



**Nov. 26, 2011: Rally on Parliament Hill about the Omnibus Crime Bill, Bill C-10
(Notes for comments by Catherine Latimer, Executive Director, John Howard
Society of Canada)**

I am proud to be here today among so many people seeking a fairer and more just society.

All of us here today share certain goals:

We all want safer communities and less crime;

We all want support for victims of crime;

We all believe in just and proportionate accountability for those committing crime;

We all want those being held accountable for crime to be treated fairly and humanely and given support to become contributing members of society after they have paid their debt to society

Our problem is that Bill C-10 will not achieve these ends – it will make things worse – we will be less safe with a huge human price being paid by some of our most vulnerable Canadians and at enormous cost to the provincial tax payer.

I have been asked to speak about why the Bill would make bad law: Frankly when the Canadian Bar Association with its 37,000 lawyers and the Canadian Civil Liberties Association say it is flawed, we simply need to read their persuasive analysis.

Nevertheless, I will simply raise four categories of concern:

1. Charter and Federal/Provincial Dynamics

- This Bill will violate people's Charter rights: See Canadian Civil Liberties Association analysis, see SCC decision in R. v. D.B.
- The cumulative impact will likely lead to Charter violations in a justice system that is already in crisis
 - Crowded prisons – s. 12
 - Delays in processing cases – s. 11
 - More pre-trial detention – s. 11
- This Federal law will require the provinces to violate Charter rights unless they spend billions on jails, correctional workers, prosecutors, legal aid, and judges

2. Unfairness in Law

- More discretion over the fate of individuals will be in the hands of Ministers and officials and less in judges and courts
- More Mandatory Minimum Penalties (MMP), which are always unjust for the person who deserved a lesser penalty
- Access to drug treatment programs as an alternative to MMPs are limited, urban, and unfairly accessible
- Protections like “least restrictive measures” are removed for some who are most at risk
- Bill keeps on punishing after the sentence is finished and the debt to society is repaid by limiting current access to human rights protections from discrimination (through pardons)

3. “Targeted” Legislation Misses the Mark

- Aimed at “those in the business of trafficking” but hits those who share with no profit motive
- Aimed at the small group of the most serious violent youth but redefines violent to include non-violent acts that were not even intended to be violent

- Aimed at prohibiting youth under 18 from serving sentences in adult facilities but does not preclude adults being moved from crowded adult facilities into youth facilities – New Brunswick, future possibility in PEI
- Aimed at serious crime but hits the disenfranchised, poor, and mentally ill (MMPs)

4. Inconsistent and unprincipled

- Merges youth justice and adult criminal justice concepts and introduces adult criminal justice principles like denunciation, and deterrence into the youth justice system
- Merges concepts of paternalism and criminal accountability – 15 year-old is deemed incapable of consenting to sexual activity on one hand, yet held accountable and subject to possible adult sentences if he fails to detect the lack of consent in another
- Applies sentencing principles rather than corrections principles in corrections decisions
- Claims to be standing for the rights of victims but may hurt victims in practice – for example, imposing MMPs of 5 years for offences like incest creates an impediment to young people speaking out to get the help they need if it will mean that a relative, possibly the family breadwinner, will go to jail for 5 years
- Fails to present any evidence of the problem it seeks to correct through the criminal law or any evidence that the proposed legislative measures will be successful – for example – is there really a growing problem of adults committing bestiality in front of minors or enticing young people to commit bestiality?? What makes us believe that upping the penalty will curb this practice??

A concerned citizen, Karen Zanutto, who joined with many other concerned Canadians to present petitions to MP's offices earlier this week, said in a video, that we needed more time to examine the provisions. She called for more review of the provisions. We agree.

If Parliament does not have the time to study this Bill seriously, listen to the experts, hear the impact the Bill will have on those affected by it, work with well-intentioned people to explore more effective ways of achieving our shared policy objectives in a manner that is just and respectful of rights, then we should do it ourselves. Many of us, including the Smart on Justice Network and the John Howard Society of Canada are anxious to get and share accurate, evidence-based information, and work collaboratively through community forums or on-line to improve our justice and corrections system.

It is not too late. Let's do it now. If you are interested in participating, let me know. It will be our gift to each other, our society and our future this holiday season. Together we can find more just, more effective, and more humane approaches to keeping our communities safer than those in Bill C-10.