

Fact Sheet

#18

*in a series of fact sheets
that examine questions
frequently asked about
the criminal justice
system*

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Conditions in Ontario Provincial Prisons: A troubling picture

Dirty, degrading and dangerous - some of Ontario detention centres are in desperate need of attention. Recent press reports paint a dire picture of a growing crisis that could have major implications for public health, public safety and all Ontarians' human rights protections. What is the nature of the conditions being described and are the sources credible? Why should we care about the environments in which prisoners live? What are the contributing factors to substandard conditions? What can be done to alleviate this situation?

The John Howard Society of Ontario has produced this Fact Sheet to highlight and inform the public of this important issue in a timely manner.

Evidence at a recent sentencing hearing in Toronto

In June 2002, a sentencing hearing was held for a man convicted of car theft before an Ontario Court judge in Toronto. Because time spent in jail awaiting trial can have an impact on the sentence imposed, the judge heard testimony as to the conditions in the

Toronto West Detention Centre where the individual had spent seven months before trial. The evidence placed in front of the judge, not only from the offender but also from correctional administrators, described the following conditions:

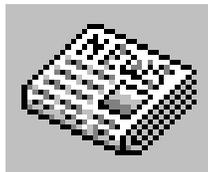
- three people to a cell - 4 metres by 2.5 metres - originally designed to accommodate one person;
- the three cellmates being confined in this small space for long periods of lock-up - normally 12 to 14 hours a day but, during the recent strike, 20

hours per day;

- one person sleeping on a mattress on the floor near an open toilet;
- with meals almost always served in the cell, the toilet as the only available fixture upon which one of the cellmates could eat;
- a waiting list (of 108) for tests for tuberculosis (TB);
- of those who have been tested for TB, 53 tested positive on skin tests;
- untested prisoners, and those awaiting further tests because of a positive skin test, left in the population to potentially spread the disease;
- other health problems and inadequate health care (the individual being sentenced suffered for two months from a skin disease on his face and hands and substantial hair loss and received no medical care during this time);
- with no direct contact between inmates and guards because of staff reductions, a loss of staff control over living units; and,

Held in jail cells unfit for humans

Globe and Mail, Editorial Headline June 8, 2002



Jails tops Ombudsman's concerns

Toronto Star, Story Headline, June 25, 2002

“There was an odd debate among witnesses about whether inmates on the floor generally prefer to sleep with their heads beside the toilet to be closer to the open grill at the door, or to sleep with their heads under the desk”, Judge Kenkel noted dryly. “Whatever the popular answer is in ‘the West’, the choice speaks for itself.”

Globe and Mail, June 6, 2002

- a climate of tension and hostility among inmates (384 assaults were reported last year) and between inmates and guards.

The judge sentenced the individual to one day in jail, ruling, as the Globe and Mail editorial on June 8, 2002 stated, “that the circumstances of his seven months in pre-trial custody were so inhumane that time will be counted as 24 months”. Significantly, this editorial applauded the correctness of the judge’s decision in the circumstances and condemned the Ontario government for undermining basic human rights.

This case is not the only one in which a judge has given exceptional credit for time spent in pre-trial custody because of prison conditions. A story in the Kingston Whig Standard in August 2001 reported that, in that year, six Toronto judges had increased the normal two-for-one credit for time served pre-trial to three days for every day spent in jail awaiting trial, citing overcrowding and poor conditions in provincial prisons.

The Ombudsman’s report

Conditions in provincial prisons were the key concern of the Ontario Ombudsman as he presented his annual report for the 2001-2002 year.

The job of the Ontario Ombudsman is to investigate complaints about the provincial government organizations. During the year 2001/02, the Ombudsman’s office received 21,186 complaints and inquiries. Those from inmates in provincial correctional facilities comprised the largest percentage - 36% of total complaints. The 7,697 complaints received about corrections far exceeded any others, followed next by the Family Responsibility Office about which the office received 1,135 complaints.

