Translated from the original French

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| R. c. Légaré | | | | | | | 2022 QCCQ 1939 |
| COURT OF QUÉBEC | | | | | | | |
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| PROVINCE OF QUEBEC | | | | | | | |
| DISTRICT OF | | | Québec | | | | |
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| “Criminal and Penal Division” | | | | | | | |
| No.: | | 200-01-245666-213 | | | | | |
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| PRESIDING: | | | | | THE HONOURABLE | JEAN-LOUIS LEMAY, J.C.Q. | |
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| ÉRIC LÉGARÉ | | | | | | | |
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| **SENTENCING JUDGMENT** | | | | | | | |
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# I. INTRODUCTION

1. On September 2, 2021, the accused was driving at more than 130 km/h when he violently crashed into two vehicles stopped at an intersection.
2. He caused the deaths of James Fletcher, 68 years old, his daughter, Shellie Fletcher, 44 years old, and her two young children, Jackson Fortin, 14 years old, and Emma Lemieux, 10 years old.
3. At the same time, he caused bodily harm to Trésor Élie Ndeng-Nkouanga, 32 years old, and her mother, Cécile Ongmoka, 56 years old, both occupants of the second vehicle.
4. On December 14, 2021, the accused pleaded guilty to four offences of causing death and two offences of causing bodily harm while operating a motor vehicle with a blood alcohol concentration exceeding 80 milligrams of alcohol in 100 millilitres of blood.
5. The same day, he pleaded guilty to four counts of causing death and two other counts of causing bodily harm while operating a motor vehicle in a manner that is dangerous to the public.
6. Finally, he pleaded guilty to failing, without reasonable excuse, to stop after having operated a motor vehicle involved in an accident with another conveyance.
7. Following the convictions, conditional stays of proceedings were ordered with respect to the four offences of causing death and the two offences of causing bodily harm while operating a motor vehicle while his ability to operate it was impaired by alcohol or a drug.
8. The Court must now determine the sentence to impose on the accused.
9. As the Court has unfortunately had to repeat several times, this case does not involve determining the cost of a life or of bodily harm, simply performing a mathematical calculation, or making a sterile comparison of the suffering of several traumatized families; rather, it requires applying the principles, objectives, and factors provided by statute and clarified by the case law in a level-headed and fair manner.

**II. BACKGROUND**

1. The parties filed a joint statement of facts.[[1]](#footnote-1)
2. At 1:30 p.m. on September 2, 2021, the accused drove alone to Saint-Joseph Street East, in the city of Québec.
3. He went to the Pub du Parvis and sat at the bar to eat a meal.
4. He socialized with the people there and drank seven glasses of wine and three shooters with them over the course of the afternoon.
5. Surveillance cameras show that, as the afternoon progressed, his movements inside the pub became hesitant. He staggered several times.[[2]](#footnote-2)
6. He left at 5:30 p.m. and made it to his car with difficulty, even losing his balance when he tried to grab the handle of the car door.[[3]](#footnote-3)
7. Despite ample room to manoeuvre, he struggled to get his vehicle out of the parking space on the street.[[4]](#footnote-4)
8. It took him nearly three minutes – during which he hit the vehicle parked in front of him several times – to finally pull out onto the street.[[5]](#footnote-5)
9. After pulling onto the public road, he swerved and drove up onto the sidewalk where some pedestrians were walking. He turned the wrong way down a one-way street.[[6]](#footnote-6)
10. While trying to exit a dead end, the accused crashed into a parked car and low concrete walls.
11. Back on the street, he failed to make a mandatory stop at the intersection of a main neighbourhood thoroughfare.[[7]](#footnote-7)
12. Continuing on his way, he used the oncoming lane to pass a vehicle at high speed, while failing to make his mandatory stop at a four-way intersection located next to a park and an elementary school, as a public transportation bus was coming from the other direction.[[8]](#footnote-8)
13. He drove onto Dufferin-Montmorency Autoroute; he was swerving, driving very fast, and performing dangerous passing manoeuvres.[[9]](#footnote-9)
14. He arrived at the François-de-Laval exit. At this specific location, there are three eastbound lanes and a fourth on the far left reserved exclusively for turning off the highway, governed by a traffic light.
15. The victims’ vehicles were stopped at the traffic light, waiting to take the exit.
16. The speed limit is 70 km/h in this location. The accused moved into the left lane at an estimated speed of at least 130 km/h.
17. Without breaking, the accused crashed head-on into the back of the first vehicle, which belonged to the Fletcher family. Given the violent impact, the latter vehicle in turn forcefully rear-ended the second vehicle, occupied by Ndeng-Nkouanga and her mother.[[10]](#footnote-10)
18. The passengers in the first vehicle, the grandfather and his daughter, died on impact. The two children sitting in the backseat were declared clinically dead the next day at the hospital, while awaiting the donation of their organs the following week.
19. The two occupants of the second vehicle suffered mild craniocerebral trauma.
20. At the time of the event, the weather was warm and the sky was grey, but there was no precipitation and the road was dry. No mechanical issue could have contributed to the crash.
21. The accused’s criminal conduct is the sole cause of this fatal collision.
22. The accused was slightly injured in the collision. While he was trapped in his vehicle, some witnesses saw him laughing. He appeared to be taking the situation lightly.
23. After being escorted to the hospital, the police arrested him and he exercised his constitutional rights.
24. The blood sample prescribed by the *Criminal Code* revealed that, at the time of the collision, the accused had a blood alcohol concentration of 209 milligrams of alcohol per 100 millilitres of blood and 6.9 nanograms of THC[[11]](#footnote-11) per millilitre of blood.[[12]](#footnote-12)
25. At the hospital, he told the police [translation] “that he finished [work] at 4 p.m. and that he went to the resto deux22 on St-Jo”.
26. Four days later, in detention, he told the investigators that he does not drink a lot of alcohol and that even though he is not an alcoholic, he will never drink again.
27. He added that he uses cannabis occasionally.
28. During the same interview, he said that the place where the collision occurred is a corner he knows well. At the time of the events, he had no intention of turning left at the exit, since he had to continue straight to go home.
29. Finally, he explained that he had previously completed the Éduc’Alcool awareness program as part of the process to regain his driving privileges after a first conviction for impaired driving.

