972.

2  
p  
  
MR. FOLEY:

I attach a draft letter for the Minister's signature to Mr. Jack Horner concerning capital punishment.

The information that he seeks is set out in Mr. Grenier's study that up-dates the Department of Justice White Paper of 1965. That document is still being held for release, upon authorization of the Minister. If the Minister wishes to give Mr. Horner the information, we have it available. However, failing that, the attached draft might be considered to be suitable.

A. J. MacLeod,  
Special Adviser,  
Correctional Policy.

Att.



001280

141-206

Ottawa, Ontario.  
K1A 0P3

November 6, 1972.

Dear Mr. Horner:

With reference to your letter of October 17 last in which you request certain comparative figures in relation to the subject of capital punishment in Canada, I may say that much of the information that you seek is not available in this Department in the form in which you request it. I should think that, for the most part, the information could be obtained from Statistics Canada in a form suitable for your purposes. Perhaps I should point out, however, that the five-year period following the moratorium on capital punishment does not end until December 28 next.

With reference to your question numbered 9, namely, the cost per year of keeping a convicted murderer in jail, I may say that the cost of maintaining such an inmate in penitentiary is much the same as is the cost of maintaining any other inmate. The cost would vary depending on the nature of the inmate's custody, i.e., whether maximum, medium or minimum security. In maximum security the cost would be approximately \$11,000 per annum, in medium security, approximately \$9,000, and in minimum security, approximately \$5,000.

Yours sincerely,

Jean-Pierre Goyer.

Mr. Jack H. Horner, M.P.,  
House of Commons,  
Ottawa, Ontario.  
K1A 0A7

*Copy to: Horner, JACK H.*  
AJMACLEOD/EGM



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

Mr. A.J. MacLeod, Q.C.  
Special Advisor on Correctional  
Policy

FROM  
DE

D. Foley  
Executive Assistant

SUBJECT  
OBJET

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE October 23, 1972

Attached please find copy of a letter from  
Mr. Jack H. Horner, M.P. for your attention and consideration.

Would you please prepare a reply for the Minister's  
signature as soon as possible.

Thank you,

*For:* D. Foley

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

OCT 70 11 50 AM '72



HOUSE OF COMMONS  
CANADA

O t t a w a  
K1A 0A7

October.17th, 1972

The Hon. Jean-Pierre Goyer, PC, MP,  
Solicitor General of Canada,  
House of Commons.

Dear Mr. Minister,

Would you kindly give me, at your earliest convenience, the comparative figures in each year showing population between the 5-year period preceding the abolition of the Death Penalty and the 5-year period following the abolition of the Death Penalty for the following:

- 1) Number of murders committed.
- 2) Number of murders with intent.
- 3) Number of attempted murders.
- 4) Number of Police or Prison officials murdered.
- 5) Number of convicted murderers declared insane.
- 6) Number of murderers given life sentences.
- 7) Number of death sentences commuted to life imprisonment.
- 8) Average time spent in prison by a convicted murderer.
- 9) Cost per year of keeping convicted murderer in jail.

Yours sincerely,

*Jack H. Horner*  
per LB  
Jack H. Horner, M.P.  
for Crowfoot.

JHH/lb

001283

Vickers & Benson Ltée Publicité

Montréal, Toronto, Vancouver, Edmonton

2055, rue Peel - Montréal 110 - Québec (514) 849-6211

DM SM  
SOL GEN

Nov 6 4 09 PM '72

FILE  
DOSSIER

Le 31 octobre 1972.

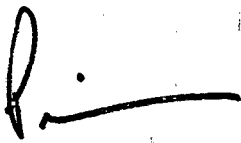
Monsieur Roger Tassé,  
Solliciteur général adjoint,  
340 ouest, rue Laurier,  
Ottawa, Ont.

Cher Roger,

Les élections ayant été ce qu'elles ont été, je me  
demande ce qui arrivera de notre projet d'une campagne  
d'information sur la peine de mort.

De toute manière, je tiens mon dossier personnel  
d'information à jour et je me tiens à ta disposition.

Très cordialement,



Pierre Pelletier

*Mr. Hoyle  
J'ai rendez-vous  
avec M. Pelletier  
mercredi, le 15  
novembre - à  
10h30 -*

*15.  
7/x. / 72.*

141-206

File Classer	ny
-----------------	----

OTTAWA K1A 0P8 October 6, 1972

Mr. P. Chambers,  
109 Langevin Block,  
Wellington Street,  
Ottawa, Ontario  
K1A 0G2

Dear Paul:

Thank you for the photostats of excerpts  
from "AFRICA" on capital punishment in CAR, Nigeria  
and Kenya. Hopefully these will close off the  
query which I was given.

Yours sincerely,

F. N. POPE

FNPOPE:ng

F.N. Pope,  
Correctional Planning Officer.



Government  
of Canada

Gouvernement  
du Canada

# MEMORANDUM

# NOTE DE SERVICE

Classer

TO  
À

MR. D. FOLEY  
EXECUTIVE ASSISTANT

FROM  
DE

MR. F.N. POPE  
CORRECTIONAL PLANNING OFFICER

SUBJECT  
OBJET

Capital Punishment - Nigeria

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N/RÉFÉRENCE
YOUR FILE - V/RÉFÉRENCE
DATE October 6, 1972

Obtaining information on the subject matter from or on Nigeria is very difficult. Their Embassy officials have not replied to written requests and seem to be always "out-to-lunch" to any telephone calls.

On the matter of writing to Nigeria I phoned a person (Mr. P. Chambers) in External Affairs and he said that any request for information on Nigeria should be passed through them rather than direct to our Ambassador's office in Lagos. Mr. Chambers said that the new African Nations are reluctant to release information officially on correctional and social affairs which might subject them to any ridicule or criticism.

Mr. Chambers has sent photostats of articles in a monthly magazine dealing with the subject of capital punishment in the Central African Republic, and Nigeria. He believed these would give us a better insight into the *raison d'être* behind the use of capital punishment. He admitted over the phone that External Affairs are quite concerned at the use of capital punishment in all the African nations, as its use appears to be so closely related to the unemployment and poor economic situation.

E. N. POPE

FNPOPE:NG

F.N. Pope



*Copy to [unclear]  
Piers [unclear]*

 SOLICITOR GENERAL OF CANADA

SOLLICITEUR GÉNÉRAL DU CANADA

MEMORANDUM

*P/M Tasse.*

*You may wish to  
pass this on to the  
S.G. These reports  
will be made up at  
regular intervals.*

*BMA*

Confidential

Public Reaction to Capital Punishment  
Jan. 2 - Sept. 29, 1972

As 1972 began the media interpreted the public mood as favouring the return of capital punishment for all murders.

