

exceed what is necessary for the achievement of the valid social aims of protecting the community, at least temporarily, by incapacitating the offender, demonstrating society's abhorrence of the offence, and communicating to the victim and the community that such conduct will be dealt with severely. (To the extent that it is possible to achieve deterrence in such circumstances, the sentence would also support the traditional sentencing aim of deterrence.) Public confidence in present sentencing practices in this area, particularly among women who as a class are invariably the victims of such attacks, has been eroded. Existing alternatives appear to be insufficient to ensure public protection from these repeat violent sexual offenders for reasonably long periods of time and demonstrating the community's disapproval of such offences. No other alternative appears to be appropriate to achieve the desired results. The proposed punishment is not arbitrary — it would apply to a narrowly defined class of offenders in narrowly defined circumstances for a very grave offence. The sentencing judge would retain control of determining the total sentence, so that more serious offences may be distinguished from those which appear less brutal, although still violent, and to take account of various offender characteristics. The proposed penalty is consistent with the sentencing purpose and principles proposed by the Committee in Chapter Five. In the Committee's opinion, the rationale for the present penalty for second degree murder should suffice in supporting the proposed penalty for repeat violent sexual offenders.

Recommendation 10

The Committee recommends that the minimum sentence for all offenders convicted of the second or subsequent offence for sexual assault involving violence be ten years and that the parole ineligibility period be established legislatively as ten years, regardless of sentence length.

Recommendation 11

To reach a public consensus on which offences or offenders should be subject to the aforementioned minimum parole eligibility period, the Committee recommends that the Department of Justice consult widely on this issue.