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Open the Doors to Smarter Justice

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by Michael Maher & Lorraine Berzins

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Introduction

This is a pivotal time for justice in Canada. Members of Parliament will soon vote on proposed new laws – an omnibus bill comprised of multiple pieces of law and order legislation – that calls for more people to be put in prison and for longer periods of time. Canadians are about to pay, socially and financially, for a misguided and costly tough-on-crime policy.

Perhaps, like many, you think that people in prison are simply there because they belong there. What do you have to do with it?

You have a great deal to do with it. And there are many reasons you should care.

As Canadian citizens, we need to critically examine what kind of society we are building and how we are spending our public funds. We need to break with retribution and vengeance, or even the slightest possibility that our silence means consent for what is happening.

This booklet presents a number of pieces that highlight the tremors going through the criminal justice system. We'll start with who's in prison and then examine how effective prisons are and if investing in building more prison cells is money well spent.

Come along, and if your heart is moved, make your voice heard. Government parties are advocating for expanded jails and longer sentences because they think you are fearful in spite of over a decade of falling crime rates. They think this makes you willing to spend huge amounts of money on locking more people up.

Let's say no to prison expansion, loud and clear. Ask for community-building instead. Make your voice heard in public debates, in letters to politicians and editors, in your blogs, in your tweets, and on Facebook.



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1 Who's in Prison?

When we talk about prisoners, who are we talking about? Who is housed within the walls? Our neighbours, our cousins, our sons and our daughters, our mothers and fathers, our husbands and wives.

There are just under 40,000 people currently in custody in Canada's federal and provincial jails. Approximately 10% of our adult population have had brushes with the law.

Canada imprisons at the rate of 117 per 100,000 (2008-2009), higher than most European countries. Our rates have increased over the last four years as the system increasingly over-relies on prison to deter crime – even though the evidence is clear worldwide that higher rates of incarceration do NOT reduce the crime rate.

Let's look more closely at who exactly we are locking up.

Generally, most offenders are young, single males.

- Almost 45% of offenders in provincial jails are under 30.
- The majority are single (62% and 51% in provincial and federal jails respectively).

But more specifically...

Are prisoners violent?

You may be surprised to hear that most are not.

- In federal prisons, 69% are there for violent crime. Just over 20% of that 69% are considered violently dangerous and rated for maximum security while the rest (44%) are held in medium security.
- In provincial prisons, only 22% are there for violent offences, 78% for non-violent.

Are they well?

- As of 2008, 13% of male offenders and 24% of female offenders are identified as having a mental health disorder at intake.
- Since 1997, the rates, among both males and females, of diagnosis with mental health disorders upon admission, have risen by approximately 85%.

- From 1998-2008, the number of federal offenders prescribed medication on admission for psychiatric problems has doubled.
- 80% of offenders have a substance abuse problem (alcohol or drug).

Are they rich?

- 59% of offenders entering prison are unemployed.
- About 10% of Canadians live in poverty but the vast majority of our prison inmates come from that 10%.
- Over 80% of women in prison are incarcerated for poverty-related offences.

Are they educated?

- 45% of individuals in custody who are older than 25 don't have a high school diploma.
- The average level of education on intake at the federal level is grade 7.5

Are they Aboriginal?

- Aboriginals make up about 3% of Canada's population.
- Aboriginal women represented 28% of all women sent to prison before trial and 62.5% of the female federal prison population
- Aboriginal men represented 25% of men admitted to sentenced custody and 20% of those imprisoned before trial.

Have they even been convicted?

- The rate of remand – those who are held in jail rather than given bail until trial – has gone up 40% in the last five years.
- In provincial jails, 57% of all inmates are on remand – in other words, **they have not been found guilty of anything!**

2 Prisons are not victim services

Remember that old joke with the punch line “all I got was a crummy t-shirt”? Ever wonder what a victim of crime gets in Canada? For all the talk about tough on crime, our current system is probably tougher on victims.

Victims are often ignored in the criminal justice system. The public wrongly believes that the Crown Prosecutor represents the victim at trial. Not so. The Crown pursues the accused for the State. Others think the police represent the victim. They don't. They are mostly finished with victims after their sworn statements.

Victims sometimes think that they will be compensated for the injuries and financial losses incurred during the commission of a crime. They rarely are and generally what they do get comes with re-victimization, challenging their credibility as their claims are put to the test.