In a CBC radio interview Dec. 30 Warren Allmand, M.P. for Notre Dame de Grace expressed the opinion that the period between a murder conviction and the review of the murderer's suitability for parole should be increased from 10 to 20 years. Mr. Allmand also noted that capital punishment provides no protection to the public from murder; he thought the emphasis should be on preventive deterrents against killings by criminals and others, e.g. gun control, more effective police protection.

Later, on Jan. 3, 1972, Mr. Allmand was interviewed in company with Eldon Wooliams, M.P. and John Gilbert on CTV News. In his comment, CTV news commentator Finlay MacDonald stated the greatest support for the reinstatement of capital punishment was found among Quebeckers and that this opinion was reflected in public statements by Justice Minister Jerome Choquette and the Creditiste Members of Parliament. MacDonald also reviewed the stand on retention that had been taken by various police associations, a former RCMP commissioner (Kelly) and the Canadian Bar Association. The latter association had defeated a resolution that would have extended the trial moratorium on capital punishment for another two years.

The murder of a Hull police officer by a parolee on Jan. 8 sparked further retentionist sentiment. Foremost among the prominent spokesman in Hull was the then Mayor, Marcel D'Amour, who publicly called not only for a return of capital punishment but also demanded a review of the criteria used for parole.

In his widely distributed column, Richard Jackson, Ottawa Journal Parliamentary Correspondent, and a champion of the harshest possible penalties for all criminals, gave editorial support to John Diefenbaker's proposal that all convictions on murder charges automatically obtain a sentence of mandatory life imprisonment with no possibility of parole.

Early in February the Canadian Institute of Public Opinion reported in its syndicated Gallup Poll that 63 per cent of Canadians wanted the death penalty for murder reinstated and 30 per cent opposed the return of capital punishment. In French Canada the opinion was very clear; 74 per cent of those polled wished for the return of the death penalty and only three per cent were undecided on the question.

- 2 -

Around the same time Raymond Rock, M.P., released the results of a poll of his constituents in the Lachine constituency. Seventy six per cent of those answering the poll question relating to capital punishment favored restoration of the death penalty for murder.

On March 8, meeting at Kingston, the Police association of Ontario voted to ask the federal government to retain the death penalty for both capital and non-capital murder.

John Cline, professor of sociology at the University of Saskatchewan, presented his viewpoint on capital punishment as a deterrent to crime on CBC Viewpoint March 23. Professor Cline dismissed with sound logic the proposition that capital punishment serves as a deterrent to murder.

The alternative punishment, life imprisonment, was viewed as a "considerable deterrent" and "a harsher punishment" than execution by Charles King, Editor of the Ottawa Citizen, in an editorial page column March 22. Charles King took issue with the editorial position of the Hamilton Spectator who saw the consistent commutation of sentence for those convicted of capital murder as Cabinet's eagerness to share in a "general permissiveness and overconcern with the welfare of those who commit acts of brutality". While there's life (for convicted murderers), there's hope, King suggested. So long as the possibility of judicial error remains, the State must avoid the error of executing an innocent person. Capital punishment also is an indirect admission that society is not able to rehabilitate criminals.

Réal Caouette, Creditiste leader in the House, said he was "100 per cent for the restoration of death penalty" when interviewed on CBC TV April 2.

In his Ottawa Journal Column of April 22, Rev. A.C. Forrest expressed the shock of "liberal protestant churchmen" at the revelation that 63 per cent of Canadians wanted the death penalty reinstated. He remarked on the attitude of the Social Credit Party towards capital punishment as extreme.

During the debate in May of the omnibus bill amending the Criminal Code several M.P.s expressed themselves on the subject of capital punishment. John Diefenbaker and Frank Howard were opposed to the reinstatement of capital punishment although Mr. Howard took up a theme that is popular with the press and public. The argument, based on over-simplification of the moral and political responsibilities shouldered by any Cabinet faced with a commutation decision, is that the Cabinet of the present Government has been both "undermining the law" and "encouraging the murder of police officers" by commuting death sentences imposed on those convicted of murder.

- 3 -

On May 1 the Municipal Council of Verdun adopted a resolution calling upon the federal government to re-establish the death penalty for all premeditated murders, murders committed during a criminal act, and murders committed by notorious criminals with long police records.

On the same day in Vancouver, the British Columbia Association of Social Workers voted for the indefinite extension of the moratorium on capital punishment.

News of the U.S. Supreme Court decision on the unconstitutionality of the death penalty brought increased attention to the Canadian situation stand against capital punishment taken by the Canadian Junior Chamber of Commerce.

Hon. Otto Lang was asked to react to the U.S. court decision. In his opinion (CBC radio interview, June 29) the country was very divided on the issue of capital punishment. There seemed to be a general feeling among many Canadians that retention of the death penalty would serve as a deterrent against crime, he said. Peter Louckes, who interviewed Mr. Lang, interpreted Mr. Lang's views as that public opinion on capital punishment had not changed greatly since 1967 and that the trial period hadn't proved anything about the effectiveness of the death penalty. He was reported by Mr. Louckes as saying that it's (a decision on capital punishment) "a matter of logical inference rather than statistical analysis".

In July, the Canadian Police Association asked for a national referendum on capital punishment, an idea that was rejected by both Solicitor General Jean-Pierre Goyer and Prime Minister Trudeau. In a CBC Radio interview, July 12, Mr. Goyer suggested that it was possible that an extension of the trial period be encouraged so that the date on the five-year period could be analyzed on a scientific basis and made available to the Members of Parliament.

The conference of Mennonites in Canada (22,000 members) voted 417-140 against capital punishment at its annual meeting on July 7.

On August 30, the president of the Canadian Association of Chiefs of Police, during its annual conference at Quebec City, urged the return of capital punishment in Canada.

Of passing interest there is also the result of a poll conducted in California during the summer. The result showed 66 per cent in favor of the death penalty and 24 per cent opposed. Californians will vote in November on the restoration of the death penalty and thus the issue is of great public interest in the state.

... 4

- 4 -

Unlike other police associations, the Quebec Police and Fire Chief's Association took a moderate stand on the issue. It recommended, at its September meeting, that the trial moratorium on capital punishment be extended for another five years. The thinking of the Quebec police chiefs on the subject was clarified largely as a result of Mr. Goyer contributing some infrequently quoted statistics to the argument.