The major areas of complaints from prisoners related to: staff conduct, health (adequacy, medications, delay) and living conditions (food and diet, clothing size and condition, cleanliness, hygiene and sanitation, heating, ventilation and air, overcrowding and lock-up). Case examples described in the report relating to the Ministry of Correctional Services included:

- a mentally ill, hearing-impaired woman, heard screaming and yelling through the heavy doors of the segregation cell where she was held for most of the two months she spent in the prison, and lacking regular access to showers and daily fresh air, as required by Ministry policy;
- a special needs young offender in a custody facility whose request to have his mother present at a surgical procedure was refused;
- inmates being served food to which they were allergic with no other alternative provided, forcing them to skip the meal;
- a disabled prisoner, who has only one leg and uses crutches, due to be released in four days with no transportation to his hometown;
- a francophone inmate denied a transfer to a treatment centre because of his limited ability to

speak English; and,

- an inmate with an artificial leg experiencing pain and swelling because of delays in receiving a new strap to hold the leg in place.

The Ombudsman’s office did intervene in these cases to reach a suitable resolution in accordance with Ministry policies.

At a press conference announcing the release of the report, Clare Lewis, the Ombudsman, identified the get-tough, no-frills approach towards prisoners taken by the government as the major contributor to deteriorating conditions over time.

Mr. Lewis issued a warning, both in his press release and at the press conference, that he would be making regular, personal visits to correctional facilities to monitor conditions - an unusual move reflecting the seriousness of his concerns.

Why should we care?

Harsh and overcrowded prisons are:

- **Not effective**

What do we want from our correctional system? Surely the answer to this question is a reduction in crime. So anything that goes on in prisons should be done with an eye on the ultimate goal - crime reduction. And authorities should be rigorous in their methods for achieving this goal, that is, correctional programming and

“I am not asking that people be mollycoddled. But, by golly, if we are going to incarcerate people - and we do in large numbers - then we have an obligation to see that they are treated rationally, with dignity and with some degree of respect. They are not pigs.”

Clare Lewis, Ontario Ombudsman

Globe and Mail, June 6, 2002

treatment must be based on credible research that indicates the crime-reducing potential of a particular course of action.

When we send people to prison, we don't send them away forever. In Canada provinces only have responsibility for sentences that are less than two years in duration, while the federal government has jurisdiction over longer terms of imprisonment. So anyone entering one of Ontario's overcrowded and dangerous facilities will be back on the streets within a relatively short period of time. Whether offenders return to us better able and willing to participate in their community as law-abiding, contributing citizens is largely dependent on how they were treated in prison. There is virtually no evidence to suggest that good citizenship skills, healthy attitudes or constructive behaviour can be achieved through punishment or coercion.

Indeed, Canadian research demonstrates the ineffectiveness of punitive prison conditions. A recent review of the literature on the effect of prison sentences on future criminal behaviour (Gendreau, Goggin and Cullen, 1999) found that the most consistently negative results (no reduction or an increase in re-offending) came from studies that looked at the effect of longer prison sentences, the majority of which came from studies of 30 years ago. This was a time when prisons were noted for being harsh, barren environments.

- **Not just**

It is the fundamental right of every Canadian to be innocent until proven guilty. The appalling conditions of overcrowding are most evident in the detention centres, which house those awaiting release on bail or awaiting trial and others on immigration holds or temporary detention. Punishing

people, who have not been tried and convicted, or in the case of people on immigration holds, who have not even been charged with a criminal offence, violates a basic principle of Canadian law.

And, in the case of sentenced prisoners, subjecting them to additional punishments beyond the loss of their liberty, is a slippery slope down which no civilized nation opposed to torture and all abuses of human rights should venture.

- **Not humane**

Canada supports a number of international human rights documents, including the United Nations *Standard Minimum Rules for the Treatment of Prisoners*. Nations endorse these documents because they recognize that there are fundamental principles about which all civilized people agree and should follow. These Rules set a benchmark below which no modern nation, particularly those that claim to be democracies, can afford to fall. It is no accident that many of the human rights documents cover human activity that can be hidden from general view because it is behind closed doors that the human rights abuses are most likely to occur.

The U.N. Rules direct: one prisoner per cell, prisons generally no larger than 500, prisons as places where there is no danger to life, health and personal integrity, the treatment of unconvicted prisoners in a manner according to a special regime that reflects their status as persons "presumed innocent", clothing not to be humiliating or degrading, physical and recreational training, remuneration for work in the institutions and special efforts to maintain and improve the relationship between the prisoners and his/her family.