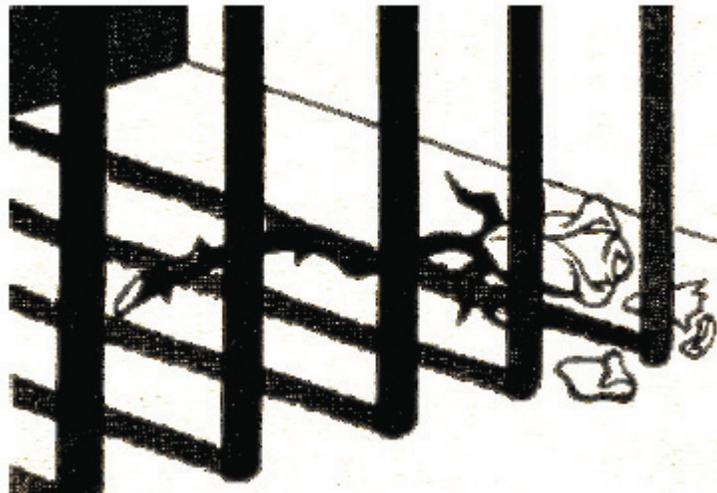
There are improved victim services and more advocates for victims who can manoeuvre the way through the complex and often competing criminal justice agencies. Still, frequently, the only compensation for the victim is in knowing that the offender will sit awhile longer in jail. Not much for their troubles, is it?

Prison sentences don't prevent crime; they don't reduce recidivism or crime rates; they don't deter crime; and they don't fully satisfy victims' needs.

“As my final recommendation to the Prime Minister and to the government, we have asked that the government refocus its efforts and its priorities on trying to meet the real needs of victims of crime. Sentencing and the “get tougher on crime” agenda will not meet the real needs of victims of crime, who are suffering every day, who call our office every day, who have trouble making their mortgage payments because they have lost their job, whose kids are acting up in school because they can't get counselling. These are real challenges that victims of crime face every single day. Obviously we need to have prisons, and we need to have programs for offenders who are in prison. I think we need to spend, as the Prime Minister talked about yesterday, an equal amount of effort and time on the needs of victims as we do on the needs of offenders.”

- Steve Sullivan, Canada's founding Ombudsman for Victims of Crime, speaking before the Standing Committee on Public Safety and National Security on April 20, 2010, emphasis added. His position has since been assigned to someone else.

Money spent on prisons and longer sentences is lost forever to the victims and the community without offering the victims and the community any services or any recovery from crime and its damaging impact on our lives together.



3 Prisons are expensive

Crime rates have steadily declined over the last 10 years. So why are we building more jails and keeping people in jail for longer periods? Why are we continuing to pour more money down the drain?

Why are we willing to incur a huge social and fiscal debt to do things that seem at the very least odd and unreasonable?

According to Correctional Services Canada, for 2008-2009 the average operational cost for a male federal prisoner is \$109,699 per year and a female is \$203,061. Corrections Canada currently spends just over \$2,200,000,000 a year on prisons – and there are plans to build 2,700 additional prison beds at a whopping cost of \$2,100,000,000 or \$800,000 per bed!

What's odd is the price tag on a proposal for prison expansion put forward by the government recently. They have announced an estimate of an additional \$2.1 billion for construction costs alone. Between the actual building costs and the cost of the longer imprisonment, the costs will run at least \$6 to 9 billion (depending on what is included in the estimate). It will likely be much more for our whole country given that 67% of prison operational costs are downloaded onto the provinces, reports Justin Piché of Newfoundland's Memorial University, who analyses the costs of Canada's prisons.

The Truth in Sentencing Act will increase the prison population by 30%. This is the legislation which no longer allows judges to reduce prison sentences by two days for each day a person spent in jail while awaiting trial – now the amount of credit for time served is capped at a ratio of one-to-one. This Act will bring another 4,000 Canadians per year into our prisons, by Corrections Canada's own estimates. This is an enormous expense when you remember the average costs quoted above. And this isn't even taking into account the increased operational costs for provincially run prisons and jails (but about two thirds would be a good guess as that's the usual split).

Other similar new policies are restricting parole opportunities and keeping prisoners longer with no possibility of supervision or assistance for a safe release.

There are alternatives! The cost of safe supervision in the community is \$57.29 per day while waiting for trial (with supportive housing included), one third the average provincial jail cost of \$153.38 for remand. There are also many sentencing options that could be served under community supervision at far less cost. Research shows these are just as safe and usually far more effective.