July was the month for most public comment on capital punishment. Aware of the news value of controversy and the morbid preoccupation of the public with matters related to death, even the legal execution of convicted murderers, the media have tried to whip up public interest in the issue of capital punishment before the issue is debated in Parliament. These attempts have not succeeded because up to the end of September there has not been a controversial statement made publicly on the issue to which they could tie a running story. The police can be expected to present a public consensus in support of a return of capital punishment; churches, socially aware professionals, intellectuals, and reformers can be expected to favour abolition of capital punishment. Neither position is news. At this time, the hope of the media is that capital punishment may develop as an issue in the national election campaign. So far it hasn't, probably because all candidate are unsure of public opinion on the issue.

Of Letters to the Editor in Canadian daily newspapers during the period 26 writers were in favor of capital punishment and one was opposed. Another writer expressed no opinion on the death penalty, objecting only to the incompetence of the police to express any useful opinion on the subject. A mini-poll carried out on the street by a Charlottetown reporter provided perhaps as relevant reading of the public pulse as any more scientifically conducted examinations. The reporter found four persons in favor of, and four persons opposed to, capital punishment; a ninth person was undecided.

Editorial stances taken by newspapers have been as follows:

St John's Evening Telegram- government has interfere with Parliament by commuting death sentences; perhaps Parliament is not able to interpret and reflect public opinion on the issue.

Winnipeg Free Press- the government ignores its own law; it should make up its mind. - police must be protected by law; the government is too lenient.

... 5

- 5 -

Kingston Whig-Standard- life imprisonment now meaningless; perhaps neither police nor Parliament able to judge the issue.

Moncton Times- Parliament should listen to the police on the subject.

Vancouver Sun- it is difficult to justify capital punishment; those concerned about the increase in crime should devote their energy and support to seeking the causes of crime and finding cures.

Toronto Sun- Capital punishment is finished in Canada. There should be capital punishment for the most outrageous crimes and society must be protected but we think capital punishment will be abolished permanently in Canada.

Ottawa Citizen- Cabinet should give leadership. Liberal party should support complete abolition.

Charlottetown Guardian- favors capital punishment.

Le Soleil- opposed to capital punishment except for those who murder police officers and prison guards.

Globe and Mail- opposed to capital punishment.

Montreal Gazette- Parliament is not taking its responsibilities seriously.

Ottawa Journal- Government must lead in making the decision.

Hamilton Spectator- Capital punishment is necessary to diminish criminality and violence.

Edmonton Journal- Cabinet is frustrating Parliament by commuting death sentences; the moratorium should be continued for another five years.

## Vickers & Benson Ltée Publicité

Montréal, Toronto, Vancouver, Edmonton

2055, rue Peel - Montréal 110 - Québec (514) 849-6211

Le 25 septembre, 1972.

Monsieur Roger Tassé,  
Solliciteur général adjoint,  
340 ouest, rue Laurier,  
Ottawa, Ont.

Mon cher Roger,

Suite à nos discussions sur le problème d'information de la population canadienne au sujet de la peine de mort, voici les grandes lignes de nos premières recherches de solution, de même qu'un plan de travail/échancier qu'il nous faudra respecter si nous voulons "arriver au 29 décembre en même temps que tout le monde".

### Elément de base

A priori, il nous semble qu'il faudrait que l'élément de base de cette campagne d'information soit un document aussi complet que faire se peut sur le sujet.

Ce document "définitif" devrait contenir le rapport que ton ministère doit publier incessamment, des études statistiques, des opinions de criminologues, psychiatres, travailleurs sociaux, policiers, etc., des comptes rendus venant de pays étrangers, des rapports de l'O.N.U. ou d'autres organismes internationaux, le texte de la loi actuelle et celui de la loi proposée, de même qu'un précis (aussi succinct que possible) sur la question.

... 2/

/2 ...

Monsieur Roger Tassé,

Quelle forme matérielle devra prendre ce document? Je n'en sais rien sinon que nous avons pensé réunir le tout dans une grande chemise rouge à lacet; on pourrait imprimer un message approprié sur la chemise.

#### Auditoires-cibles

Dans le contexte d'objectivité et de non-partisanerie dont le Ministre a fait état lors de notre rencontre, il nous apparaît assez évident qu'il ne doit pas y avoir d'auditoires particuliers: tous les Canadiens adultes ont le droit le plus absolu d'être informés sur cette question capitale.

Par ailleurs, dans la pratique, il faut songer à la manière de diffuser ce document.

Nous proposons donc que le document soit d'abord distribué à tous les députés, puis, avec une ou deux journées de battement, qu'il soit donné à la presse parlée et écrite (conférence de presse du Premier Ministre et du Solliciteur Général?), aux associations de policiers, à la direction des pénitenciers, aux universitaires intéressés, à la magistrature (?), aux travailleurs sociaux.

Parallèlement, il nous apparaît, pour le moment du moins, que la meilleure façon d'informer tous les Canadiens serait de faire publier des annonces dans tous les principaux journaux du pays.

Quant à la forme et au contenu de ces annonces, nous n'en sommes pas encore arrivés à un consensus. Elles pourraient être le précis dont je parlais plus haut et offrir le document à qui voudrait bien le demander ou elles pourraient tout simplement offrir le document en question. Ce sera là une question à fouiller plus tard.

... 3/



/3 ...

Monsieur Roger Tassé,

Plan de travail/échéancier

Semaine du:

- 25.9.72            Collection de toute l'information idoine.  
Recherches/sondages.
- 2.10.72           Briefing du Ministère à l'équipe V&B.
- 9.10.72           Elaboration du plan.
- 16.10.72          Présentation du plan. Approbation.
- 16.10.72          Exécution.
- 15.11.72          Lancement et publication.

Equipe de travail

L'équipe à qui je confierai l'exécution de cette tâche sera bien entendu l'équipe de base de V&B avec ses spécialistes des différentes disciplines des communications.

A cause de la gravité du sujet, nous devrons également y adjoindre des représentants d'autres disciplines: avocats, criminologues, sociologues, spécialistes en sondages, etc.

Budget

A ce stade-ci de l'entreprise, il est impossible d'établir un budget global. Selon les décisions que nous prendrons, les argents peuvent atteindre des ordres de grandeurs qui varient de presque zéro à l'infini.

... 4/

/4 ...

Monsieur Roger Tassé,

C'est pour cela que je te propose de travailler d'abord sur une base d'honoraires établis selon des tarifs horaires (straight manpower fee).

Pour la première phase, c'est-à-dire jusqu'à la présentation du plan, je ne peux qu'établir un estimé très approximatif. Disons que nous parlons de pas moins que \$15,000. et que ça pourrait aller chercher dans les trente ou quarante mille dollars, selon les ressources que nous devrons mettre en action.

