



Collaborating Centre for Prison Health and Education

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PREPARED FOR: All members of the Standing Senate Committee on Legal and Constitutional Affairs

TITLE: Negative health implications of impending Bill C-10

PURPOSE: To inform the Senate about ways that mandatory minimum sentencing (MMS) in Bill C-10 will negatively impact the health of the most vulnerable subgroups of the Canadian population. Passing Bill C-10 will result in increased negative health outcomes for Canadians, which may result in increased criminal activity and recidivism.

BACKGROUND

Research has shown that prisoners have poorer physical and mental health, compared with the general population, which only further contributes to their criminal activity when they are released from prison. While the vision of the Health Services Sector of Correctional Service Canada is “improved offender health that contributes to the safety of Canadians”, passing a bill that increases mandatory minimum sentences will do just the opposite and will not improve public safety. Currently, Canadian prisons do not deliver continuity of health care, or continuity of social services such as counselling, widespread mother-baby programs and harm reduction strategies, which would enable inmates to successfully transition back into the community. Therefore, harsher sentencing coupled with a lack of prison reform fails to address the relationship between poor physical/mental health and criminal behaviour.

Research has also shown that legal enforcement is ineffective when attempting to regulate crimes related to drug and substance use. Data from the United States demonstrates that MMS for drug crimes increased the incarceration rate for African-Americans. If this bill is passed, Canada can expect similar repercussions for Aboriginal peoples, who already represent 18.5% of federally sentenced prisoners, even though they comprise only 3% of the general population.

In addition to Aboriginals, other vulnerable subgroups such as women and their children, youth, mentally ill and the elderly will suffer under MMS. For instance, incarcerating women adversely impacts health because of “jail shock”, infrequent contact with family members and cohabitating with other drug using and mentally ill inmates. Therefore, increasing MMS will further exacerbate these health outcomes because of the prolonged exposure to the incarceration experience, which will perpetuate the cycle of recidivism.

DISCUSSION: *SWOT Analysis of Bill C-10*

Strengths:

Bill C-10 aims to reduce sentencing disparities, so that prison terms are uniformly applied to those who violate the law, and it emphasizes the importance of public safety. However, empirical evidence is at odds with these honourable aims and emphasis. Incarcerating more people for longer periods of time will lead

to adverse health impacts for the Canadian public, not least of which is the incarceration of non-violent individuals whose criminal actions stem from poor health, chronic disease and/or traumatic childhoods. In other words, the weaknesses of C-10 far outweigh the strengths.

Weaknesses:

MMS has already been intensely scrutinized because it automatically applies the minimum sentence while disregarding the unique circumstance in which the offence took place. Stripping the judicial system of its discretion may be met with resistance, as illustrated by the recent refusal of a superior court judge, Anne Molloy, to apply the MMS for a case involving the negligent possession of firearms. Moreover, C-10 will impede the (re)integration into society of individuals who will have an extended waiting period before being granted record suspension; they will be delayed from establishing new beginnings, such as finding meaningful education and/or employment and stable housing, and shedding the “criminal identity”, all of which are critical factors in becoming rehabilitated and healthy.

Opportunities:

The ideal prison for rehabilitation is one that seeks holistic treatment for illness. Estimates have shown that 12% of male inmates and 21% of female inmates have serious mental illness at the time of admission. Incarceration provides a window of opportunity to treat mental illness and psychiatric disorders; treating these conditions has been shown to decrease recidivism. This can be actualized by providing healthcare that is of the same quality found in the community, and partnering with organizations that can continue healthcare services upon an individual’s release. In addition, incarceration provides an opportunity to engage men and women in education about, and prevention of, infectious diseases such as HIV/AIDS and Hepatitis C, which have high prevalence among incarcerated men and women. These approaches are needed to reduce transmission of infectious diseases, following prisoners’ release, to the general population, and hence to bolster public safety.

Threats:

MMS will burden the Canadian taxpayer with a policy that drains public resources. A recent study has shown that the increased cost for prison expansion associated with C-10 is 14 billion dollars. It is already well established that many determinants of ill health, such as poor family cohesion, homelessness and exposure to illicit substances, are correlated to criminal activity. Therefore, it would be a far better use of public resources if funds were directed towards addressing the determinants of health, in order to prevent criminality from occurring, rather than focussing on increased incarceration.

RECOMMENDED RESPONSE

1. Do not implement new or extend existing mandatory minimum sentences for crimes, the majority of which are non-violent and/or result from disease, such as drug addiction or sexual dysfunction.

Allow the judicial system to exercise their discretion when dealing with individuals.

- American states such as Michigan, New York and California have already shown us that MMS is ineffective. Incarceration rates increased six to ten fold when these policies were implemented. We could expect to observe similar trends in Canada if this approach is employed.
- Furthermore, a crime bill of this size should not be pushed through Parliament in such a short amount of time. Each Act should go through the legislative process individually to allow for more input from expert witnesses in the medical, legal and advocacy communities.

2. Make correctional institutions places of health promotion.

- This can be achieved by reforming prisons to reflect international best practice, such as those endorsed by the World Health Organisation ‘Health in Prison Project’. Examples include promoting interpersonal/family relationships and promoting healthy nutrition and exercise.

- This requires buy-in from all stakeholders including correction services, public health and prison management teams. In addition, this requires specific training for prison managers and correctional officers to develop facilitation skills, in order to foster inmates' individual participation in health promotion processes.

3. In order to make Canadian streets and communities safer, we need to be *proactive* in fostering conditions that prevent crime, *not reactive* once the offence has already taken place.

- Reduce crime by allocating resources towards improving determinants of health. This can be accomplished by address homelessness, unemployment and education disparities in our vulnerable populations.

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