**III. EVIDENCE ON SENTENCING**

* **Prosecution**

1. The accused’s driving record with the Société de l’assurance automobile du Québec contains eight entries for speeding offences between 2007 and 2020.[[13]](#footnote-13)
2. The Court also notes two offences for failing to make a mandatory stop, both on February 27, 2015.[[14]](#footnote-14) He was also arrested on that date for the first time for driving while impaired by alcohol or a drug.[[15]](#footnote-15)
3. He was convicted of this offence on October 3, 2017, and prohibited from driving for a period of 12 months as of that date.[[16]](#footnote-16)
4. The Crown also referred to Canadian statistics on impaired driving dated July 15, 2021,[[17]](#footnote-17) as well as an admission by the parties on the costs incurred by the Société d’assurance automobile du Québec for indemnification, prevention, and raising awareness in relation to impaired driving,[[18]](#footnote-18) which the Court will discuss below.
5. The Court also reviewed the extensive evidence on the consequences of the crime on the victims of the event.
6. One by one, the victims provided descriptions of the scope of their tragedy. Some of these descriptions were filed in the form of statements or letters,[[19]](#footnote-19) while some were read by their authors or by counsel for the director of criminal and penal prosecutions or provided in the form of testimony to the Court.
7. Their distress and pain are sometimes difficult for them to put into words. Their struggle to find words strong enough to express their suffering is palpable.
8. One father lost his smiling, sporty, music-loving little joker. Another lost his sweet, happy daughter at the same time as his loving, organized, and generous wife.
9. A son lost his loving and hard-working father, his best man.
10. A wife lost her husband of 47 years, her beloved daughter, and two of her grandchildren all at once.
11. Attempting to summarize the testimony and translate into words the immense grief of these 17 individuals would be unjust in the face of the courage they displayed by testifying fully and openly about their suffering, despite the pain.
12. The images, thoughts, and metaphors expressed by the families, parents, and friends reveal individuals who are deeply affected and always will be.

* **Defence**

1. The accused’s sister, mother, and father testified at the hearing.
2. They have also been greatly affected by the events. They sympathize with the families of the victims, and they confirmed that the accused is anxious, sad, and remorseful.
3. His sister explained that she had been unable to see the signs that the accused was not doing well before the events. She had noticed that he had been using cannabis more frequently since the pandemic.
4. His mother had noticed the same thing in the summer of 2021. She even spoke to others to make sure she had an accurate impression.
5. She emphasized that her son was unhappy to tell them about his first impaired driving conviction in 2017. He knew he had disappointed them.
6. His father recounted the death of his own sister many years ago due to a drunk driver and the subsequent suicide of his second sister who could no longer bear this loss.
7. The mother and father said that they are working to keep their son’s immovable property to help him with his rehabilitation when he is released from custody.
8. Finally, the accused testified at the sentencing hearing.
9. He began by asking to read a letter. He expressed his remorse, regret, and sincere apologies to the families of the victims for the suffering and pain he has caused them.
10. At the time of the events, the accused was 43 years old.
11. He has worked in a research centre for over 20 years and has co-owned an adventure tourism business for several years.
12. According to his testimony, the lockdown due to the pandemic impaired his mental health. Idleness, a toxic romantic relationship, his business partner’s cancer, and a management reorganization at his job intensified the decline.
13. The accused did not realize that his substance use habits were changing and having harmful effects on his lifestyle.
14. His cannabis use went from once a day to nearly four to five times a night.
15. His alcohol use also increased during the same period. He admitted that his weekly drinking routine at the restaurant and the bar was problematic.
16. He did not ask for professional help at the time.
17. Since his arrest, he has attended an individual addiction treatment program (*Toxicomanie-Justice*) while in detention.[[20]](#footnote-20) He intends to continue after his incarceration.
18. After his first conviction for impaired driving, he paid a fine, had to take public transportation for three months, and was required to drive his vehicle equipped with an alcohol ignition interlock device for the next nine months.
19. Given his father’s family history, he was aware of the loss of human life in connection with this crime.
20. He acknowledged that all his punishments and his awareness had not been enough to stop him from reoffending.
21. He admitted that he lacked judgment on the day of the events and that he had had the opportunity to make other decisions.
22. He asks himself why he did not take a taxi or use a community designated driver service, or why he did not call his friends, parents, or sister.
23. He stated that his memory of the events is partial, but he nonetheless fully recognizes his criminal responsibility.
24. He said that his contradictory versions to the police officers on the night of the events can be explained by a severe brain injury, whereas the versions he provided four days later can for their part be explained by stress and his desire to minimize his responsibility.
25. He ended his testimony with a poem he wrote that reiterates his remorse incidentally, but that focuses primarily on the support of his family and those dear to him.
26. Finally, a pre-sentence report was filed at the Court’s request. It is essentially positive overall, but it does not provide more information than is already available in the evidence that has been filed with the Court and the testimony that was heard.

**IV. POSITIONS OF PARTIES**

1. Counsel for the director of criminal and penal prosecutions suggests that, for the eight offences of causing the deaths of four persons while operating a vehicle in a dangerous manner and with a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood, a prison sentence between 18 and 20 years and a lifetime driving prohibition would be reasonable in the circumstances, given the case law in similar matters. As for the four offences of operation causing bodily harm, they could be punished by a 2-year concurrent sentence.
2. Regarding the charge of failing to stop, a 6-month concurrent sentence would be justified.
3. In response, counsel for the accused submits that the accused’s social situation, rehabilitation potential, and remorse and regret weigh in favour of a 10-year prison sentence for the offence of operating a vehicle with a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood causing death and for the four counts of dangerous driving causing death. A 6-year sentence for the offences of operation causing bodily harm could be imposed concurrently. He leaves the sentence for failing to stop and the duration of the driving prohibition to the Court’s discretion, while noting that eventually regaining the privilege to drive will help the accused remain an asset to society.
4. He submits that these sentences are just and reasonable because they set an example while respecting the principles of individualization and parity.

