



# SUBMISSION

## 2017 Pre-Budget Consultations

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CENTRE OF RESEARCH, POLICY  
& PROGRAM DEVELOPMENT

**JohnHoward**  
SOCIETY OF ONTARIO

Submitted by:

## **John Howard Society of Ontario**

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### **About the John Howard Society of Ontario**

The John Howard Society of Ontario (JHSO) is dedicated to creating genuinely safer communities by helping to foster a truly effective criminal justice system. We help achieve this goal in a variety of ways and with a suite of programs and services that we offer through our 19 local offices across Ontario. We provide over 80 different programs and services that help over 100,000 individuals across Ontario annually. Services range from prevention programs for high risk youth through to housing and reintegration services for those who have been released from prison back into our communities.

Founded in 2003, the Centre of Research, Policy & Program Development (the Centre) is the research and policy arm of JHSO, and is the only organization of its kind in Ontario. It facilitates interdisciplinary innovation by combining partnerships with front-line service providers and creative and academically qualified researchers and analysts. This results in research that helps people. The Centre is a leader in non-partisan research, evidence-based programming, and policy development in the justice sector.

## Introduction

Please accept this document as the submission of the John Howard Society of Ontario to the 2017 Pre-budget consultations of the Standing Committee on Finance and Economic Affairs. We are pleased to have the opportunity to provide input into this process. The total provincial expenditures related to criminal justice and social services are immense, and there are many opportunities for savings, both in the short-term and the long-term. Our provincial correctional institutions are facing growing resource pressures and operational challenges. These challenges are by no means new, but seem to be hurtling toward a breaking point. The overcrowded conditions, the high proportion of unsentenced (“remand”) prisoners, the prevalence of mental health issues among prisoner populations; these are but a few of the systemic issues that make our jails less safe, less healthy and less effective. Our provincial jails are frequently overcrowded and at capacity; prisoners sleep two or three to a cell designed for one, at times on a mattress on the floor. Paradoxically, crime rates have been steadily dropping for years.

There is a clear way to both reduce provincial expenditures on corrections and create safer communities: by relying less on detention for people who should not be there in the first place. By relying on community-based alternatives to incarceration, both before a person is sentenced and after, the province would be building on a community infrastructure that has proven success in supervision and reintegration while simultaneously being more fiscally responsible.

## Bail

In our 2015 and 2016 pre-budget submissions, we highlighted the findings of our 2013 report entitled, [Reasonable Bail?](#), which shows how bail in Ontario has drifted far from its legislated purpose as outlined in the *Criminal Code*, resulting in significant costs to taxpayers and more people involved in the criminal justice system, with no benefit to community safety. Bail remains a challenge in Ontario – one that continues to cost taxpayers.

In Ontario, we spend hundreds of millions of dollars detaining *legally innocent* people every year. In 2014 approximately 61,000 prisoners were admitted to our provincial jails. It costs, on average, \$217.93 per day<sup>1</sup> to incarcerate a person in Ontario’s jails. By comparison, supervising an individual in the community typically costs around \$5 per day. About 60% of prisoners in our provincial jails are on remand – that is, awaiting bail or trial – and in most instances (70%) the most serious charge they are facing is non-violent. In addition, even a short remand stay can be profoundly disruptive and costly; people can lose their jobs and homes and become dependent on government-funded social services. As noted in our 2015 submission, Don Drummond, in his 2008 Report presented to the provincial government, indicated that:

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<sup>1</sup> 2014-2015 per diem. Source: Correspondence from MCSCS Dec 3/2015.

“Given the projected annual expenditures for this sector, Ontario must address the trend of increasing custody remand and the additional costs associated with this trend if the province is to balance its budget by 2017–18.” (Drummond Report, 353)

In *Reasonable Bail?* we argue that in order to address the costly remand issue, targeting bail is essential. Decision-making in Ontario’s bail courts is strongly influenced by an organizational risk aversion that ultimately undermines the rights of the accused person to timely and reasonable bail. Contrary to what federal legislation dictates around bail, bail in Ontario is difficult to obtain, often requires that individuals find a suitable “surety” and comes with overly restrictive conditions which often have no objective connection to the alleged crimes committed or actual risk to community safety. These bail conditions often make otherwise legal behaviour a criminal offence, such as being out past 9:00pm or consuming alcohol.

These bail conditions set vulnerable and marginalized individuals up for failure. For instance, people with mental health and/or addictions issues are frequently mandated to abstain from the substances to which they are addicted, or ordered to seek “treatment” where no such services exist in individuals’ communities. Our justice system is, in a real way, policing mental illness and addiction and this is extremely costly. Our courts and provincial jail admissions are in large part driven by people’s failure to comply with these types of onerous conditions: approximately 1 out of every 5 people admitted to Ontario’s jails are there for a charge of failing to comply with a court order. In other words, one-fifth of people admitted to our jails are there for the crimes like drinking alcohol or entering a liquor store (when they were ordered not to as a condition of bail).