We know that in two years' time the Correctional Service's budget will be up 96% since 2005 and we know that capital spending on prisons will be up 236%... The increase in correctional spending is just the tip of the iceberg, obviously. Is that the best approach, or should we be trying to look at ways of dividing that money so that we don't see cuts to these victims' groups and those who are supporting victims, but augmentation, and so that we don't see cuts to crime prevention, but augmentation, and so that we increase community capacity to break cycles of victimization, as well as provide some money for prisons?

- Mark Holland, Former Liberal Public Safety and National Security Critic, speaking before the House Parliamentary Standing Committee on Public Safety and National Security, April 20, 2010

Look at the return on the investment from prison costs: are we holding our families to ransom for the social and fiscal debt such wanton spending will mean to us in the future?

Because money spent needlessly on prison and jail is money ripped away from meeting the real needs of victims, families and communities, we are creating a huge burden of social and financial debt. Such a plan is odd, unreasonable and simply not effective for anyone.

Sure, prisons can effectively separate violent, dangerous and high-risk offenders from society and 'keep them off the streets'. But remember, the majority of prisoners are there for non-violent crimes (78% and 31% in provincial and federal prisons respectively). Is expensive incarceration the most effective way to deal with this majority of inmates? Aren't there cheaper options that could be just as effective?

Making more crimes punishable by longer incarceration will make the criminal justice system slower, less effective and more expensive. Many correctional facilities are already reporting crowding in excess of 137.5% capacity.

What prison-focused policies seem to ignore is that prisoners will, in the vast majority of cases, eventually be released back onto our streets, back into our communities. So we can't just lock them up and forget about

them.

If we expect prisoners to live crime-free after they've been released, we have to prepare them and the community for that. Offenders who are not given the tools to get out of the circumstances which drove them to crime are more likely to commit crime again. This means education, skills-training, housing, counselling and accompaniment while moving to community integration.

The most effective way to get tough on crime is to prevent it and to build community supports for offenders. That means investing in education, job-training, employment, mental-health, poverty-reduction.

Building more prisons to accommodate longer sentences is like buying more body bags instead of treating the disease.

4 Better ways to spend our tax dollars

Incarceration is expensive. According to Ron Evans, Grand Chief of the Assembly of Manitoba Chiefs, community development is cheaper and way more effective.

In response to a federal government announcement of a proposal to spend \$2.1 billion (in construction costs alone) to create 2,700 new prison beds – or \$800,000 per bed – Evans pointed out that in Manitoba at the time of the Aboriginal Justice Inquiry, about 25% of those in prison were there because they were too poor to pay their fines - over 60% of those fine defaulters were Aboriginal.

Evans noted that in Manitoba, First Nations, Métis, and Inuit have both the highest rate of drop-out from high school and the highest rate of incarceration. Report after report indicates that the drop-out rate is due directly to chronic underfunding of schools. At a cost of \$15,000 per year, a four-year high school education would cost about \$60,000 per person. The money to be spent on building prisons, \$2,100,000,000, could provide for 35,000 high school graduates. One year in a federal jail costs about \$110,000 or the equivalent of just about three high school educations.

The Winnipeg Free Press ran a series of articles on availability of water and sanitation based on research funded in part by the Canadian Institute of Health Research. In one area, Island Lake, they report:

“Thousands of Island Lake residents still haul their drinking water in pails from a community tap and rely on outhouses or latrine buckets that some dump on the ground close to home. What will it take for these Manitobans to secure what the United Nations recognizes as an essential human right to safe water and sanitation?”

For a household of residents retro-fitting the homes and the community for drinking water and sanitation would be a one-time cost of \$35,000 per home. With the money destined for prisons, 60,000 homes could be delivered from third world conditions.

Evans asks, “is it any surprise the vast majority of those incarcerated in Manitoba are indigenous people when one in four First Nation children in the province live in poverty? This is a statistic in a country with one of the highest standards of living in the world.”

5 Time for a new approach

Jail is presented as a solution to social problems. Some would even have us believe that jail is the only way to banish our personal fear of being victimized.

However, the Correctional Investigator of Canada Howard Sapers thinks that preventative measures have a cost effectiveness ratio of 7-15:1, that is, every dollar spent on community development / preventative measures will save 7-15 dollars spent on jails. He echoes the statistics on Aboriginal imprisonment and points out that the numbers just cannot be accounted for unless there is a systemic discrimination towards Aboriginals in the justice system and inside the prisons.