**V. SENTENCING PRINCIPLES**

1. Section 718 of the *Criminal Code* sets out the main objectives to be sought when imposing a sentence: to denounce unlawful conduct, to deter the offender and all other persons from committing such offences, to separate the offender from society, where necessary, to assist in rehabilitating offenders, to provide reparations for harm done to victims, and to promote a sense of responsibility in the offender, particularly through the acknowledgment of the harm done to victims.
2. Sections 718 to 718.2 of the *Criminal Code* nevertheless make it possible to craft a proportionate sentence that accounts for the nature and gravity of the offence and for the personal circumstances of the offender and his or her degree of responsibility. This individualized process must be tailored to the specific aggravating and mitigating circumstances of each case in order to arrive at a fit sentence,[[21]](#footnote-21) all while taking into account the principle of parity tempered by the principle of proportionality.[[22]](#footnote-22)
3. These sentencing ranges, which arise from the principle of parity and the desire to maintain consistency between sentences, are nothing more than guides for the Court. They are not inflexible “straitjackets”.[[23]](#footnote-23)
4. They must never be considered binding in any sense.[[24]](#footnote-24) They are guidelines, not hard and fast rules.[[25]](#footnote-25)
5. Proportionality remains the fulcrum for arriving at a fit and fair sentence based on the principles set out in section 718 of the *Criminal Code*. This is the fundamental principle.[[26]](#footnote-26)
6. The principles of parity and individualization are secondary, despite their importance.[[27]](#footnote-27)
7. In any event, individualization flows from proportionality. The sentence must be tailored to the specific circumstances of both the offender and the offence to be proportional to the gravity of the offence and the degree of responsibility of the offender.[[28]](#footnote-28)
8. Proportionality is achieved through this assessment, which is focused on the accused and his or her offence, but also on the assessment of other offences committed by other offenders.[[29]](#footnote-29)
9. A variation in sentences imposed for particular crimes is therefore inevitable and normal.[[30]](#footnote-30)
10. This is why sentences that have never been imposed in the past for similar offences are sometimes required on account of proportionality.[[31]](#footnote-31)
11. On this subject, the Court has reviewed several judgments on sentencing for this type of crime rendered in Quebec and across the country.[[32]](#footnote-32)
12. Some of them also provide a meticulous examination of several decisions, including *Comeau*, rendered by this Court[[33]](#footnote-33) and affirmed by the Court of Appeal of Quebec,[[34]](#footnote-34) and *Martin* of the Quebec Superior Court,[[35]](#footnote-35) among others.
13. The defence has submitted a few judgments with sentences varying between 4 and 14 years yet urges the Court to note the differences in the characteristics of the offences and the offenders.
14. The Crown has also filed several judgments. The Court notes that, depending on the circumstances of the individuals, the sentences vary between 3 and 14 years for similar offences.
15. These significant variations clearly demonstrate what Lebel J. of the Supreme Court sought to express in *L.M*.: any comparative study has its limits, and the principle of parity does not preclude disparity where warranted by the circumstances, which leads us back to the principle of proportionality.[[36]](#footnote-36)
16. In sentencing, the Court must also consider the possibility of imposing less restrictive sanctions or sanctions alternative to imprisonment.[[37]](#footnote-37) However, the circumstances described above and the positions of the parties render this objective superfluous.
17. Last, it is necessary to ensure that, where consecutive sentences are imposed, the combined sentence is not unduly long or harsh.[[38]](#footnote-38) In this case, the concomitance of the offences calls for concurrent sentences, thus resolving this issue at the same time.
18. It should therefore be understood that no one objective set out in the *Code* trumps the others. However, in light of the facts, the weight assigned to any one or more of them will justify the adjustment of the sentence within the scale of appropriate sentences for similar offences.[[39]](#footnote-39)
19. It is also clear that the Court can and must give more weight to certain objectives in certain circumstances.

**VI. ANALYSIS**

1. Let us now consider the circumstances of this case.

* **Aggravating circumstances**

1. The circumstances in which the offences were committed include several aggravating factors.
2. The objective seriousness of the offences to which the accused pleaded guilty is very high. The notice of previous conviction entered in evidence[[40]](#footnote-40) adds to the seriousness and calls for a minimum sentence, although this issue is moot in this case.
3. The eight counts of causing the death of four persons by driving with a blood-alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood and of dangerous operation are all punishable by imprisonment for life, the harshest sentence in the *Criminal Code*.
4. The four counts of causing bodily harm to two other victims while committing those the same offences are all punishable by a maximum term of imprisonment of 14 years. The charge of hit-and-run is punishable by a maximum term of imprisonment of 10 years.
5. The accused bears full criminal responsibility. He played the key role in this tragedy.
6. His statement that he has a partial memory of the events contrasts with his level of effective awareness that could be observed when he sent emails, paid his bill, directed himself to his car, and headed towards home.
7. An accident is a sudden and unexpected event. Deciding to drink and drive and thereby causing death or injury is indeed a crime, not an accident, even if it is not premeditated.
8. This is especially true since the accused failed to consider all the alternatives to driving his vehicle that were available to him.
9. As the higher courts have correctly noted, a constitutive element of an offence is not an aggravating factor and is already punished by the accused’s conviction.[[41]](#footnote-41)
10. Yet the distance covered and the accused’s persistence in continuing on his way despite the trouble he had leaving downtown with his vehicle remain relevant, as do the cascade of offences he committed in a short lapse of time.
11. The accused was 43 years old at the time of the offence. He cannot claim to be comparable to a vulnerable young man with lower moral culpability, quite the contrary. The accused is a mature man with heavy baggage and life experience; his actions were a far cry from the errors of youth.[[42]](#footnote-42)
12. This is where the offender’s potential for rehabilitation – which, we recall, is one of the more fundamental moral values of our country – comes into play.[[43]](#footnote-43)
13. Condemning a young adult in his or her twenties to a substantial sentence could undermine this objective. But the accused, due to his age, will already have more limited professional opportunities when he leaves prison, even when considered from the perspective argued by the defence.
14. That said, his outdoor activities business could certainly provide a redeeming alternative to assist his rehabilitation.
15. In addition, his parents are ensuring that his immovable assets are maintained to support his rehabilitation. According to the pre-sentence report, the outlook in this respect is positive.
16. In addition to the many aggravating circumstances, his less-than-glowing driving record must also be considered. The high number of offences demonstrates the accused’s reckless and irresponsible attitude.[[44]](#footnote-44)
17. The accused’s offences constitute a subsequent offence, given that he was previously convicted in October 2017 in a similar matter. This means that, at the time of the event, the accused had obtained a licence unencumbered by penalties slightly less than three years earlier.
18. Section 320.22 of the *Criminal Code* codifies some of the aggravating circumstances found in this case.
19. In paragraph (a), the Court is told to consider the number of victims who died or suffered bodily harm. This was added by Parliament in 2018. It is worth recalling here that the accused killed four members of the same family and injured two other persons.
20. This makes the objective of providing reparations for the harm done to the victims and the community more complex.
21. The Court notes, however, that the accused wants to offer help and support to fathers in difficulty through his experience in adventure tourism once he leaves prison.
22. The accused’s blood alcohol concentration at the time of the collision was 209 milligrams of alcohol per 100 millilitres of blood, which is slightly less than three times the legal limit, and it was higher than the 120 milligrams of alcohol per 100 millilitres of blood that paragraph (e) lists as an aggravating circumstance that must be considered.
23. His cannabis use also speaks to the accused’s irresponsibility.[[45]](#footnote-45)
24. For comparison, Parliament set the legal limit for TCH at 2.5 nanograms per millilitre of blood if operating a conveyance while intoxicated by alcohol or a drug.[[46]](#footnote-46) The accused had 6.9 nanograms per millilitre of blood when the sample was taken at the hospital.
25. The offence is also the direct consequence of the accused’s abuse of alcohol and drugs, given his inability and lack of will to control it. This is therefore another factor included in the subjective seriousness of the offence.[[47]](#footnote-47)
26. It is one of the elements that must be improved to reduce the risk of re‑offending, according to the pre-sentence report. Still today, the author of the report cannot rule it out.
27. The Court also cannot ignore the tragic consequences and the profound impact felt by the victims’ families and those close to them.
28. They are all innocent victims.[[48]](#footnote-48) The impact on them and the suffering they have experienced is an aggravating factor that must be taken into account in this case.[[49]](#footnote-49)
29. While the accused’s conduct and attitude after the collision and his statements at the hospital must be taken with caution given his state of inebriation and shock,[[50]](#footnote-50) the same cannot be said of his statement to the police four days later.
30. He was aware of his constitutional rights, and he deliberately lied to the investigators for the admitted purpose of minimizing his responsibility.

