

January 30, 2012

The Honourable Raynell Andreychuk
The Senate of Canada
Ottawa, ON K1A 0A4

Dear Senator,

Justice Barry Stuart spent 25 years as a judge in Yukon. Earlier this month he told the CBC news program, the Current, that while Bill C-10 was likely well-intended, *those supporting it must have the courage to see and hear those people saying that the Bill is not the way to go.* Unfortunately the courage Judge Stuart speaks of was absent during the debate in the House of Commons where supporters of this Bill refused to listen to any criticism of or suggestions for, despite the fact the short-comings of this legislation are both well researched and well founded. Canadians can only hope that this courage is found on the floor of the Senate when debate opens. This would truly show the value of the second chamber, in the way Sir John A. Macdonald envisioned.

Despite its title, Bill C-10 will not create safer communities or streets. Overall, the Bill is intended to increase the amount of time an individual would spend in jail or youth custody, as a way of preventing crime. It will do this primarily through the restrictions on conditional sentences and through a number of new mandatory minimum sentences. This is known as the punitive approach and has been widely used – and subsequently rejected in both the United States and Great Britain over the last 35 years or so. In both these jurisdictions the use of a punitive approach drove up the cost of incarceration at the expense of preventative programs (such as drug rehabilitation, and reintegration programs) with little or no real decrease in crime. There is no reason to think the Canadian experience will be any different.

Felix Collins, Justice Minister of Newfoundland and Labrador, whose Conservative provincial government has come out in opposition of Bill C-10, said recently he has never seen a study that favours more prison time as a way to cut rates of re-offending and improve public safety (Globe and Mail, on November 3, 2011).

Nobody knows this better than our neighbours to the south. During the last 35 years or so, when the United States whole-heartedly adopted a punitive approach to crime, US incarceration rates *increased 600%* to the point that now *25% percent of the world's prisoners, are in the United States.* The cost of incarceration increased more than 300% and for all the money spent, there has been *little or no* reduction in crime. Crime rates did decrease slightly (20-30%) in the US over 30 years but so did rates in Canada, indicating that even this modest reduction was the result of other factors and had nothing to do with increased incarceration.

Newt Gingrich, a prominent US politician and outspoken proponent of the punitive approach in the past, has now taken an entirely new position. Gingrich wrote last January that:

Our prisons might be worth the current cost if the recidivism rate were not so high, but, according to the Bureau of Justice Statistics, half of the prisoners released this year are expected to be back in prison within three years. If our prison policies are failing half of the time... *it is time to fundamentally rethink how we treat and rehabilitate our prisoners.*

Many Americans have openly urged Canada not to repeat their mistakes:

Republican governors and state legislators in such states of Texas, South Carolina, and Ohio are repealing mandatory minimum sentences, increasing opportunities for effective community supervision, and funding drug treatment because they know it will improve public safety and reduce taxpayer costs. If passed, C-10 will take Canadian justice policies 180 degrees in the wrong direction, and Canadian citizens will bear the costs. (Tracy Velázquez, executive director of the Washington-based Justice Policy Institute in an interview published by the CBC, October 17th).

Bill C-10 will have a direct impact on rates of incarceration. Corrections Services of Canada is predicting a yearly 8% increase in inmates going forward (Office of the Correctional Investigator, 2011 Annual Report). At the provincial level, the increases will likely be three or four times higher (putting it in the range of 24 to 32%) given that the vast majority of minimum sentences will be served as 'provincial time'. Added to that, the provinces will see an increase in remand wait times, as mandatory minimums make plea bargains less attractive causing more cases to proceed to trial. The John Howard Society of Canada has previously raised the very real concern that the Provinces, already stretched to capacity as a result of Bill C-25, simply do not have the capacity to absorb the increase in inmate populations Bill C-10 will bring, creating chaos in corrections.

The emphasis on harsher punishment as a response to crime is also problematic when one considers the large (and growing) percentage of prisoners in Canada suffering from some form of mental illness and/or addiction. Prison is ill-suited to respond to mentally ill prisoners in need of support and treatment. Prison in general exacerbates mental health concerns, and the practice of segregating mentally ill prisoners makes the mental health issues faced both by prisoners and institutions much worse. The imposition of mandatory minimums and harsher punishment will undoubtedly increase the number of prisoners in Canada suffering from mental health issues. The proponents of Bill C-10 in the House of Commons would not allow amendments so that judges could consider mental health when sentencing. The inhumanity of this approach should be apparent to all but it is important to note that it is also in direct conflict with 718.1 of the Criminal Code which states that proportionality must be the founding principle in sentencing.

The John Howard Society of Manitoba is also particularly concerned with the increasing difficulty that individuals with criminal records have in securing stable employment. As well, in the Province of Quebec, individuals with a record from which they have not been pardoned cannot get house insurance, which effectively prevents them from ever owning a home. Over 3 million Canadians have a criminal record for which they have not been pardoned. Despite the lack of any evidence whatsoever to show that a pardon somehow makes it easier for an

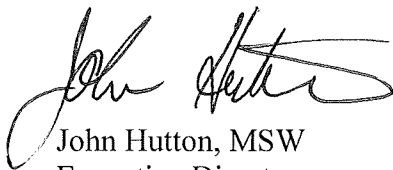
individual to commit crimes in future, Bill C-10 will arbitrarily double the waiting periods for anyone wanting a pardon and will exclude large numbers of people from every getting a pardon, regardless of how long they have been offence free. The act of branding someone a criminal for life, can become a self-fulfilling prophecy making our communities and streets less safe in future.

In closing, we would ask that you listen closely to the concerns about this Bill raised by the Aboriginal community, particularly those raised by the three Grand Chiefs from Manitoba who jointly condemned this legislation last December. Here in Manitoba, Aboriginal people make up 70% of those in custody, despite being only about 15% of the total population of this province. Bill C-10 will render the Supreme Court's Gladue Decision largely meaningless, disproportionately impacting our Aboriginal community which is still recovering from the legacy of residential schools. For this reason alone, it should be voted down.

Please vote against Bill C-10 to ensure that Canadians do not have to sacrifice our social safety net work in order to pay for provisions that make us less humane and ultimately less safe.

If you have any questions about specific components of Bill C-10, or about the contents of our letter, please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John Hutton". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John Hutton, MSW
Executive Director
John Howard Society of
Manitoba