Given that almost all prisoners are poor, what if we were to put some of the funds destined for prisons into poverty reduction and social housing? The number of homeless people who have spent time in jail is growing. A Toronto study of 300 homeless adults found 73% of men had been arrested and 49% of them incarcerated at least once. Of homeless women, 12% had served time.

And given that mental illness is such a pressing issue within prisons, what if we were to invest in mental illness treatment, especially for people at risk of being caught up in the justice system? Consider what happened to Ashley Smith, the young woman from New Brunswick who was jailed at age 15 for throwing a crab apple at a postman. Despite her recognized mental illness, she was sentenced first as a young person and then transferred to federal custody when she was 18. Not surprisingly, given her illness and the destructive conditions of prison life, Ashley resisted and fought with her jailers – this resulted not only in her being sentenced to additional time and shunted from one prison to the other, but she was even placed in solitary confinement. After 17 transfers, and at age 19, she strangled herself while prison staff watched without intervening. This story is so terribly wrong.

We don't need more prisons and longer sentences, particularly when directed at already vulnerable people. We need to spend our money to tackle poverty, mental illness and systemic discrimination. We need to

invest in income security and community development, not prisons. We need to stop using the currency of fear against one another and turn to the currency of mutual support. We need to build up each other, rather than build up walls between us.

Here's a radical idea! Instead of building more prisons, let's close some of the ones we already have. Let's refuse to allow the federal prison policy of expansion to impact on the provincial scene where there are already plans not just to replace aging structures but to expand prison capacity to accommodate the flawed federal approach.

If this sounds crazy, we have only to look at what is happening in other countries to see that prison closures are being implemented in order to reduce exorbitant prison costs and enhance community corrections.

The U.S. spent \$68 billion in 2010 on prisons, a whopping 300% increase over 25 years. They are realizing that locking more people in jail has not reduced their crime rates and is crippling the economy.

Former American Republican House Speaker, Newt Gingrich, and former Republican Leader of the California State Legislature, Pat Nolan are preaching a new message: they can "save on costs without compromising public safety by intelligently reducing their prison populations." They point out that Texas decided against building more prisons in 2007 and invested instead in community services. By enhanced community corrections they are projecting \$2 billion savings over five years and Texas now has the lowest annual crime rate since 1973. And for the first time in the state's history, neither the mentally ill nor low level drug addicts any longer face a waiting list for treatment.

We would do well to study the lessons learned by other countries such as the U.S. who have found that they can save money and improve community services by closing prisons and opening the doors of treatment centres, housing services, schools and hospitals.

6 What can you do?

Make your voices heard for compassionate, safe and effective alternatives.

‘The questions Canadians must ask themselves and their members of Parliament are these: How many billions of dollars are we willing to spend every year for a vague sense of satisfaction? How many prison guards are we willing to put at extra risk in crowded conditions? How many young offenders are we willing to turn into reoffenders? How are we going to pay for all this?’

- Editorial from *The Ottawa Citizen*, Prison system a costly mess (July 22, 2011)

‘What we have are justice reforms that will cost us a lot more while making us less safe. Not only is this not conservative – it’s not even rational.’

- Editorial from *The Vancouver Sun*, ‘Approach to justice not conservative, nor is it rational’ (July 23 2011)

Ask questions

- » Find out about the repercussions the federal tough on crime agenda has already had for your own provincial or territorial correctional system.
- » Find out who in your community - prisoners and guards - will be affected by health and safety risks associated with over-crowding in prisons.
- » Ask why Canada has so many prisoners on remand or how we are addressing mental illness and poverty?

Make your views heard

- » Think about this issue and make your views known: in letters to politicians and editors, in your blogs, in your twitters, and on Facebook
- » Send a postcard to your Member of Parliament and ask them to carefully consider the impacts of the Omnibus Bill as well as other issues like the high number of inmates on remand or mental illness among prisoners. (see Citizens for Fiscal and Social Accountability for samples.)
- » Pass this booklet along to others and encourage its reproduction in full, or publication of excerpts, for example in your weekly newspaper, faith group bulletin inserts, social and service club newsletters.
- » Organize a discussion group or town hall meeting. Contact the Smart Justice Network for help finding speakers.



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About the Smart Justice Network

Our vision is a responsible criminal justice system which values justice and human dignity for all – victims, offenders and communities.

Our aim is to help ignite public conversation about the Canadian justice system and promote smart justice – effective responses to crime and its consequences.

Our method is the dissemination of comprehensive information on the justice system and on smart justice approaches and practices, and the respectful engagement with the perspectives and stories of people who have experiences in the criminal justice system.

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