* **Mitigating circumstances**

1. There are fewer circumstances to list under this heading.
2. At the top of the list is the accused’s prompt guilty plea.[[51]](#footnote-51)
3. He has spared the surviving victims from testifying and allowed the families and friends of the deceased victims to quickly obtain the relief that comes with the end of court proceedings. He has also shown that he is starting to take accountability.
4. However, a guilty plea when the evidence is overwhelming, as it is in this case, has less weight.[[52]](#footnote-52)
5. The abundant video evidence detailing the accused’s actions minute by minute, from when he started drinking to the tragic end, the scientific evidence, and the legal presumptions leave the accused with only a negligible amount of room to manoeuvre.[[53]](#footnote-53)
6. The accused addressed the family at the hearing and expressed his apologies, along with his remorse and regrets, which appear sincere.
7. The accused is not a hardened criminal. The victims are entitled to expect him to be regretful and remorseful and to beg for forgiveness.
8. Without diminishing the mitigating value of his remorse, and despite its apparent sincerity, it is often of small comfort to the victims.
9. Nevertheless, when added to the guilty plea, the following circumstances are factors to consider in the context of the objective of promoting a sense of responsibility in the offender and awareness of the harm done to victims and to the community.
10. The fact that he has stopped drinking and his participation in a treatment program warrant mentioning, but the mitigating value remains limited, given his incarceration.
11. A generally positive pre-sentence report was filed. But this is what is normally expected from someone like the accused, who is motivated by prosocial values.
12. These offences are generally committed by law-abiding citizens like the accused.[[54]](#footnote-54) Whereas the life events of an offender with an unhappy childhood, a poor education, or a history of trauma may constitute mitigating factors, it is altogether different for an accused who was highly equipped to handle life.
13. His easy childhood, his good education, and his prosocial values are of marginal weight here.
14. Indeed, a substantial sentence may be necessary even for a first-time offender of good character who is an asset to society.[[55]](#footnote-55)
15. Finally, the Court is sensitive to the sorrow and distress of the accused’s family and friends, but this factor plays a very negligible mitigating role. Its value is lessened because these are precisely the consequences of the accused’s own actions.
16. Ultimately, the question is not which category of circumstances has the most factors, but what weight should be given to each in the individualization analysis that is central to proportionality.[[56]](#footnote-56)

**VII. THE FIT SENTENCE**

1. In the end, the Court must apply all the above principles and then try to settle on one of the three categories in the range established by the Court of Appeal of Quebec in *Comeau*, in 2009.[[57]](#footnote-57)
2. By the sentence they suggest, however, the parties concede that this case falls within the residual category described in that judgment:

[translation]

Sentences of incarceration greater than 9 years are reserved for the worst cases that approach the most serious crimes committed by the most serious offenders.[[58]](#footnote-58)

