

REVIEW KEY TERMS

Match the key terms below with their corresponding description:

- | | |
|-------------------------|--------------------|
| 1. assisted suicide | 8. murder |
| 2. assault | 9. robbery |
| 3. break and enter | 10. sexual assault |
| 4. controlled substance | 11. soliciting |
| 5. fraud | 12. street racing |
| 6. homicide | 13. theft |
| 7. manslaughter | |

- _____ a) to enter another's premises without permission by breaking or opening anything that is closed
- _____ b) the killing of another person, directly or indirectly
- _____ c) communicating for the purposes of prostitution
- _____ d) the term for the three levels of assault (assault, assault causing bodily harm, aggravated assault)
- _____ e) intentionally deceiving the public or a person in order to cause a loss of property
- _____ f) taking someone's property without their consent
- _____ g) aiding and abetting someone to commit suicide
- _____ h) killing another person by committing an unlawful act with only general intent
- _____ i) driving a vehicle at high speeds in a reckless and dangerous manner
- _____ j) the broad term for the three levels of sexual assault (the most serious of which is aggravated sexual assault)
- _____ k) theft involving violence, threat of violence, assault, or the use of offensive weapons
- _____ l) intentional homicide
- _____ m) any material, including both illegal drugs and drugs legally prescribed by doctors, listed in the *Controlled Drugs and Substances Act*



Chapter 5

Criminal Code Offences



The Criminal Code

- The *Constitution Act, 1982*, states that criminal law is the responsibility of the federal government.
- Various criminal offences and their punishments are defined in the *Criminal Code (C.C.)*
- The C.C. is a federal statute and the first version was introduced in 1892.
- Since laws often change to represent society's values, the C.C. is constantly updated to reflect these changes.



Parts of the Criminal Code

- The C.C. is divided into 12 categories:
 - Part 1: General
 - Part 2: Offences against Public Order
 - Part 3: Firearms and Other Weapons
 - Part 4: Offences against the Administration of Law and Justice
 - Part 5: Sexual Offences, Public Morals, and Disorderly Conduct
 - Part 6: Invasion of Privacy
 - Part 7: Disorderly Houses, Gaming, and Betting



Parts of The C.C. contd...

- Part 8: Offences against the Person and Reputation
- Part 9: Offences against Rights of Property
- Part 10: Fraudulent Transactions Relating to Contracts and Trade
- Part 11: Wilful and Forbidden Acts in Respect of Certain Property
- Part 12: Offences Relating to Currency



Violent Crimes

- The C.C. defines various types of violent crimes such as **murder** and **assault**.
- Crimes are generally considered violent if they cause harm to the human body.
- The promotion of hate may also qualify as a type of violent crime.
- Five of the most serious violent crimes are **homicide**, **assault**, **sexual assault**, **abduction** and **robbery**.



Homicide

- The killing of another person is defined as a **homicide**.
- Homicides can be divided into two categories: *culpable* and *non-culpable*.
- *Culpable* homicides assign blame because the killing is intentional or the result of reckless behaviour.
- *Non-culpable* homicides do not assign blame and no one is held criminally responsible for the killing. (e.g. an accident or self-defence)



Murder

- The most serious criminal offence in the C.C. is **murder**.
- Murder can be defined as the intentional killing of another person.
- The C.C. divides murder into two subcategories:
 - 1st degree murder
 - 2nd degree murder



First Degree Murder

- The most serious type of homicide.
- **1st degree murder** occurs if any of the following criteria are met:
 1. Murder is planned and deliberate or pre-meditated.
 2. The victim is a law enforcement agent such as a police officer.
 3. The killing occurs while *another crime* is being committed (e.g. a person shoots and kills someone while robbing a bank).



Second Degree Murder

- Any intentional killing that does not meet the criteria for 1st degree murder is classified as **2nd degree murder**.
- The minimum sentence for both types of murder is life imprisonment.
- The main difference is that a person convicted of **2nd degree murder** would be eligible for parole (early release) much sooner, usually after serving 10 years.



Manslaughter

- A general intent offence and culpable homicide that **is not** murder.
- A person is held responsible for causing the death of another, but the act is not considered intentional.
- *Actus Reus* – the action that led to the victim's death
- *Mens Rea* – a reasonable person would have seen the risks involved and therefore should have known better or been more careful



Manslaughter - Example

- Scenario: A person driving his car is speeding, loses control of the vehicle and kills two pedestrians.
- *Actus Reus*: the guilty act occurred when the driver fatally struck the pedestrians with his car.
- *Mens Rea*: a reasonable person should know that speeding in a vehicle is dangerous and could lead to harm (recklessness).