Other jurisdictions have successfully reduced their pre-trial detention rates through policy and practice changes; Ontario could similarly minimize both the fiscal and human costs associated with high remand populations. We recognize that the province has made some recent investments into bail reform. To fully realize the benefits of a fair, efficient, and effective bail system, investments should be expanded so that all regions in Ontario are included.

#### **JHSO Recommendations:**

- a) Review and revise the MAG Crown Policy Manual Bail Hearings section to reflect the best practices identified in the evidence and through justice stakeholder consultation.
- b) Continue to expand support for the existing MAG-funded Bail Verification and Supervision Programs in order to reduce unnecessary incarceration and ensure that more Ontarians have access to equitable and timely bail. An expanded program capacity (i.e. staffing ratios) would translate into more timely releases and more individuals from marginalized populations accessing bail (and therefore saving the government both correctional and criminal court costs).

- c) Continue to invest in housing for those awaiting trial (i.e. “bail beds”) who are homeless and lack a fixed address. Accused persons who lack a fixed address do not have equal access to bail in Ontario, and finding suitable residences or residential sureties often results in costly and unproductive delays in criminal courts. Providing housing that is supportive – not shelters – would not only improve the timeliness of release decisions in courts, but would also help stabilize populations who may be otherwise hard-to-reach. It would be most practical to have the housing operated by the transfer payment agencies who already operate the MAG-funded Bail Verification and Supervision Program (BVSP), since many clients who would be housed in the bail beds may also be required to report to the BVSP. Funding should be provided for a designated number of bail beds for several years, and there should be an evaluation component that monitors and evaluates the program outcomes.
  
- d) See the additional Recommendations relevant to the provincial government outlined in *Reasonable Bail?* for further suggestions on cost-effective solutions that improve court efficiency while reducing pressures in pre-trial detention centres. The report is available on our website: [www.johnhoward.on.ca](http://www.johnhoward.on.ca)

## Investments in Health Care

In our 2016 Report entitled [Fractured Care: Public Health Opportunities in Ontario’s Correctional Institutions](#), we noted how a Ministerial split in the provision of health care in the province has not been serving Ontarians well. People incarcerated in provincial correctional institutions are returning to our communities – often after a short stay – with unmanaged physical and mental health conditions. The health of incarcerated individuals is an intrinsic component of the health of communities, and a matter of interest to Ontario’s health care system as a whole.

The complex health care needs of Ontario’s incarcerated populations show not only an urgent need for reform, but an opportunity to realize improved public health and health resource management. Through prevention, screening, early intervention, management, and treatment programs, there is an opportunity to bring hard-to reach populations who are temporarily housed in correctional institutions into the health care system. This will not only improve individual and public health outcomes, but also foster stability and sustainability in the health care system through early intervention and increasing access to primary health care services in place of acute episodic intervention.

From a health systems perspective, early intervention for acute and chronic conditions are essential to alleviate the burdens produced by illnesses. More specifically, early health interventions help to reduce both the severity of illness and the degree of medical intervention required to treat a condition once it has worsened. The more serious a condition, the more resources that are required to treat it. Failing to adequately address health concerns in correctional

institutions, and provide early intervention upon release, defers treatment. Without access to primary care services in correctional institutions and upon release health conditions can worsen, leading the treatment itself to also become more costly.

Individuals who come into contact with the criminal justice system or those who are at risk of coming into contact with the justice system typically suffer from much poorer health outcomes than the general population. Some research shows that this population frequently lacks access to primary care physicians, and instead rely on emergency room visits to address health issues. Indeed, the social determinants of health and the social determinants of contact with the criminal justice system have some overlap. Mental health, for example, is a key correlate to contact with the criminal justice system. Our correctional facilities have concentrated individuals suffering from mental health issues, partly because community based services are not widespread or accessible, and partly because we have a system which is reactive rather than proactive to mental health for at-risk individuals. By investing in health needs – both inside correctional facilities and in communities – the province can inhibit costly contact with the criminal justice system, improve the health of some of Ontario’s most vulnerable and marginalized populations, and reduce system costs by applying a preventative lens to health care.

**JHSO Recommendations:**

- a) Building a mental health infrastructure that makes health care services accessible and widespread across communities. Building an accessible mental health care system in all communities across Ontario will require significant upfront investment, but it will pay dividends in terms of the long-term savings from other social and justice services –such as policing, criminal courts, correctional systems, hospital emergency departments, social benefits and homelessness.
- b) Provide individuals with mental health issues secure placement in supportive housing immediately upon release from custody to promote a more positive and successful reintegration into the community. Additional funding for system navigators would assist individuals in accessing financial resources, treatment, medication and clothing and prevent crises upon release. Expand proven Housing First models, with designated beds for those with serious mental illness, to more communities in Ontario.
- c) Study the impact of integrating and restructuring health services in correctional institutions under the MOHLTC’s responsibility. It is at this local level where systems may be most effectively responsive to the needs of incarcerated populations, and it is also where the benefits of intervention will be directly experienced by communities. Ontario’s LHINs are well-positioned to design, implement, and maintain effective and comprehensively integrated health services that include provincial correctional institutions. Other jurisdictions – Alberta, Nova Scotia, England, Scotland, Norway, France – have integrated their public and correctional health care systems, based on financial, systems, and rights

considerations. With some investment, Ontario could establish a working group to reach out to and study these jurisdictions, in particular the provinces, to determine potential models for integration. A dedicated working group could produce a report highlighting the benefits and challenges associated with integration.