1. However, a few months later, the Supreme Court recalled that maximum sentences should not be reserved only for the worst circumstances and the worst criminals.[[59]](#footnote-59)
2. The Court therefore need not speculate and attempt to compare the case at bar to abstract horror stories.[[60]](#footnote-60)
3. While it might seem easier to identify the worst criminals, what about the worst crimes? The worst crimes according to whom? According to a person familiar with the legal system, a repentant accused, an alarmed public, or an injured victim?
4. Is losing one child not the worst of all circumstances? In a case where a child, two grandchildren, and husband are lost all at once, there is no need whatsoever to write an abstract horror story; here, it is very real.
5. Based on how it was written in *Comeau*,[[61]](#footnote-61) rendered 14 years ago now, the last sentence about the range no longer appears to be aligned with developments in the legislation and case law.
6. It is true that the Court of Appeal of Quebec teaches us to exercise restraint with respect to the objectives of denunciation and deterrence because their effects cannot be identified by empirical data, leading some appellate courts to describe them as uncertain and limited.[[62]](#footnote-62)
7. The Court of Appeal also emphasizes that courts must avoid punishing the crime rather than the offender by weighing only these considerations and seeking a just balance between the various penological objectives.[[63]](#footnote-63) The sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.
8. But in this case, the Court must determine the weight to be given to one objective, not the extent to which it should not consider the others, quite the contrary.
9. The fact remains that Parliament still recognizes the relevance of this objective by preserving it in section 718(b) of the *Criminal Code*.[[64]](#footnote-64)
10. Over the years, Parliament has always clearly intended, through its series of legislative amendments, to emphasize the objective seriousness of driving while impaired by alcohol or a drug. It has at different times increased the maximum sentence, raised the level of the minimum sentences, excluded impaired driving causing death from conditional sentences, and codified new aggravating circumstances to take into account.[[65]](#footnote-65)
11. The legislative evolution in sentences illustrates Parliament intention for these offences to be punished more harshly.[[66]](#footnote-66)
12. Moreover, in 2018, Parliament took the atypical step of codifying in a preamble to the “Offences Relating to Conveyances” part of the *Criminal Code* that operating a conveyance is a privilege that is subject to the observance of certain rules and sobriety.[[67]](#footnote-67)
13. Parliament also added that it is necessary to deter persons from driving dangerously or while their ability to drive is impaired, because such conduct poses a threat to the life, health, and safety of Canadians.[[68]](#footnote-68)
14. These amendments therefore crystalized what the Supreme Court said in 1996: The *Criminal Code* expresses the communal values shared by all Canadians.[[69]](#footnote-69)
15. Also, over the years, numerous courts have emphasized the general social condemnation of impaired driving offences.
16. In 2007, our Court of Appeal noted that the pressing need to denounce this type of crime has resulted in harsher and harsher sentences.[[70]](#footnote-70)
17. Sentences have increased because the seriousness of these crimes is based more on their consequences and the extent of those consequences than on the consciousness of guilt of the offender, who often does not have a criminal record and did not wish to cause the tragic accident.[[71]](#footnote-71)
18. One after the other, the Court of Appeal for Ontario, Ontario’s Superior Court of Justice, and the Quebec Superior Court also noted this gradual tendency over the years.[[72]](#footnote-72)
19. That said, there can be no question of vengeance here. The aim is rather to objectively determine the fit sentence based on the moral culpability of the offender, having regard to his intentional risk-taking and the harm he caused. The sentences are not reprisals motivated by emotion or anger.[[73]](#footnote-73)
20. Unfortunately, the situation has hardly improved over the decades. In 1994, Cory J. of the Supreme Court noted that this type of crime causes the most significant social loss to the country.[[74]](#footnote-74)
21. In *Lacasse*, 21 years later, the Chief Justice of the Supreme Court of Canada, Wagner C.J., made the same observation. Impaired driving offences cause more deaths than any other offences in Canada.[[75]](#footnote-75)
22. And today, 28 years after Cory J.’s heartfelt appeal, impaired driving is still one of the leading criminal causes of death in Canada. It is also the second most common offence dealt with by the courts.[[76]](#footnote-76)
23. The Société de l’assurance automobile du Québec spends $50 million annually in compensation and $2 million in prevention and awareness of impaired driving.[[77]](#footnote-77)
24. In this case, general deterrence can work by sending a message to others who might commit the same crime, as long as the accused deserves such a punishment.[[78]](#footnote-78)
25. In impaired driving cases, general denunciation and deterrence have a particular character in that they target mainly law‑abiding persons who are sensitive to harsh sentences.[[79]](#footnote-79)
26. These observations are also reflected by the Supreme Court in *Lacasse, Friesen*,and *Parranto*.
27. In the first, although they did not specifically set aside the range established in *Comeau*,[[80]](#footnote-80) the justices reaffirmed the need for denunciation and deterrence, as well as Parliament’s desire to punish this type of offence more severely.[[81]](#footnote-81)
28. In *Freisen*, the Supreme Court*,* although discussing sexual offences against children, noted that sentences can be increased to match the more recent view of the gravity of the offences and the harm they cause.[[82]](#footnote-82)
29. A range can therefore become obsolete if it no longer reflects Parliament's and the higher courts’ view of the gravity of the offence.[[83]](#footnote-83)
30. In recent years, the case law has shown that sentences for impaired driving causing death have increased.[[84]](#footnote-84)
31. The Supreme Court also advises the courts to be cautious when dealing with judgments based on precedents that may be obsolete and not current with the evolution in the gravity of the offence or the moral culpability of certain offenders.[[85]](#footnote-85)
32. It is true that *Comeau*[[86]](#footnote-86) was rendered after sentences for this type of offence were increased to life sentences,[[87]](#footnote-87) but it was prior to the two most recent legislative changes[[88]](#footnote-88) and to the decisions in *Lacasse*, *Friesen*, *Parranto*, *Martin*, *Muzzo*, *Ramage*, *Junkert*, *Kummer*,and *Monique*, to name only a few.[[89]](#footnote-89)
33. A range is a “historical” portrait of judgments. A fact pattern may arise that is sufficiently dissimilar that the “range” must be expanded.[[90]](#footnote-90)
34. Should the Court be concerned here with a range that appears to restrict the Court’s discretion by a 9-year cap that can be exceeded only in exceptional circumstances?[[91]](#footnote-91)
35. The Court answers in the affirmative.
36. There is no requirement for rare or special circumstances to impose a substantial sentence where the substantial sentence is proportionate and the offender deserves it.[[92]](#footnote-92)
37. The Court believes this is the case here.
38. If the Supreme Court “released” trial judges from the formerly established ranges in cases involving sexual assault against children in *Friesen*[[93]](#footnote-93) by relying on *Lacasse*,[[94]](#footnote-94)even though it deals with impaired driving, the latter case can certainly also be applied when dealing with that very crime.
39. The Supreme Court reiterated this conclusion with conviction in *Parranto*.[[95]](#footnote-95)
40. Therefore, although the courts do not need exceptional circumstances to depart from the range,[[96]](#footnote-96) they may find support for doing so where such circumstances exist and the accused deserves such a sentence.
41. The Court concludes, on the basis of its own research and as the Crown argued, that we are concerned here with a motor vehicle offence of the highest subjective seriousness in Quebec in terms of the number of deaths and injuries.
42. The accused bears full criminal responsibility, and his degree of moral culpability is very high.
43. His criminal responsibility is greater than that of most members of society. He was raised in a family affected by deaths caused by impaired driving, he was personally convicted of this type of offence less than four years ago, and his licence had consequently been penalized, yet despite all this, he used none of the alternatives at his disposal on the day of the tragedy.
44. It would be an understatement to say that all his experiences did not have the expected deterrent effect.
45. Moral culpability varies depending on the degree of recklessness: the greater the degree of recklessness, the greater the offender’s moral culpability.[[97]](#footnote-97)
46. While the rest of his personal circumstances cannot be ignored, they cannot be used to reduce a sentence to a point where it becomes disproportionate to the seriousness of the circumstances.[[98]](#footnote-98)
47. The Court has discussed above all the judgments it has reviewed. I find that, ultimately, an overall view of these judgments will allow the Court to determine the fit sentence.
48. As we have seen, there are good reasons that comparative reviews have their limits.[[99]](#footnote-99) They can often mistakenly lead to an unfair mathematical exercise comparing the mitigating and aggravating circumstances unique to each case. This is not the essence of the parity principle.
49. Systematically, the number of deaths and injuries differs from one case to another. The existence of prior convictions, the alcohol and drug concentration, the risk of re‑offending or lack thereof, and the number of offences will vary, as does the timing of the guilty plea or the holding of a trial.
50. We cannot invent a system where points are given for each element and a comparative sentence is increased or decreased. Invariably, this leads us back to the principle of proportionality.
51. As pointed out, what is unfortunate in this type of case is the fact that the accused, like many other individuals who must answer for the same crime, is a person from a good family, who has a job and is an asset to society.
52. However, all these assets did not prevent him on the day of the tragedy from cutting short the lives of four innocent victims and injuring two others.
53. The sentence suggested by the defence does not meet the objectives of denunciation, deterrence, and societal condemnation. It is too focused on the factors particular to the accused, to the detriment of the totality of the considerations that must be taken into account. Accepting this suggestion would trivialize the offence committed by the accused.
54. Several of these personal factors are even unfavourable to him. Indeed, without those that weigh in his favour, the Court would not hesitate to accept the Crown’s suggestion.
55. Although criminal justice responses cannot solve the problem of impaired driving alone, the courts must use the tools Parliament has provided to address this societal ill.[[100]](#footnote-100)