Euthanasia

- It is a criminal offence to assist someone who wishes to end their life.
- A type of assisted suicide is **euthanasia**, also referred to as "mercy killing".
- **Euthanasia** usually refers to someone who wants to end their life for compassionate reasons, such as to relieve pain and suffering from a terminal illness.



Types of Euthanasia

- **Voluntary euthanasia:** the person who wishes to die is able to give consent or permission. This is illegal in Canada.
- **Involuntary euthanasia:** the person is not able to give consent because they are incapacitated (e.g. a coma). In these cases, the person's family may provide consent to remove life support equipment, which is legal.



Assault

- There are 3 levels of assault in Canada:
 1. Level One – assault
 2. Level Two – assault causing bodily harm
 3. Level Three – aggravated assault
- Each level has two common elements:
 - Accused must intend to carry out assault
 - Victim did not consent to assault



Level One Assault

- Applying intentional force to another person without their consent
- Attempting, gesturing, or threatening to apply force to another person
- Physically interfering or blocking the way of another person
- Maximum penalty: 5 years in prison



Assault Causing Bodily Harm

- Level Two
- Usually involves attacking another person with a weapon
- Attack causes injury to the victim that is serious (i.e. requires medical treatment)
- Maximum penalty: 10 years in prison



Aggravated Assault

- Level Three – the most severe type
- Grotesque beating, maiming, and disfigurement of the victim; often endangers their life
- Maximum penalty: 14 years in prison



Sexual Assault

- Similar to **Assault**, there are also 3 levels of **Sexual Assault** in the *Criminal Code*.
- Generally speaking, a **sexual assault** occurs when the victim has not provided consent or approval to being touched in a sexual manner.
- The 3 levels range from basic acts of unwanted touching to more severe assaults like rape.



Levels 1–3: Sexual Assault

- Level One – similar to first level of Assault; main difference is it relates specifically to sexual conduct
- Involves little if any physical injury
- Maximum penalty: 10 years in prison
- Level Two – a sexual assault with a weapon
- Causes bodily harm to victim
- Maximum penalty: 14 years in prison
- Level Three – aggravated sexual assault; includes rape and life threatening injuries
- Maximum penalty: life in prison



Rape Shield Law

- This section of the C.C. limits the defendant's ability to question the alleged victim about their sexual history.
- Prior to the introduction of the rape shield, many victims felt as though they were on trial after being cross-examined about their past sexual behaviour.
- Rape shield laws are very controversial as many defendants feel that they unfairly favour the alleged victim.



Issue of Consent

- **Consent** can be defined as freely and voluntarily agreeing to a sexual act.
- Central to most sexual assault cases.
- Supreme Court has rejected the defence of "implied consent" (e.g. flirting).
- "NO means NO" and "YES means YES".

The age of consent was 14 years in 1892 and was changed to 16 years in 2008.



Abduction

- A child (under 16) has been *abducted* if they are forcibly removed from their custodial parent.
- Example: following a divorce the mother is granted sole custody of her son; the father then takes his boy without permission from the court or the mother.
- **Abduction** may also include removing a child from foster parents or child welfare agencies.
- Maximum penalty: 14 years in prison



Robbery

- Theft with violence or the threat of violence.
- Classic example is a bank robbery, which usually involves a "hold-up" with a weapon.
- A weapon does *not actually need to be used*; its simple presence implies violent and dangerous behaviour.
- Maximum penalty: life in prison.



Property Crimes

- There are various types of offences that involve crimes against property and personal information:
1. Arson
 2. Theft
 3. Break & Enter
 4. Fraud



Arson

- When property is intentionally damaged by explosion or fire.
- *Mens Rea* for **arson** can also be formed if the fire occurred as the result of reckless actions (e.g. lighting firecrackers near power lines)
- Penalties for **arson** vary:
 - No danger to life: 14 years.
 - Causes bodily harm: life in prison.



Theft

- Definition: taking someone's property without their consent (no violence).
- Thief taking the item does not have any legal right to it, or **colour of right**.
- **Theft under \$5000** – maximum penalty is 2 years.
- **Theft over \$5000** – maximum penalty is 10 years.



Identity Theft

- Definition: using another person's personal information without their consent to commit a crime.

Types of Identity Theft

1. **Mail Theft**: stealing mail to access personal information for fraudulent financial activity (e.g. credit card number).
2. **Skimming**: – reading credit card data or PIN from the magnetic stripe of the card.
3. **Phishing or spoofing**: – fraudulent e-mails or websites that ask for personal information.
4. **Theft from databases**: – hacking into large private or government databases.