In light of these international standards, how can Ontario justify:

prisons with a capacity of 1,200 to 1,600 people, two prisoners to a cell as the general rule and three to a single cell as far from uncommon, harsher conditions for unconvicted prisoners in detention centres, no recreation officers or gymnasiums in the detention centres, bright orange jumpsuits as standard prison garb, no payment for work and barriers to family contact due to the location of institutions?

- **A public health concern**

There is no wall or lock secure enough to keep the community safe from the public health dangers festering in overcrowded and dirty conditions, especially detention centres where there is continuous turnover of inmates and staff. Diseases, such as TB, are more likely to spread in overcrowded, cramped environments where there is a constantly changing population and health care resources inadequate to screen, test and treat appropriately. Not only do we endanger prisoners by keeping them in these environments but also we can endanger public health when infected prisoners are released back into the community (and most are released from provincial prisons in days or weeks).

In New York City, an outbreak (of TB) that began in a prison in the early 1990's cost \$1 billion to contain after it spread to the city at large. Lesser outbreaks afflicted Miami, Los Angeles and Houston.

Globe and Mail, June 8, 2002

What factors are contributing to the worsening conditions?

Overcrowded prisons are places where services and staff are stretched, where space to function routinely is at a premium, where diseases are more

likely to spread, and where the normal tensions of living and working in a confined areas are heightened.

But why are prisons overcrowded? Crime rates in Ontario have decreased significantly within the past decade, so escalating criminal activity is the one thing that we know is not to blame for Ontario's overcrowded jail problem. The fact is more people are being charged and more of those who are charged are ending up in jail and staying there longer - a phenomenon that is related to the operation of the police, courts and corrections and their policies and practices.

Over the last decade, there has been a dramatic increase in the number of people held on remand (mostly those awaiting trial). As we detailed in a previous Fact Sheet, factors such as, police not making full use of their powers to release, stretched courts and legal resources, lack of preparation for and information presented at bail hearings, decision-making criteria and disparity in the use of judicial discretion, are likely contributors. As a result, accused persons are being held in custody longer before being released on bail and many who could be safely managed in the community are being denied bail. What is particularly disturbing is the evidence which suggests that those who are poor, homeless or otherwise disadvantaged are more likely to be

Quick facts (Ontario)..

Crime rate (per 100,000):	
1992	9,767
2000	6,421
Average count remand prisoners:	
1992	2,381
2000	3,701
Paroles granted:	
1992	3,427
2000	584
Temporary Absences activated:	
1992	25,038
2000	2,704

Source: Statistics Canada and Ministry of Correctional Services

held in pre-trial detention.

For sentenced offenders, there has been a dramatic decline in the use of conditional release programs (parole and temporary absences) resulting in more remaining in jail for a longer period of time. The sentenced population has been decreasing but could have been even further reduced if conditional releases were granted at the same rate as a decade ago. Even the Provincial Auditor has been critical, specifically of the under-utilization of temporary absences (T.A.). He noted not only that it would save taxpayers \$50 million a year if Ontario used T.A.s at the same rate as Alberta but also that T.A.s had a high success rate (97%) and, therefore, an expanded use of this program would not jeopardize public

safety.

What needs to be done?

We do not need more prisons. More prisons would be, at best, a temporary and short-term solution to the current overcrowding.

What we need is action on the recommendations put forward in a number of studies and reports to government, such as those proposed by the Commission on Systemic Racism in the Ontario Criminal Justice System (1995), the Criminal Justice Review Committee (1999) and the Provincial Auditor (2000 Special Report). All have documented the overuse of incarceration, particularly of minor, non-violent offenders, and point to the inefficiency and ineffectiveness of incarcerating those who could safely be managed in the community. Concrete recommendations have been made to reduce the use of incarceration through such measures as: greater use of police diversion, post-charge diversion programs, expanded bail supervision programs, and greater use of community sanctions and conditional release.

What happens behind prison walls has an impact on the whole community sooner or later. Alternatives to incarceration, with their proven records of success, offer the best means to protect everyone's interests.

Effective, just and humane responses to crime and its causes

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