Il va de soi que, dans ce système, tout ce que nous devons acheter à l'extérieur te sera facturé net, i.e. sans la commission normale de l'agence. Les frais (e.g. déplacements) seront calculés de la même façon.

Par ailleurs, au moment de l'exécution du plan, s'il y a suffisamment de dépenses "à commission", nous pourrions ne travailler que sur cette base.

Pour donner une idée du coût de l'espace acheté dans les journaux, j'ai fait calculer combien il pourrait en coûter de prendre une pleine page dans tous les quotidiens et 1,000 lignes dans tous les hebdomadaires et toutes les publications ethniques du pays. Et ça arrive à \$210,232.81. Note bien que ceci n'est pas du tout une recommandation: il faudra bien sûr travailler la question.

#### Conclusion

Tout ce qui précède est à peine l'ébauche d'un plan. Il ne s'agit que de considérations tout à fait préliminaires dont le seul but est de t'indiquer une orientation générale.

... 5/

/5 ...

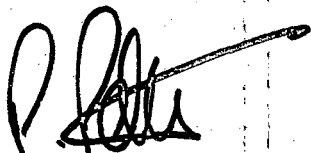
Monsieur Roger Tassé,

Mon équipe se passionne sur le sujet. Tous les membres de l'équipe voient dans cette question une occasion sans précédent d'exercer leur métier (et leur intelligence) dans des schèmes qui sortent de la normale. Pour un "challenge", c'en est un de toute première grandeur. Ils y voient également une belle occasion de mettre leur métier au service de leur conscience sociale.

Pour tout dire, ils ont le mors aux dents.

J'attends donc, en leur nom et à titre personnel, le feu vert.

Très cordialement tien,



Pierre Pelletier  
Premier vice-président et  
directeur général.

PP:cc

c.c. Y. Guinard  
F. Collins



Government of Canada  
Gouvernement du Canada

MEMORANDUM

NOTE

DE SERVICE

Referred to: *Mr. Pope*

File No. *141-206*

Charged to: .....

TO  
A *Mr. F. N. Pope*  
Correctional Planning Officer

*DM SM*  
*SOL GEN*

FROM  
DE *D. Foley*  
Executive Assistant

*19 SEP 1972*

SECURITY-CLASSIFICATION-DE SÉCURITÉ
OUR FILE-N/RÉFÉRENCE
YOUR FILE-V/RÉFÉRENCE 141-206
DATE August 30, 1972

SUBJECT  
OBJET

As suggested in your memo of August 17, kindly make necessary arrangements with Prisons Department of Nigeria to obtain the data in question.

Thank you

*D. Foley*  
D. Foley

*File kept.*  
*Library has asked*  
*Nigerian Embassy in Ottawa*  
*for information.*  
*D. Foley*  
*Cor. Plan. Off.*  
*8 Sep 72*

15 NOV 30 14:28

001298



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

MR. ED FINE  
SPECIAL ASSISTANT

FROM  
DE

MR. F.N. POPE  
CORRECTIONAL PLANNING OFFICER

SUBJECT  
OBJET

Capital Punishment - Nigeria

SECURITY - CLASSIFICATION - DE SÉCURITÉ	
OUR FILE - N/RÉFÉRENCE	
141-206	
YOUR FILE - V/RÉFÉRENCE	
DATE	
August 17, 1972	

Further to my memorandum of July 31, 1972 on the subject matter, we have now had a reply from the National Council on Crime and Delinquency, Information Centre and they have no bibliography relating statistics per se. They suggested that if we wish this specific information that we should communicate with

Hon. F. S. Giwa-Osagie, Director of Prisons  
Prisons Department  
Private Mail Bag 12522  
Lagos, Nigeria

If you wish us to delve more thoroughly into this subject, please let us know.

For your information I attach a photostat of a small article from the Ottawa Citizen relating to the medieval punishment now officially invoked in the Central African Republic. It would seem that the social mores in certain African Nations are somewhat different from those which we have in North America.

E. N. Pope

FNPOPE:ng

F.N. Pope

Att.

# Medieval punishment meted out

BANGUI, Central African Republic (AP) — This African nation Saturday officially invoked medieval punishments—the loss of an ear or a hand and ultimately death—for convicted robbers.

Information Minister Victor Teteya said three robbers, caught in the act, had their right ears lopped off Saturday. They also were sentenced to five years in jail with no appeal allowed.

Second offences will cost the loss of the other ear. A third offence will mean a hand amputated. A fourth offence will bring death by firing squad in public.

President Jean Bedel Bokassa, in a radio broadcast, said he was forced to impose the severe measures to “preserve the reputation of the Central African Republic, which has been soiled by the multiplication of thefts.”

Cotton and coffee 001300  
republic's main export crops.

# Detergen

32-oz. Bottle

29¢

---

**SUNNY**

Frozen

Lemonade

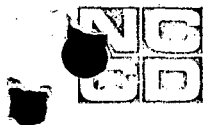
6-oz. Tin

12¢

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001301

**SOMMERDALE**



# NATIONAL COUNCIL ON CRIME AND DELINQUENCY

NCCD CENTER • PARAMUS, NEW JERSEY 07652 • TELEPHONE: (201) 262-7300

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\*Executive Committee member

August 14, 1972

Mrs. Freda Harris  
The Library  
Dept. of the Solicitor General  
Sir Winifred Laurier Bldg.  
Ottawa, Ontario KIA OP8 Canada

Dear Mrs. Harris:

Regarding your request for information on the Cattell 16 Personality Factors Test, enclosed is a bibliography on psychological testing with appropriate citations starred. An excellent reference for Cattell's test is contained in:

Anderson, Harold H.; Anderson, Gladys L. An introduction to projective techniques. Englewood Cliffs, N.J., Prentice-Hall, Inc. 1964. 720 p.

Capital punishment in Nigeria is discussed in the three abstracts enclosed. For more specific information about the situation in Nigeria, you may want to contact:

Hon. F. S. Giwa-Osagie, Director of Prisons  
Prisons Department  
Private Mail Bag 12522  
Lagos, Nigeria

Sincerely,

*Susan Negrotto*  
(Mrs.) Susan Negrotto  
Information Analyst

SN/set  
enc.

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001302



NATIONAL COUNCIL ON CRIME AND DELINQUENCY

Information Center  
Paramus, N.J. 07652

S 10658 "Proceedings of the twentieth international course in  
criminology." International Annals of Criminology  
(Paris), 10(1):3-335, 1971.

Papers presented at the Twentieth International Course in  
Criminology, held in Nigeria in August 1970, are collected in this  
issue. The theme of the course was noninstitutional treatment of  
offenders, which was considered relevant to African countries that  
are not as burdened with traditions of custodial treatment as the  
more developed countries. The papers deal primarily with correctional  
treatment in Nigeria.