**VIII. CONCLUSIONS**

1. Taking into account all the aforementioned facts along with the factors and objectives of sentencing listed above, and drawing inspiration from the sentences in the various cases reviewed, a sentence of 16 years’ imprisonment is necessary for the four offences of driving with more than 80 milligrams of alcohol in 100 millilitres of blood causing death and for the four counts of dangerous operation causing death.
2. For the four other offences of dangerous operation with a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood and causing bodily harm, sentences of 2 years should be served concurrently.
3. Last, the offence of hit and run calls for a sentence of 6 months, to be served concurrently with any other sentence.
4. Under section 719(3.1) of the *Criminal Code*, 7 months and 20 days of pre-sentencing custody at the enhanced credit of 11 months and 15 days must be subtracted from this total sentence of 16 years, leaving a sentence of 15 years and 15 days to be served as of this judgment.
5. In the sentence, the Court takes into account the forfeiture ordered on March 16, 2022, under section 490.1 of the *Criminal Code* of the proceeds of the insurance indemnity for the accused’s vehicle as offence-related property.
6. The determination of the appropriate length of the driving prohibition is part of the sentencing process and takes into account all of the factors set out above.
7. In 2017, the accused was prohibited from driving for one year, yet the penalty did nothing to deter him. On the day of the tragedy, he ignored all the designated driver alternatives available to him. As discussed above, driving is a privilege, and Parliament wants to make sure that drivers are sober to ensure the safety of Canadians.
8. As a subsequent offence cannot be ruled out at this stage since it is not yet possible to observe the accused’s actual rehabilitation, if he wishes to drive, and if he qualifies, he will have to do so in accordance with the provincial regulations for a certain time because the court prohibits him from driving for a period of 10 years on each of the counts, concurrently.
9. As section 320.24(5.1) of the *Criminal Code* states, a prohibition takes effect on the day on which the sentence is imposed and must be applied in addition to the sentence under section 320.24(5). The total period of the prohibition will therefore be 25 years and 15 days from the day on which the sentence is imposed.
10. Under section 320.24(10) of the *Criminal Code*, the minimum absolute prohibition period is 1 year plus the entire period of imprisonment. It will therefore be 16 years and 15 days from the day on which the sentence is imposed.
11. Although the offences committed by the accused are secondary designated offences for the purposes of DNA analysis, this Court renders an order under section 487.051(3) of the *Criminal Code*, given the accused’s prior convictions and the facts in this case.
12. The Court will not grant the application under section 109 of the *Criminal Code* concerning, among other things, the prohibition from possessing any firearm. The offences committed by the accused do not qualify under this provision or Parliament’s reasoning underlying it.
13. Finally, given that the accused had a job at the time of the events, he is the owner of immovables, and the victim surcharge factors into the proportionality of this sentence in accordance with the seriousness of the offence and the responsibility of the accused, he must pay a victim surcharge under section 737 of the *Criminal Code* on each of the counts within the legal time limit.

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| Mtre Pierre-Alexandre Bernard | | |
| Criminal and Penal Prosecuting Attorney | | |
|  | | |
| Mtre Vincent Montminy  Mtre Julie Bégin | | |
| Counsel for the accused  Dates of hearing:  December 14, 2021, March 15 and 16, 2022, and April 8, 2022 | | |
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**SCHEDULE A**

**Judgments submitted by the prosecution:**

*R*. *v.* *Parranto*, 2021 SCC 46.

*R*. *v.* *Friesen*, 2020 SCC 9.

*R*. *v.* *Lacasse*, [2015] 3 SCR 1089.

*R*. *v*. *L.M.,* [2008] 2 SCR 163.

*R*. *v*. *M.(C.A.),* [1996]1 SCR 500*.*

*Gervais c*. *R*., 2021 QCCA 652.

*De la Cruz Hernandez* *c*. *R*., 2020 QCCA 1008.

*Paré c*. *R*. 2011 QCCA 2047.

*R*. *c.* *Comeau*, 2009 QCCA 1175.

*R*. *c*. *Martin*, 2017 QCCS 193.

*R*. *v.* *Muzzo*, 2016 ONSC 2068.

**Judgments submitted by the defence:**

*Méthot* *c*. *R*., 2016 QCCA 736.

*R*. *c*. *Comeau*, 2009 QCCA 1175.

*R*. *c*. *Martin*, 2017 QCCS 193.

*R*. *c*. *Beaulieu Laforce*, 2019 QCCQ 1658.

*R*. *c*. *Dumas*, 2016 QCCQ 99.

*R*. *c*. *Monique*, 2015 QCCQ 2097.

*R*. *v.* *Kummer*, 2011 ONCA 39.

*R*. *v. Junkert*, 2010 ONCA 549.

*R*. *v.* *Muzzo*, 2016 ONSC 2068.

**Other judgments reviewed:**

*R*. *v*. *Nasogaluak*, [2010] 1 SCR 206.

*R*. *v.* *B.W.P*.; *R*. *v*. *B.V.N.*, [2006] 1 SCR 941.

*R*. *v.* *Proulx*, 2000 SCC 5.

*R*. *v.* *Bernshaw*, [1995] 1 SCR 254.

*Lacelle Belec* *c.* *R*., 2019 QCCA 711.

*Denis-Damée c*. *R*., 2018 QCCA 1251.

*R*. *c.* *Régnier*, 2018 QCCA 306.

*Nguyen* *c*. *R*., 2010 QCCA 1482.

*R*. *c.* *Morneau*, 2009 QCCA 1496.

*R*. *c*. *Poulin*, 2009 QCCA 2339.

*Verreault* *c*. *R*., 2008 QCCA 2284.

*Bouchard* *c*. *R*., 2007 QCCA 1836.

*R*. *c.* *Gilbert*, 2007 QCCA 1607.

*R*. *c*. *Lavoie*, 2007 QCCA 1658.

*Lépine* *c*. *R*., 2007 QCCA 69.

*R*. *c*. *Paris*, 2007 QCCA 1532.

*Lepire* *c*. *R*., 2006 QCCA 1465.

*Olivier* c. *R*., 2002 CanLII 40808 (CAQ).

*R*. *c*. *Lessard*, 2010 QCCS 55.

*R*. *c*. *Gaulin*, 2018 QCCQ 6746.

*R*. *c*. *Lemay*, 2015 QCCQ 9724.

*R*. *c*. *Lehoux*, 2014 QCCQ 8295.

*R*. *c*. *Goulet*, 2013 QCCQ 1491.

*R*. *c*. *Gravel*, 2013 QCCQ 10482.

*R*. *c*. *Lacasse*, 2013 QCCQ 11960.

*R*. *c*. *Brodeur*, 2012 QCCQ 18159.

*R*. *c*. *G.B.*, 2010 QCCQ 8243.

*R*. *c*. *Levesque*, 2009 QCCQ 7792.

*R*. *c*. *Papatie*, 2009 QCCQ 4491.

*R*. *c*. *Walsh*, 2009 QCCQ 7794.

*R*. *c*. *Comeau*, 2008 QCCQ 4804.

*R*. *c*. *Barriault*, AZ-50439075 (C.Q.).

*R*. *c*. *Sagaloun*, 2007 QCCQ 22.

*R*. *c*. *Gagnon*, 2006 QCCQ 12590.

*R*. *c*. *Rioux*, 2006 QCCQ 4711.

*R*. *c*. *Boies*, 2005 CanLII 10575 (C.Q.).

*R*. *c*. *Tellier*, 2005 CanLII 58830 (C.Q.).

*R*. *c*. *Savoie*, 2004 CanLII 21189 (C.Q.).

*R*. *c*. *Côté*, 2002 CanLII 27228 (C.Q.).

*R*. *c*. *Charette*, 2002 CanLII 19141 (C.Q.).