Breaking & Entering

- Definition: entering someone's property with the intention of committing an indictable offence (e.g. theft).
- **Break** refers to opening something by force that was meant to be closed.
- **Enter** means to go into an area where one does not have the right to go without permission (e.g. a stranger's house).



Fraud

- Definition: intentionally deceiving another party for a criminal purpose.
- Generally, an act of **fraud** involves *lying* of some type: writing bad cheques, misrepresenting personal assets, making false claims about salary while applying for a loan.
- Penalties vary:
 - **Fraud under \$5000**: 2 years in prison.
 - **Fraud over \$5000**: 14 years in prison.



Other Crimes

- The following categories involve criminal activity that is frequent in Canada and prohibited in the C.C.:

 1. Firearms
 2. Street Racing
 3. Prostitution
 4. Obscenity
 5. Terrorism
 6. Criminal Harassment



Firearms

- Definition: Rules for possession and use of guns is regulated mostly by the *Firearms Act*.
- All gun owners are required to register their firearms, similar to driver's licenses.
- **Restricted firearms** need to be registered, such as certain handguns, semi-automatic rifles and shotguns.
- **Prohibited firearms** are banned and cannot be possessed under any circumstances, such as sawed-off shotguns and any automatic weapon like a machine gun.



Street Racing

- Definition: driving a vehicle at high speeds in a reckless manner.
- In recent years, there has been an increase in bodily injuries and fatalities involving car races.
- Penalties vary:
 - Dangerous operation of a vehicle causing bodily harm: 14 years.
 - Dangerous driving causing death – life in prison
 - Mandatory suspension of driver licenses.



Prostitution

- Definition: Selling sex for money.
- **Prostitution** itself is legal, but most of the activities that surround it are illegal.
- It is illegal to:
 - communicate for the purpose of prostitution (**solicitation**)
 - direct someone to a prostitute (**procuring**); commonly known as "pimping"
 - run a brothel or bawdyhouse



Obscenity

- Definition: words, images, or actions that go against society's moral values.
- Courts use the "community standards test" to determine what society would generally tolerate when deciding a case.

Child Pornography

- In an effort to protect children, the government has created harsher prison sentences for any person who creates, distributes, or sells pornographic images of children.
 - Penalties range from 14 days to 10 years in prison.



Terrorism

- Definition: use of violence to advance political or social objectives.
- Following the terrorist attacks of Sept. 11, 2001, the Canadian government passed the *Anti-Terrorism Act* and the *Public Safety Act*.
- These acts provide law enforcement officers with increased powers, including the right to detain suspects without charging them and freezing their assets.



Harassment

- Definition: the pursuit of or repeated communication with an unwilling victim.
- **Criminal harassment** often includes following the victim around and making actual threats.
- Most incidents of harassment involve a person that the victim knows.
- Maximum penalty: 10 years in prison.



Controlled Drugs & Substances

Drug: a chemical substance that alters the structure or function of a living organism.

- This broad definition covers everything from generic pain medication to narcotics.
- the *Controlled Drugs & Substances Act* (CDSA) makes the possession and distribution of certain drugs illegal (e.g. heroin, crack)



CDSA: Schedules I-IV

- The CDSA lists a variety of controlled substances in four basic schedules:
 - Schedule I: most dangerous drugs; includes narcotics like heroin and cocaine
 - Schedule II: marijuana (cannabis) and its derivatives
 - Schedule III: other dangerous drugs such as LSD and Ecstasy
 - Schedule IV: controlled drugs that may have therapeutic benefits, such as barbiturates
- It is illegal to possess any drugs from Schedules I, II, or III.



Drug Trafficking

Traffic: selling, giving, transporting, delivering, or transferring a controlled substance.

- Penalties for trafficking a substance from Schedules I-III range from 18 months to life in prison.
- Charges depend on what type of drugs are being trafficked (e.g. Schedule I drugs are the most serious).



Driving Offences

- **Impaired driving** offences, such as drinking and driving, are common in Canada but have been steadily decreasing since 2004.
- A **motor vehicle** is a vehicle that is moved by any means other than muscular power (i.e. has an engine): cars, boats, airplanes, motorcycles, snowmobiles, etc.
- Serious charges include **dangerous operation of a motor vehicle, failure to stop at the scene of an accident, and impaired driving.**



Impaired Driving

- Due to the serious nature of this offence, a person can be charged with **impaired driving** if:
 - They have care and control of the vehicle while impaired
 - Their blood-alcohol concentration (BAC) is over the legal limit: 80 milligrams of alcohol in 100 millilitres of blood, or .08.
- There is no definition of "impaired" in the C.C.; courts determine whether or not the driver was impaired.