INFORMATION INPUT RECORD

<p>8008</p> <p>AUTHOR(S)</p>	<p>Morsbach, Helmut, Morsbach, Gisela.</p>
<p>REMAINDER OF CITATION</p>	<p>Attitudes toward capital punishment in South Africa. British Journal of Criminology, 7(4):394-403, 1967.</p>

ABSTRACT

South Africa has a long tradition of capital punishment. There has been little discussion about abolition of the death penalty. A report of the Penal and Prison Reform Commission in 1947 concluded that public opinion in South Africa at that time was not ready for any change. The present study attempted to assess an elite segment of public opinion--that of the White Afrikaans- and English-speaking University students. A questionnaire consisting of 31 items designed to test attitudes toward capital punishment was drawn up and administered to 31 Afrikaans-speaking students and 160 English-speaking students. Of these, 81 were enrolled in the Faculty of Arts, 39 in the Faculty of Science, 20 in the Faculty of Law, and 20 in the Faculty of Divinity. Findings revealed that the Afrikaans-speaking students and English-speaking law students were largely in favor of capital punishment; the Arts and Science students occupied a neutral position; and the Divinity students were generally opposed to it. On the basis of these findings it seemed unlikely that any changes would be made in South African criminal law.

001304

## INFORMATION INPUT RECORD

AUTHOR(S) % Milne, Alan.			
			DESIGNATOR % Editor
TRANSLATED TITLE %			
TITLE % African penal systems.			
SOURCE DOCUMENT TITLE %			
SOURCE DOCUMENT IDENTIFICATION % London, Routledge & Kegan Paul, 1969. 501 p.			
AUTHOR ADDRESS % Trinity College, Oxford, England			
			CODE % NCC
			YEAR % 1969
ABSTRACT TYPE % Ind	LANGUAGE % English	TRANSLATION %	CL. MAJOR SUBJECT AREAS % Crime and Delinquency, Legislation and Law
UTILITY 1 %			UTILITY 2 %

## DESCRIPTORS

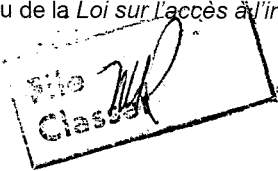
NCMH I	
X Book	
X Overview	
statistical data	
corrections	
criminal procedure	
criminal law	
legal punishment	
developing country	
recidivism	
inmate	
juvenile delinquency	
juvenile delinquent	
mentally ill offender	

This book explores the problems of African criminology, administration of justice, and corrections. The 16 contributors are sociologists, lawyers, and psychiatrists and each is an authority on some aspect of African penal problems. The first part gives a general survey of the penal systems of the following countries: The Congo Democratic Republic, Ethiopia, Ghana, Kenya, Tanzania, Uganda, Lesotho, Botswana, Swaziland, Liberia, Portuguese Africa, the United Arab Republic, and Zambia. Part two contains the following six specialized contributions on various detailed problems in the development and operation of the modern African systems: sentencing patterns in Nigeria, the East African experience of imprisonment, psychiatry and the criminal offender in Africa, penal policy and under-development in French Africa, capital punishment in South Africa, and the Ghana prison system. The introduction describes the sociological forces responsible for the increase of crime in Africa today and examines the possibility of the growth of a peculiarly African approach to the solution of its penal problems.

**MEMORANDUM**  
GOVERNMENT OF CANADA



**NOTE DE SERVICE**  
GOUVERNEMENT DU CANADA



FROM  
DE

**Mr. D.R. McCOMB,  
CHIEF,  
CORRECTIONAL CONSULTATION CENTRE**

TO  
À

**MR. E. FINE,  
SPECIAL ASSISTANT**

SUBJECT  
SUJET

**Capital Punishment - Nigeria**

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE — N/RÉFÉRENCE <b>141-206</b>
YOUR FILE — V/RÉFÉRENCE
DATE <b>July 31, 1972.</b>

Reference is made to your memorandum of July 28, 1972, and your conversation with Mr. F.N. Pope, on July 31, 1972. The library has been asked to obtain as much information as possible on the subject matter. It is estimated that this may take as long as two weeks.

**D. R. McComb**

**FNPOPE/MR**



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

*Mr. McComb*

TO  
A  
Mr. D.R. McComb  
Chief, Correctional Consultation  
Centre

FROM  
DE  
Ed Fine  
Special Assistant

SUBJECT  
OBJET

SECURITY-CLASSIFICATION-DE SÉCURITÉ
OUR FILE-N/RÉFÉRENCE
YOUR FILE-V/RÉFÉRENCE
DATE July 28, 1972.

Enclosed in a clipping from the Toronto Star, July 26, 1972, referring to Nigeria's execution of convicted thieves. Would you kindly investigate whether this policy has acted as a deterrent and prepare a brief report for the Minister.

Thank you for your co-operation.

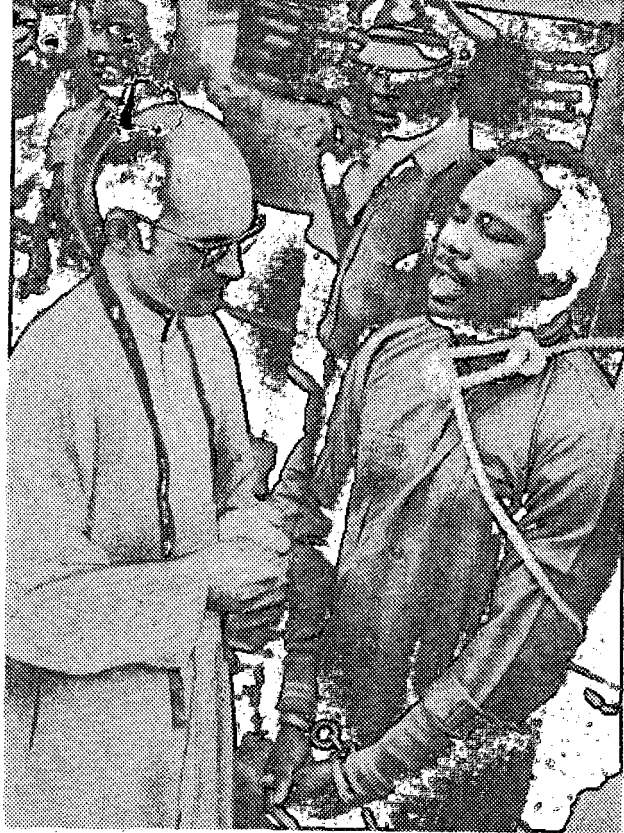
*Ed Fine*  
Ed Fine

DM SM  
SOL GEN

JUL 28 3 28 PM '72

FILE  
DOSSIER

001308



## CONDEMNED MAN PRAYS

Condemned to die for armed robbery, a Nigerian prays with a priest minutes before he was shot by a firing squad in a Port Harcourt playground before an estimated 50,000 persons. About 170 robbers have died since August, 1970, when Nigeria imposed death penalty (001309 s.