*R*. *v.* *Williams*, 2020 BCCA 286.

*R*. *v*. *Gauthier-Carrière*, 2019 ONCA 790.

*R*. *v*. *Atkinson*, 2015 NBCA 48.

*R*. *v*. *Berner*, 2013 BCCA 18.

*R*. *v*. *Ross*, 2013 SKCA 77.

*R*. *v*. *Smith*, 2013 BCCA 173.

*R*. *v*. *Bush*, 2012 ONCA 743.

*R*. *v*. *Charles*, 2011 BCCA 68.

*R*. *v*. *Olsen*, 2011 ABCA 308.

*R*. *v*. *Stimson*, 2011 ABCA 59.

*R*. *v*. *Turnbull*, 2011 ONCA 121.

*R*. *v*. *Ramage*, 2010 ONCA 488.

*R*. *v*. *Ruizfuentes*, 2010 MBCA 90.

*R*. *v*. *Bear*, 2008 SKCA 172.

*R*. *v*. *Wood*, 2005 O.J. No 1611 (ONCA).

*R*. *v*. *Mascarenhas*, 2002 O.J. No 2989 (ONCA).

*R*. *v*. *Simms*, 2021 ONCJ 374.

*R*. *v*. *Anstie*, 2020 ONSC 5505.

*R. v*. *Davis-Locke*, 2020 ONCJ 13.

*R*. *v*. *Joyce*, 2019 NLSC 77.

*R*. *v*. *Laliberté*, 2019 BCSC 318.

*R*. *v*. *Koono*, 2018 NUCJ 38.

*R*. *v*. *Tanner*, 2018 BCSC 583.

*R*. *v*. *Fallows*, 2017 ONCS 7786.

*R*. *v*. *Okemahwasin*, 2015 SKPC 71.

*R*. *v*. *Cooper*, 2007 N.S.J. No 179 (NSSC).

*R*. *v*. *Dressler*, 2005 O.J. 3163 (ONSC).

