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1. Bill C-9 - Conditional Sentencing Amendments

[Bill C-9](#) was introduced on May 4, 2006. The Bill amends [s. 742.1](#) of the *Criminal Code* to exclude a sentencing court from the option of imposing a conditional sentence for offences prosecuted by indictment punishable by 10 years or more imprisonment or those punishable by a mandatory minimum sentence of imprisonment.

2. Bill C-10 - Firearms Offences

[Bill C-10](#) also received First Reading on May 4, 2006. Bill C-10 creates two levels of escalating mandatory minimum sentences for firearms offences, based upon the offender's prior related record:

- a. 5, 7 or 10 years for the several serious specifically listed *Criminal Code* offences involving the "use" of a restricted/ prohibited firearm or any firearm if the crime involves a criminal organization;
- b. 1, 3 or 5 years for other firearm-related offences.

Bill C-10 has interpretative provisions that allow for any conviction for certain offences in the last 10 years (not including any time the person was in custody) to be counted by a court to determine whether or not this is a 1st, 2nd or 3rd conviction for the purposes of these mandatory minimums.

The Bill also creates two new offences:

1. Break & enter to steal a firearm - punishable by life imprisonment. This offence has mandatory minimum sentences of 1, 3 or 5 years depending on whether this is a 1st, 2nd, 3rd or subsequent conviction for such an offence.
2. Robbery to steal a firearm - punishable by life imprisonment. This offence has mandatory minimum sentences of 3 or 5 years depending on whether this is a 1st, 2nd or subsequent conviction for such an offence.

Both of these new offences may be the subject of an authorization under Part VI of the *Criminal Code*. The offence of possession contrary to a prohibition order ([s. 117.01](#)) when prosecuted by indictment will now have mandatory minimum sentences of 1, 3 or 5 years depending on whether this is a 1st, 2nd, 3rd or subsequent conviction for such an offence.

3. Dog Sniff Evidence Excluded: ON C.A.

The Ontario Court of Appeal has released a decision on the rights of students when subjected to a random police investigation inside a school. The case also discusses the issue of in what circumstances the use of a dog to sniff for drugs engages s. 8 of the *Charter*. In [R. v. A. M.](#), 2006 CanLII 13550 the court found an unreasonable search and seizure in the conduct of police. Other cases in other provinces on different fact scenarios have held that the use of a drug dog does not necessarily engage s. 8 of the *Charter*. The Attorney General of Canada has until mid-summer to file a leave application to the S.C.C.

4. Changes to the Role of Justice of the Peace

Effective May 29, 2006, changes have been made to [The Provincial Court Act](#) to redefine the roles of justices of the peace in Manitoba. [The Provincial Court Amendment Act \(Justices of the Peace\)](#) establishes 3 types of justices of the peace:

- Judicial justices of the peace - duties: conducting trials and sentencing hearings under *The Summary Convictions Act*, making protection orders under *The Domestic Violence and Stalking Prevention, Protection and Compensation Act* and issuing search warrants.
 - Staff justices of the peace - duties: swearing informations with respect to offences under the *Criminal Code* (Canada) or other Acts, setting hearing dates, issuing subpoenas, swearing oaths, affidavits and declarations and issuing orders to discharge persons from custody.
 - Community justices of the peace - duties: swearing informations with respect to offences under the *Criminal Code* (Canada) or other Acts, setting hearing dates, issuing subpoenas and swearing oaths, affidavits and declarations.
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5. Criminal Law and New Technology

For an interesting article on technology issues in criminal law, read: [Keeping Pace: Criminal law and new technology](#) found on page 19 of The Society Record, October 2005, a publication of the Nova Scotia Barristers' Society.

6. Provincial Court Front End Project News

Take a few minutes to read & print the [June 2006 newsletter](#) from the Provincial Court's Front End Project.

7. Correction: *R v. Rodgers*

The May 2006, No. 1 issue of the eLaw Criminal Law Update mistakenly referred to the SCC case of [R. v. Rodgers](#), 2006 SCC 15 (CanLII) as *R. v. Rogers*. The link to the case was the correct one.

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