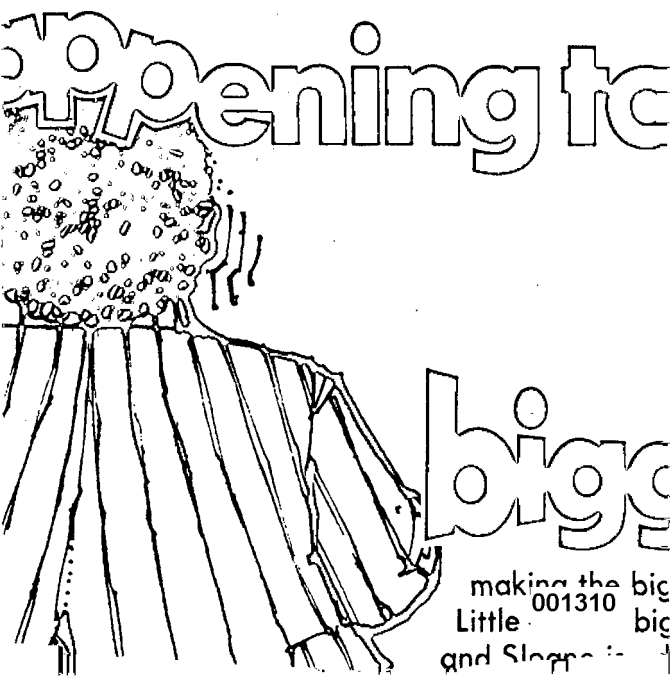
The sophisticated weapons which Egypt wanted and which Russia failed to deliver included the supersonic MiG-23 jets, ground-to-ground missiles and TU-16 long range bombers, armed with air-to-surface missiles.

The MiG-23, the fastest jet to date, is still on Russia's secret list and none of its east European allies has received them.

LR

Holiday Inn—7  
89 Chestnut S  
(Just off Unive  
south of Dund-

Phone: 367-07



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big

making the big  
Little 001310 big  
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PRIVY COUNCIL OFFICE



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CANADA

Serial No. \_\_\_\_\_  
Série \_\_\_\_\_

CONFIDENTIAL

RECORD OF CABINET DECISION

Meeting of June 8, 1972

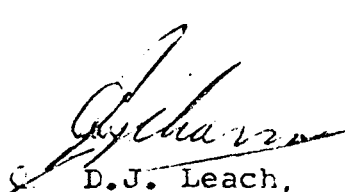
Capital Punishment

The Cabinet agreed that:

(a) the question of capital punishment be left to a free vote if it were brought before Parliament in the Fall;

(b) if questioned about the government position on the matter in the meantime, Ministers should feel at liberty to express their private views as Members of Parliament, preferably indicating a minimum position that legislation should not revert to the situation obtaining before 1967 and that the effects of the present legislation needed to be tested for a few more years, suggesting therefore its prolongation for some years as the likely course of action;

(c) the Solicitor General should consult with the Caucus on the matter.

  
D.J. Leach,  
Supervisor of Cabinet Documents.

June 9, 1972.

PRIVY COUNCIL OFFICE



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RECORD OF CABINET DECISION

Meeting of June 8, 1972

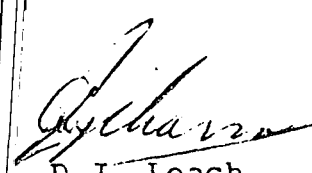
Capital Punishment

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(c) the Solicitor General should consult with the Caucus on the matter.

  
D.J. Leach,  
Supervisor of Cabinet Documents.

June 9, 1972.

Clause 8

Moved by

That Bill C-2 be amended

- (a) by striking out line 22 on page 4 and substituting the following:

'period, and'

- (b) by striking out line 26 on page 4 and substituting the following:

'death,'

- (c) by striking out lines 27 to 30 on page 4.

and

- (d) by striking out line 38 on page 4 and substituting the following:

'death on the day that it so sentenced him.'

Article 8 du bill

Proposé par

Que le Bill C-2 soit modifié

- a) par le retranchement de la ligne 21, à la page 4, et son remplacement par ce qui suit:

'trouvant dans cette période, et'

- b) par le retranchement de la ligne 24, à la page 4, et son remplacement par ce qui suit:

'sable de mort,'

- c) par le retranchement des lignes 25 à 28, à la page 4.

et

- d) par le retranchement de la ligne 36, à la page 4, et son remplacement par ce qui suit:

'cour qui l'a condamnée à mort le jour où elle l'a ainsi condamné.'

Clauses 10 to 12

Moved by

That Bill C-2 be amended by striking out clauses 10 and 11 and by renumbering clause 12 as clause 10.

Articles 10 à 12 du bill

Proposé par

Que le Bill C-2 soit modifié par le retranchement des articles 10 et 11 et par le renumérotage de l'article 12, qui devient l'article 10.

141-206

TELEPHONE 946-7367



PROVINCE OF MANITOBA  
OFFICIAL COURT REPORTER'S OFFICE  
LAW COURTS  
WINNIPEG

May 29, 1970

*Miss Hansen*

Miss Inger Hansen  
Legal Officer  
Department of Solicitor General  
Ottawa 4, Canada.

Dear Miss Hansen:

In reply to your letter of the 26th I enclose herewith copy of the Instruction Booklet referred to in my earlier letter to you, and I direct your attention particularly to page 9 as it affects court reporters.

If a copy of trial evidence is required by your Department in all convictions in Capital cases, regardless of appeals to Provincial Courts of Appeal or to the Supreme Court, we will then make an extra copy and send it to you automatically.

However, I also direct your attention to Section 588 (5) of The Criminal Code where it suggests that transcripts will be supplied on request.

Yours truly,

*Michael Phillip*  
Michael Phillip  
Chief Reporter.

CAPITAL CASES PROCEDURE

141-206

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA

# CAPITAL CASES PROCEDURE

UNDER SECTION 1063 C. C.