1. Exhibit S-1. [↑](#footnote-ref-1)
2. Exhibit S-3. [↑](#footnote-ref-2)
3. Exhibit S-5. [↑](#footnote-ref-3)
4. Exhibit S-4. [↑](#footnote-ref-4)
5. *Ibid.* [↑](#footnote-ref-5)
6. Exhibit S-5. [↑](#footnote-ref-6)
7. Exhibit S-6. [↑](#footnote-ref-7)
8. Exhibit S-7. [↑](#footnote-ref-8)
9. Exhibit S-2. [↑](#footnote-ref-9)
10. *Ibid.* [↑](#footnote-ref-10)
11. THC is the main psychoactive substance found in cannabis; exhibit S-15. [↑](#footnote-ref-11)
12. Exhibits S-14 and S-15. [↑](#footnote-ref-12)
13. Exhibit S-12. [↑](#footnote-ref-13)
14. *Ibid.* [↑](#footnote-ref-14)
15. Exhibit S-13. [↑](#footnote-ref-15)
16. *Ibid.* [↑](#footnote-ref-16)
17. Exhibit S-9. [↑](#footnote-ref-17)
18. Exhibit S-10. [↑](#footnote-ref-18)
19. Exhibit S-16 to S-30. [↑](#footnote-ref-19)
20. Exhibit SD-1. [↑](#footnote-ref-20)
21. *R. v. Nasogaluak*, [2010] 1 SCR 206 at para. 43. [↑](#footnote-ref-21)
22. *Nguyen c. R.,* 2010 QCCA 1482 at para. 13. [↑](#footnote-ref-22)
23. *R. v. Nasogaluak*, *supra* note 21 at para. 44; *R. v. Lacasse*, [2015] 3 SCR 1089at para. 57*.* [↑](#footnote-ref-23)
24. *R. v. Parranto*, 2021 SCC 46 at para. 36. [↑](#footnote-ref-24)
25. *R. v. Lacasse*, *supra* note 23 at para. 60*.* [↑](#footnote-ref-25)
26. Section 718.1 *Cr. C*. [↑](#footnote-ref-26)
27. *R. v. Parranto*, *supra* note 24 at para. 10. [↑](#footnote-ref-27)
28. *Ibid*. at para. 114. [↑](#footnote-ref-28)
29. *R. v. Parranto*, *supra* note 24 at para. 12; *R. v. Lacasse*, *supra* note 23 at para. 53. [↑](#footnote-ref-29)
30. *R. v. Proulx*, 2000 SCC 5 at para. 82. [↑](#footnote-ref-30)
31. *R. v. Parranto*, *supra* note 24 at para. 12. [↑](#footnote-ref-31)
32. Schedule A. [↑](#footnote-ref-32)
33. *R*. *c*. *Comeau*, 2008 QCCQ 4804. [↑](#footnote-ref-33)
34. *R*. *c*. *Comeau*, 2009 QCCA 1175. [↑](#footnote-ref-34)
35. *R*. *c*. *Martin*, 2017 QCCS 193. [↑](#footnote-ref-35)
36. *R. v. L.M*., [2008] 2 SCR 163 at para. 36. [↑](#footnote-ref-36)
37. Section 718.2(d) *Cr. C.* [↑](#footnote-ref-37)
38. Section 718.2(c) *Cr. C*. [↑](#footnote-ref-38)
39. *R. v. Nasogaluak*, *supra* note 21 at para. 43. [↑](#footnote-ref-39)
40. Exhibit S-8. [↑](#footnote-ref-40)
41. *R. v. Lacasse*, *supra* note 23 at para. 83; *Paré c*. *R*., 2011 QCCA 2047 at para. 71. [↑](#footnote-ref-41)
42. H. Parent & J. Desrosiers, *Traité de droit criminel*, Tome III (Montreal: Thémis) at 180 *et seq*. [↑](#footnote-ref-42)
43. *R. v. Lacasse*, *supra* note 23 at para. 4. [↑](#footnote-ref-43)
44. *Ibid*. at para. 80. [↑](#footnote-ref-44)
45. *Ibid*. at para. 84. [↑](#footnote-ref-45)
46. Section 320.14(d); *Blood Drug Concentration Regulations*, SOR/2018-148 at s. 3. [↑](#footnote-ref-46)
47. H. Parent & J. Desrosiers, *Traité de droit criminel*, *supra* note 42 at 163–164. [↑](#footnote-ref-47)
48. Clayton C. Ruby [el. al.], *Sentencing*, 9th ed. (2017) at 19.11 *et seq*. 19.11 *et seq*. [↑](#footnote-ref-48)
49. *R. v. Lacasse*, *supra* note 23 at para. 85. [↑](#footnote-ref-49)
50. *Paré c. R*., *supra* note 41 at para. 72. [↑](#footnote-ref-50)
51. *R. v. Lacasse*, *supra* note 23 at para. 81. [↑](#footnote-ref-51)
52. *R. v. Friesen*, 2020 SCC 9 at para. 164. [↑](#footnote-ref-52)
53. *De la Cruz Hernandez* *c*. *R*., 2020 QCCA 1008 at para. 14. [↑](#footnote-ref-53)
54. *R. v. Proulx*, *supra* note 30 at para. 129; *R. v. Lacasse*, *supra* note 23 at para. 73. [↑](#footnote-ref-54)
55. *R*. *v.* *Muzzo*, 2016 ONSC 2068 at para. 65. [↑](#footnote-ref-55)
56. *R. v. Lacasse*, *supra* note 23 at para. 78. [↑](#footnote-ref-56)
57. *R*. *c*. *Comeau*, *supra* note 34. [↑](#footnote-ref-57)
58. *Ibid*. at para. 37. [↑](#footnote-ref-58)
59. *R. v. L.M*., *supra* note 36 at para. 18 to 20. [↑](#footnote-ref-59)
60. *Ibid*.; *R. v. Parranto*, *supra* note 24 at para. 100; *R. v. Friesen*, *supra* note 52 at para. 114. [↑](#footnote-ref-60)
61. *R. c. Comeau*, *supra* note 34 at para. 37. [↑](#footnote-ref-61)
62. *Lacelle Belec c. R*., 2019 QCCA 711 at para. 31. [↑](#footnote-ref-62)
63. *Paré c. R*., *supra* note 41 at para. 62. [↑](#footnote-ref-63)
64. *R. v. B.W.P.; R. v. B.V.N.,* [2006] 1 SCR 941 at para. 3; *Paré. c. R*., *ibid*. at para. 57. [↑](#footnote-ref-64)
65. RSC 1970, c C-34; SC (1974-75-76), c 93; RSC 1985, c 27; SC (1999), c. 32; SC 2000, c 25; SC 2007, c 12; S.C. 2008, c 6; SC 2018, c 21; SC 2019, c 25. [↑](#footnote-ref-65)
66. *R. v. Friesen*, *supra* note 52 at para. 97; *R. v. Lacasse*, supra note 23 at paras. 7–62–63. [↑](#footnote-ref-66)
67. Section 320.12(a) *Cr. C*. [↑](#footnote-ref-67)
68. Section 320.12(b) *Cr. C*. [↑](#footnote-ref-68)
69. *R*. *v.* *M.(C.A.)*, [1996] 1 SCR 500 at para. 81. [↑](#footnote-ref-69)
70. *Bouchard c.* *R*., 2007 QCCA 1836 at para. 3 [↑](#footnote-ref-70)
71. *R*. *c*. *Lépine*, 2007 QCCA 70 at paras. 20–21; *R*. *v*. *Lacasse*, *supra* note 23 at para. 74. [↑](#footnote-ref-71)
72. *R*. *c*. *Junkert*, 2010 ONCA 549 at para. 49; *R*. *v.* *Kummer*, 2011 ONCA 39 at para. 15; *R*. *v*. *Muzzo*, *supra* note 55 at para. 69; *R*. c. *Martin*, *supra* note 35 at para. 226. [↑](#footnote-ref-72)
73. *R*. *v.* *M.(C.A.)*, *supra* note 69, at paras. 79–80–81. [↑](#footnote-ref-73)
74. *R*. *v*. *Bernshaw*, [1995] 1 SCR 254 at para. 16. [↑](#footnote-ref-74)
75. *R. v. Lacasse*, *supra* note 23 at para. 7. [↑](#footnote-ref-75)
76. Exhibit S-9. [↑](#footnote-ref-76)
77. Exhibit S-10. [↑](#footnote-ref-77)
78. *R*. *v*. *B.W.P.*; *R.* *v.* *B.V.N.*, *supra* note 64 at para. 2. [↑](#footnote-ref-78)
79. *R. v. Lacasse*, *supra* note 23 at para. 73; *R*. *v*. *Proulx*, *supra* note 30 at para. 129. [↑](#footnote-ref-79)
80. *R*. *c*. *Comeau*, *supra* note 34. [↑](#footnote-ref-80)
81. H. Parent & J. Desrosiers, *Traité de droit criminel*, *supra* note 42 at 918–919; *R.* *v*. *Lacasse*, *supra* note 23 at para. 5–7. [↑](#footnote-ref-81)
82. *R*. *v.* *Friesen*, *supra* note 52 at paras. 95–97 and 108. [↑](#footnote-ref-82)
83. *Ibid*. at para. 109; *R*. c. *Régnier*, 2018 QCCA 306 at paras. 30–40–78. [↑](#footnote-ref-83)
84. *R*. *v.* *Muzzo*, *supra* note 55 at para. 69; *R*. *c.* *Martin,* *supra* note 35 at para. 226. [↑](#footnote-ref-84)
85. *R. v. Friesen*, *supra* note 52 at para. 110; *R*. *v*. *Parranto*, *supra* note 24 at para. 86. [↑](#footnote-ref-85)
86. *R*. *c*. *Comeau*, *supra* note 34. [↑](#footnote-ref-86)
87. *Supra* note 65. [↑](#footnote-ref-87)
88. *Ibid.* [↑](#footnote-ref-88)
89. *R*. *v*. *Lacasse*, *supra* note 23; *R*. *v*. *Friesen*, *supra* note 52; *R*. *v*. *Parranto*, *supra* note 24; *R*. *v*. *Martin*, *supra* note 35; *R*. *v*. Muzzo*, supra* note *55; R*. *v*. *Ramage*, 2010 ONCA 488; *R*. *v*. *Junkert*, *supra* note 72; *R*. *v*. *Kummer*, *supra* note 72; *R*. *c*. *Monique*, 2015 QCCQ 2097. [↑](#footnote-ref-89)
90. *R. v. Lacasse*, *supra* note 23 at para. 57–58. [↑](#footnote-ref-90)
91. *R. v. Friesen*, *supra* note 52 at para. 111. [↑](#footnote-ref-91)
92. *Ibid*. at para. 112. [↑](#footnote-ref-92)
93. *Ibid.* [↑](#footnote-ref-93)
94. *R*. *v*. *Lacasse*, *supra* note 23. [↑](#footnote-ref-94)
95. *R*. *v*. *Parranto*, *supra* note 24. [↑](#footnote-ref-95)
96. *Ibid*. at para. 40 [↑](#footnote-ref-96)
97. *Denis-Damée c. R.,* 2018 QCCA 1251 at para. 60. [↑](#footnote-ref-97)
98. *R*. *v*. *Williams*, 2020 BCCA 286 at para. 37. [↑](#footnote-ref-98)
99. *R. v. L.M*., *supra* note 36 at para. 36. [↑](#footnote-ref-99)
100. *R. v. Parranto*, *supra* note 24 at para. 60; *R*. *v*. *Friesen*, *supra* note 52 at para. 45. [↑](#footnote-ref-100)