



Environment,
Labour and Justice

Environnement,
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Minister and Attorney General

PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Ministre et procureure générale

C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

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Senate Committee on Legal and Constitutional Affairs
The Senate of Canada
Ottawa, Ontario
Canada, K1A 0A4

Dear Committee Members,

Thank you for the opportunity to provide Prince Edward Island's views on Bill C-10, the *Safe Streets and Communities Act*. At the outset it should be noted that we are not providing commentary on every element of the Bill. Rather, we have elected to focus on those aspects that we anticipate will have the greatest impact in our province.

Prince Edward Island Facts

Prince Edward Island is fortunate in that we enjoy one of the lowest crime rates in the country. As you are no doubt aware, the overall Canadian crime rate has been decreasing in recent years. In PEI, from 2000 to 2010, our total crime rate decreased by 10 per cent, and our violent crime rate decreased by 20 per cent. Yet despite these trends, we, like many other provinces and territories, are facing significant pressures in almost every component of our justice system.

A comparison of bed days in our adult custodial facilities for fiscal years 2009-2010 and 2010-2011 shows a 30 percent increase. For women offenders, the increase was 76 percent. The demand for adult custodial beds has been increasing by almost 15% per quarter, in large measure due to recent amendments to federal legislation and a change in our client profile. The Provincial Correctional Centre (PCC) has a design capacity of 76, and a 48-bed annex designed for weekend offenders (which opened in 2010). The facility is challenged to handle the current demand, requiring double and sometimes triple bunking in cells designed for one offender. The Prince Region Correctional Centre (PRCC) has 18 beds and is similarly over-burdened.

In December 2010, Prince Edward Island completed an adult client profile analysis that suggested that offenders in custody are primarily young (aged 18-30), have a history of violent offences, and present with significant addiction, mental health and anger management

problems. We are working within existing resources to attempt to address the underlying issues of offenders which often precipitate the commission of criminal offences.

Our Crown Attorneys' Office and Legal Aid Division both report that they are currently working at capacity. We are not currently experiencing significant delays in time-to-trial in either of our Provincial or Supreme Courts.

The Anticipated Impacts of Bill C-10

Prince Edward Island submits that Bill C-10 marks a significant shift in the long-standing sentencing principles enshrined in the *Criminal Code*, a shift which could have a negative impact on the administration of justice within the province.

The inclusion of additional mandatory minimum penalties and the additional restriction on eligibility for conditional sentences in the *Criminal Code* operates to remove or limit judicial discretion in sentencing. The principles set out in sections 718 to 718.2 of the *Criminal Code* provide our courts with the ability to sentence an individual based on the particular facts of the case and the particular personal circumstances in which the individual finds him or herself in violation of the law. Removal of judicial discretion in favour of one-size-fits-all sentencing will, in some cases, result in unjust dispositions. Moreover, this approach will have the result of incarcerating individuals unnecessarily, which will serve only to increase costs and do nothing to improve the safety of our streets and communities.

To be clear: our misgivings about mandatory minimum penalties are not an endorsement of individuals who commit serious crimes, particularly crimes against children. It stems from our confidence in our judiciary to impose fair and just sentences, in accordance with the rule of law and the principles enshrined in the *Criminal Code*. Our judiciary imposes sentences of significant breadth and duration in cases where same are warranted, and it is our submission that judges – who are apprised of the particular circumstances of the offence and the offender – are best positioned to craft sentences that espouse the fundamental purposes and principles of sentencing. We also submit that the further restriction on the availability of conditional sentences will have the impact of incarcerating more individuals unnecessarily, and further removes judicial discretion in sentencing.

PEI has been able to dramatically reduce demand for youth custody through front end and early intervention programs. We are concerned that amendments to the *Youth Criminal Justice Act* (YCJA) will result in longer overall youth sentences and more youth being placed in temporary detention. We view lowering the test for temporary detention as re-opening an avenue for youth to be placed in custody based upon social rather than criminal factors.

Prince Edward Island is currently in the process of analyzing the anticipated costs of Bill C-10 on our correctional system, and we will soon undertake an analysis of the anticipated impacts on our courts, our Crown Attorneys and our legal aid system. It is expected that the imposition of mandatory minimum penalties will impact all of these components of our justice system, as accused individuals may elect to proceed to trial and take their chances rather than to enter a guilty plea at an earlier opportunity. More trials will result in higher costs for court administration and a heavier burden will be placed on our Crown Attorneys and legal aid lawyers. More individuals will be held in custody on remand, and ultimately more individuals will be incarcerated for longer periods of time. The costs, we expect, will be significant.

With additional costs come additional pressures which will require difficult choices to be made. We expect that PEI will be forced to add bed capacity to our correctional institutions as a result of Bill C-10, a process which is resource-intensive and requires significant time for planning and preparation. Preparing for the impact of these provisions will divert resources away from crime prevention and rehabilitation efforts and toward the province's custodial obligations – in short, toward the most expensive and least effective means of preventing crime and making our streets and communities safer.

It is our submission that the goal of improving public safety would be better served by investments in these anticipatory and restorative measures. Investments in mental health and addictions programming, supports for community safety initiatives, and additional resources for community policing efforts would better serve the citizens of Prince Edward Island and the country as a whole.

Conclusions

Notwithstanding the foregoing, we understand that Bill C-10 is very likely to become law in Canada. Should the Bill pass, it is our government's submission that consultation and collaboration with the province regarding how and when the Bill is implemented is necessary. Given the anticipated impacts of the Bill on our justice system, and in particular on our correctional facilities, we will require time to ensure that we are in a position to absorb these impacts in a safe and orderly manner. We urge the federal government to consider a phased-in approach to implementation and to dialogue with us as to our current capacities and challenges.

Furthermore, we submit that the federal government must recognize that this legislation is expected to place a significant financial burden on our province. PEI will require contribution from the federal government, in respect of both capital and operational costs, in order to implement the provisions of Bill C-10. We ask that the federal government recognize the scale and scope of impact of this legislation on our province and collaborate accordingly.

Once again, thank you for the opportunity to express our province's position on Bill C-10. I urge you to carefully consider the foregoing as you continue your deliberations.

Respectfully,

A handwritten signature in black ink, reading "Janice A. Sherry". The signature is fluid and cursive, with the first name "Janice" and the last name "Sherry" clearly legible. The middle initial "A." is smaller and less distinct.

Janice Sherry

Minister of Environment, Labour and Justice
and Attorney General