## Résumé of Instructions

Issued by the Department of the Secretary of State in  
recent years relative to the procedure to be  
followed under Section 1063 of the  
Criminal Code



OTTAWA  
EDMOND CLOUTIER  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1941

Copies on: CC4 Shonick  
CC3 Lurvey

*As a result of frequent enquiries regarding departmental procedure in capital cases a "Résumé of Instructions" has been compiled from past correspondence and is now presented in this booklet.*

**Section 1063 of the Criminal Code reads as follows:**

1. In the case of any prisoner sentenced to the punishment of death, the judge before whom such prisoner has been convicted shall forthwith make a report of the case to the Secretary of State for the information of the Governor General; and the day to be appointed for carrying the sentence into execution shall be such as, in the opinion of the judge, will allow sufficient time for the signification of the Governor's pleasure before such day.

2. If the judge thinks such prisoner ought to be recommended for the exercise of the royal mercy, or if, from the non-decision of any point of law reserved in the case, or from any other cause, it becomes necessary to delay the execution, he, or any other judge of the same court, or any judge who might have held or sat in such court, may, from time to time, either in term or in vacation, reprieve such offender for such period or periods beyond the time fixed for the execution of the sentence as are necessary for any of the purposes aforesaid.

3. In the Northwest Territories and in the Yukon Territory, when any person is convicted of a capital offence and is sentenced to death the judge or stipendiary magistrate who tried the case shall forthwith forward to the Secretary of State of Canada full notes of the evidence with his report upon the case, and the execution shall be stayed until such report is received and the pleasure of the Governor General therein is communicated to the Commissioner of the Northwest Territories or of the Yukon Territory, as the case may be. R.S., c. 146. s. 1063; 1913, c. 13. s. 31.



## RÉSUMÉ OF INSTRUCTIONS

---

### 1. The Date of Execution should be set at least:

- (a) Two months from the date of passing of the sentence in the Provinces of.....
- |  |   |               |
|--|---|---------------|
|  | { | Ontario       |
|  |   | Quebec        |
|  |   | Nova Scotia   |
|  |   | New Brunswick |
|  |   | Prince Edward |
|  |   | Island        |
- (b) Two months and a half in the Provinces of.....
- |  |   |                  |
|--|---|------------------|
|  | { | Manitoba         |
|  |   | Saskatchewan     |
|  |   | Alberta          |
|  |   | British Columbia |
- (c) Three months in the Yukon Territory.
- (d) It should not be set for a legal or religious holiday.
- (e) Mondays and Saturdays have been found inconvenient as days for execution.

## **2. During the Two Weeks following the Trial:**

- (a) The trial judge should send directly to the Secretary of State his report containing a *substantial summary of the salient facts of the case*, together with any remarks or recommendations from his personal notes taken during the trial with reference to the exercise of executive clemency.

The report is then referred to the Minister of Justice, who, after perusing the evidence, gives to each capital case the most anxious consideration. When reaching a decision before making his report to Council, he finds it very helpful to have the views of the trial judge regarding any feature of the case which has a bearing upon the exercise of executive clemency.

- (b) It is also imperative that the trial judge should give instructions to the stenographer to complete and forward to the Secretary of State the transcript of evidence at the earliest possible date, together with his address to the jury.

3. Plan and sketches of the "locus" and also photographs, if any, which may have been filed as exhibits should be sent to the Secretary of State, but only after the time for lodging an appeal has elapsed. If, in the opinion of the trial judge, certain other exhibits are essential for the consideration of the case, they should also be sent. During the review of the case, if other exhibits should be needed, they will be asked for by the Department.

4. The Secretary of State should be notified by telegram of any proceedings in appeal as soon as they are instituted and of their disposal.

5. In the event of an appeal being dismissed such of the exhibits as are mentioned above should be sent to the Department of the Secretary of State together with both factums submitted upon the hearing of the appeal.

6. Should the Secretary of State be officially notified that an appeal has been launched in a case where the exhibits are with the Department, they will be promptly returned to the Registrar.

7. The trial judge, when making his report, is invited to give his personal detailed observations regarding medical testimony on any insanity issue and concerning the prisoner himself.

8. If a reprieve is granted in any case, the Secretary of State should be notified by telegram as soon as it is granted.

## RE PREPARATION OF TRANSCRIPT

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1. A copy of the evidence should be forwarded to the Secretary of State within fifteen days after the trial regardless of an appeal or possibility of an appeal being taken.

2. This copy should be an original one and well done, on good paper, not transparent, which can be easily read

3. The blank back of the preceding page in the evidence should be arranged to be on the left when bound.

4. It is customary for transcripts in all capital cases to include all proceedings subsequent to the judge's charge, and including the sentence, namely:—

- (a) the time the jury retired and returned.
- (b) whether or not a rider was attached to the verdict.
- (c) judge's query of accused prior to passing of sentence.
- (d) accused's response, if any.
- (e) remarks of judge prior to passing of sentence.
- (f) sentence.

5. A complete index, with page number opposite, as to witnesses and exhibits should be contained in the volume of evidence.

6. The addresses of counsel to the jury need not be included in the transcript unless specially asked for.

7. If on account of illness or some other unavoidable causes, the transcription of the evidence should be delayed over the given time, it should be forwarded in sections (100 to 150 pages) so that the necessary review of the case may be started as soon as possible.

8. Reporter's account for transcription of evidence should be presented in triplicate.

## RE DETAILS OF EXECUTION

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1. Instructions concerning details of executions in particular cases are not given by the Federal authorities; preparations are under Provincial control. The rules respecting executions issued by the Federal authorities are as follows:—

Rules respecting executions, pursuant to the provisions of 32 and 33 Vict., Chap. 29, for regulating the execution of Capital sentences, approved by Order in Council of the 6th January, 1870, viz:—

1. For the sake of uniformity, it is recommended that executions should take place at the hour of 8 a.m.
2. The mode of execution and the ceremonial attending it to be the same as heretofore.
3. A black flag to be hoisted at the moment of execution upon a staff placed on an elevated and conspicuous part of the prison and to remain displayed for one hour.
4. The bell of the prison, or, if arrangements can be made for that purpose, the bell of the parish or other neighbouring church to be tolled for 15 minutes before and after the execution.

2. Contrary to popular belief, there is no official hangman or executioner for the Dominion. The Sheriff or any person delegated by the Sheriff should act as such.

3. Since in Capital Cases the decision of His Excellency the Governor General in Council is seldom reached and announced before the last few days preceding the date for execution, the Sheriff, in every case, should make preparations for the execution. The usual period allowed between the date of the sentence and the date fixed for execution leaves barely sufficient time for all the work that has to be done in Ottawa by officials concerned with each Capital Case. No matter how favourable or unfavourable to commutation the jury and judge may be, the evidence must be analysed before submission to the Minister of Justice, and studied by him before the case goes to Council.

