

As a starting point, the Committee agrees with the Canadian Sentencing Commission that the purpose and principles of sentencing should be clarified and established in legislation. In its search for a sentencing rationale, the Committee looked for commonalities in the submissions it received, particularly in the underlying meaning of the positions taken as well as in the words which were actually spoken or written. This chapter sets out the various sentencing rationales upon which the Committee has drawn in developing the goals and principles it recommends be adopted in legislative form.

#### A. Public Protection

The most frequently articulated goal of sentencing is the protection of the public. Yet this is also said to be the overall purpose of the criminal law itself.

The Sentencing Commission was concerned that combining the purpose of the whole criminal justice system with the goal of one of its components could lead to serious misunderstandings. In particular, establishing public protection as the fundamental purpose of sentencing creates unrealistic expectations about what can be achieved by sentencing (p. 149, 153). The Sentencing Commission also argued that, while sentences may have protective effects, the sentencing courts do not have the primary responsibility for achieving this goal. However, the Commission was prepared to include public protection (albeit at a relatively low level of importance) as a principle which should affect the sentence.

The Committee agrees with the purpose of the criminal law as set out in *The Criminal Law in Canadian Society* (see page 36 above). The Committee notes that the federal government, through this policy document, recognizes that the criminal law is only one avenue for public protection: hence, it "contribute[s] to the maintenance of a just, peaceful and safe society." Alone, the whole criminal justice system cannot guarantee public safety. The Committee was urged by many witnesses to conclude that no criminal justice system alone could meet public expectations of safety and protection. The Church Council on Justice and Corrections stated:

[C]ommunities must get involved in solving their moral problems. . . . Official institutions can only assist, they cannot bring about [a just, peaceful and safe society] . . . [G]iving Canadians a more realistic perception of crime, and ways of resolving conflicts more positively, would . . . diminish the helplessness which most people now experience in the face of crime . . . (Brief, p. 2)