

Sentencing

In July 1996, the Commission published a [Report on Sentencing \(LRC 53-1996\)](#) which built upon its March 1993 [Consultation Paper on Sentencing \(LRC CP 6-1993\)](#) and followed from a 1987 request by the then Attorney General to examine and research certain areas of law and submit to him proposals for reform. The Consultation Paper concluded, provisionally, that a coherent sentencing policy was needed and that this should be given statutory form. This was the central recommendation among 40 provisional recommendations in the Paper. This report is intended to be read in conjunction with our Consultation Paper and is not intended as a 'stand alone' text on sentencing reform. The law and background material are set out in the Consultation Paper and are not repeated in the report except as is absolutely necessary.

The Commission, in the Report, examined the various views concerning the objects of sentencing. On this question, the Commission divided into majority and minority. The majority favoured a "just dessert" approach to sentencing, based on retribution to be exacted for the offender's blameworthy conduct, while the minority rejected a retributory, just desserts approach, in favour of an emphasis on the rehabilitation of the offender. There was no dissent, however, from the final recommendations of the Report. Amongst the Report's main recommendations were that:

- A sentence of imprisonment should be regarded as a sanction of last resort.
- Penal servitude and imprisonment with hard labour should be abolished and imprisonment substituted in this place
- The legislature should undertake a comprehensive review of the law and procedure in relation to the present range of sentencing options, with a view to better co-ordination of penal and sentencing policy. The recommendations of the Committee of Inquiry into the Penal System in this regard should be given special consideration;
- A detailed review of the law and procedures governing the administration of sentence should also be undertaken by the legislature;
- Non-statutory guidelines on sentencing should be introduced;
- Mandatory and minimum sentence of imprisonment for indictable offenses should be abolished;
- All maximum penalties should be reviewed;
- The prosecution should have the power to seek review of District Court sentences;
- Greater use should be made of community service orders;
- Statutory provision should be made for suspended sentences
- No sentence of longer than 3 years imprisonment should be suspended.
- The Probation Service should be the primary target for additional resources in the area of sentencing.
- Courts should not impose reviewable sentences.
- A centrally located criminal justice data base for the compilation and dissemination of statistics relevant to sentencing be created. In addition to quantitative data, qualitative data should be assembled to the greatest extent possible and the judiciary, court registrars and clerks should be encouraged and given every necessary facility to provide qualitative material

Draft Legislation in Report

The Report recommended limited legislative reforms, it primarily recommended non-legislative reform.

Information on Implementation

Recommendations of the Commission were implemented in part by the *Criminal Justice Act 1999*, s.29 (discretion of court to reduce sentence where guilty plea entered).