4. The decision of His Excellency the Governor General in Council is made known by telegram from the Department of the Secretary of State, and confirmed by letter. It is the rule in all cases that the Sheriff should repeat back the telegram, word for word, immediately upon its receipt.

5. Immediately after the execution, documents as called for under Section 1072 of the Criminal Code should be forwarded to the Department of the Secretary of State with all possible despatch.

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*The Criminal Code.*

(4) The production of a certificate

- (a) from the registrar that notice of appeal or notice of application for leave to appeal has been given, or
- (b) from the Minister of Justice that he has exercised any of the powers conferred upon him by section 596,

is sufficient authority to suspend the execution of a sentence of death or whipping, as the case may be, and where, pursuant to such suspension, a new time is required to be fixed for execution of the sentence, it may be fixed by the judge who imposed the sentence or any judge who might have held or sat in the same court.

(5) Where, pursuant to a conviction, a sentence of death has been imposed, the execution of the sentence shall be suspended until after the determination of the appeal pursuant to section 583A whether or not the production of a certificate mentioned in subsection (4) has been made, and where, as a result of such suspension, a new time is required to be fixed for the execution of the sentence, it may be fixed by the judge who imposed the sentence or any judge who might have held or sat in the same court. 1960-61, c. 44, s. 9.

**Bail.**

**587.** The chief justice or the acting chief justice of the court of appeal or a judge of that court to be designated by the chief justice or acting chief justice may admit an appellant to bail pending the determination of his appeal.

**Report by judge—Transcript of evidence—Notes of proceedings—Copies to interested parties—Copy for Minister of Justice.**

**588.** (1) Where, under this Part, an appeal is taken or an application for leave to appeal is made, the judge or magistrate who presided at the trial shall furnish to the court of appeal, in accordance with rules of court, a report giving his opinion upon the case or upon any matter relating thereto.

(2) A copy or transcript of

- (a) the evidence taken at the trial,
- (b) the charge to the jury, if any,
- (c) the reasons for judgment, if any, and
- (d) the addresses of the prosecutor and the accused or counsel for the accused by way of summing up, if
  - (i) a ground for the appeal is based upon either of the addresses, or
  - (ii) the appeal is pursuant to section 583A;

shall be furnished to the court of appeal, except in so far as it is dispensed with by order of a judge of that court. 1960-61, c. 44, s. 10(1).

(3) A copy of the charge to the jury, if any, and any objections that were made to it shall, before the copy or transcript

*The Criminal Code.*

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is transmitted to the court of appeal pursuant to subsection (2), be submitted to the judge who presided at the trial, and if the judge refuses to certify that the charge and objections are accurately set out, he shall immediately certify to the court of appeal

- (a) the reasons for his refusal, and
- (b) the charge that was given to the jury, if any, and any objections that were made to it.

(4) A party to the appeal is entitled to receive

- (a) without charge, if the appeal is against a conviction in respect of which a sentence of death has been imposed or against such sentence, or
- (b) upon payment of any charges that are fixed by rules of court, in any other case,

a copy or transcript of any material that is prepared under subsections (1), (2) and (3).

(5) The Minister of Justice is entitled, upon request, to receive a copy or transcript of any material that is prepared under subsections (1), (2) and (3). 1968-69, c. 38, s. 58.

**Court may order—Production of documents—Attendance of witnesses—Admission of evidence—Reception of evidence—Reference to commissioner—Acceptance of report—Parties entitled to adduce evidence and be heard—Other powers—Execution of process.**

**539.** (1) For the purposes of an appeal under this Part the court of appeal may, where it considers it in the interests of justice,

- (a) order the production of any writing, exhibit, or other thing connected with the proceedings;
- (b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,
  - (i) to attend and be examined before the court of appeal, or
  - (ii) to be examined in the manner provided by rules of court before a judge of the court of appeal, or before any officer of the court of appeal or justice of the peace or other person appointed by the court of appeal for the purpose;
- (c) admit, as evidence, an examination that is taken under subparagraph (ii) of paragraph (b);
- (d) receive the evidence, if tendered, of any witness, including the appellant, who is a competent but not compellable witness;
- (e) order that any question arising on the appeal that
  - (i) involves prolonged examination of writings or accounts, or scientific or local investigation, and
  - (ii) cannot in the opinion of the court of appeal conveniently be inquired into before the court of appeal,

June, 1969



Solicitor General  
Canada

Solliciteur général  
Canada

FILE NO. - DOSSIER N° <del>141-206</del> 1037-60-12		VOLUME 5	SECRETARIAT SECRÉTARIAT
FROM DU	SUBJECT SUJET	CRIMINAL CODE	Administration & Organization Acts & Legislation - FEDERAL Criminal Code - Capital Punishment
TO AU	SUB-SUBJECT SUJET SEC		
TITLE TITRE		CAPITAL PUNISHMENT	

MS 35 (4-76)

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REFERRED TO - ENVOYÉ À	PURPOSE - OBJET	DATE	INITIALS INITIALES	P.R. DATE CLASSER LE	INITIALS INITIALES	B.F. DATE REPORTER
						001329

# DEPARTMENT OF THE SOLICITOR GENERAL - MINISTÈRE DU SOLLICITEUR GÉNÉRAL

GENERAL ENTRIES CIRCULATION DU DOSSIER				B.F. AND P.A. ENTRIES INSTRUCTIONS AU CLASSIER				INSP
REFERRED TO DESTINATAIRE	PURPOSE OBJET	DATE	INIT.	DATE P.A. À CLASSER	INIT.	DATE B.F. À Renvoyer	CANC. B.F. RENV. ANN.	
Mr. Tasse	memo	5/12/72	1/2/72	8/12	WB			
Mr. Tasse	Request	5/1/73	5/1/73	5/1/73	WH			
Mr. Tasse	Request	19/1/73	19/1/73	25/1	WB			
Mr. Tasse	memo	Jan 24	25/1	8/2	WB			
Mr. Tasse	memo	Feb. 13	13/2	14.2	al			
Mr. McLeod	mail	Feb 13	14/2	20.2.73	20.2.73			
Mr. Tasse	memo	Mar 2	5/3	2/3	WB			
DM	memo	2 April	2/4	3/4/73	Ref			
DM	memo	Apr. 4	4/4	4/4/73	WH			
Mr. Cuth	B.F.	20/4/73	20/4/73	9/5/73	W2			
Mr. Rappant	request	5/1/75	5/1/75	10/1/75	W			
Mr. Townesend	request	21/10	21/10	6/1/75	EB			
Mr. Hallie	Request	6/1/75	6/1/75	11/4/75	WB			
Mr. Tasse	Request	10/4/75	10/4/75	27.10.75	IL			