## Alternatives to Provincial Incarceration

Incarceration is an inherently damaging experience. People do not typically leave jail better off than when they went in. In fact, some studies suggest that incarceration increases the likelihood that people reoffend when they are released.<sup>2</sup> Even a correctional environment that emphasizes rehabilitative programming takes its toll: while in jail, people lose critical connections to stabilizing factors such as their employment or their family. When a person commits a crime, we want to hold them accountable. We also want to ensure that our responses to crime are serving to make our communities safer, and not the other way around. Given how damaging – and costly – incarceration is, we should strive to avoid these negative outcomes and costs wherever possible: jail should be reserved for people who truly need to be there. 75.5% of people sentenced to jail in Ontario receive sentences for 3 months or less.<sup>3</sup> Certain offences and certain individuals require incapacitation in jail – this is without dispute. In recent years, however, mechanisms that allow low-risk individuals serving sentences to reintegrate gradually into the community, under strict supervision, have eroded to the point of obsolescence.<sup>4</sup> These options - temporary absence passes, halfway houses and provincial parole – save the province dollars while improving community safety. It is time for Ontario to realign its budgetary and correctional priorities. Fortunately, the Ministry of Community Safety and Correctional Services has indicated that transformation of corrections is a priority.<sup>5</sup>

Conditional release options such as temporary absence passes (TAs) and parole are important ways for Ontario to reduce correctional populations while intensively supervising reintegrating individuals in the community. These forms of release have been shown to be more effective than holding prisoners until statutory release or warrant expiry in numerous studies. In short, providing prisoners supports and supervision to assist them with a gradual re-entry is much more effective at reducing reoffending and other negative outcomes (e.g. homelessness) than simply releasing prisoners at the end of their sentence.<sup>6</sup> Before their closure in 1995, many people released on TAs or parole who required stable housing or other support services would reside in provincial halfway

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<sup>2</sup> Gendreau, P., T. Little and C. Goggin (1996). Predicting Adult Offender Recidivism: What Works! User Report. Ottawa, ON: Solicitor General of Canada.

<sup>3</sup> MCSCS (2015). 2014-2015 Adult Profile. Source: Email correspondence from MCSCS.

<sup>4</sup> Doob, A.N. Webster, C.M. Manson, A. (2014). Zombie Parole: The Withering of Conditional Release in Canada. *The Criminal Law Quarterly*, 61, 301-328.

<sup>5</sup> <http://www.cbc.ca/news/canada/toronto/programs/metromorning/correctional-services-1.3398244>

<sup>6</sup> Motiuk, L. Cousineau, C. and J. Gileno. (2005). The Safe Return of Offenders to the Community. Correctional Service Canada. Retrieved from: [http://www.csc-scc.gc.ca/research/092/sr2005-safe\\_return2005\\_e.pdf](http://www.csc-scc.gc.ca/research/092/sr2005-safe_return2005_e.pdf)

houses. The average daily count in halfway houses was approximately 400 just prior to closure.<sup>7</sup> The importance of availability of halfway houses or other transitional housing supports cannot be understated: a significant proportion of prisoners leaving jail are homeless and would benefit from a supportive housing environment.<sup>8</sup>

The province could save significant amounts of money in the long-term by investing in community corrections in the short-term. The sustainable and effective solution to prison overcrowding and stretched correctional budgets is correctional reform: the province must develop strategies to reduce prison populations, rather than looking to spend money accommodating ballooning prison populations through new and bigger correctional facilities. Certainly, all correctional facilities should be safe, secure and functional. Resources to ensure that all existing provincial institutions are well-equipped, well-staffed and have programming options, would be freed up if significant proportions of those currently in jail were being managed in the (much less costly) community.

### JHSO Recommendations

- a) Develop an actionable strategy for reducing provincial prison populations, with a particular focus on expanding conditional and gradual release options (in conjunction and collaboration with the above noted strategy focusing on bail reform).
- b) As part of the above noted strategy, explore reinstating and meaningfully funding provincial halfway houses and community residential facilities for prisoners on conditional release or parole and/or persons whose custodial sentence can be safely served in the community.
- c) The government should also consider funding community criminal justice organizations to operate Reporting Centres for individuals who are on TAs or provincial parole, but not residing in halfway houses (should the government choose to reinstate them). These highly structured non-residential Reporting Centres— like those that currently operate for federally sentenced individuals<sup>9</sup> – could provide monitoring, substance abuse testing and programming, and a full menu of supports that address education and employment, mental health and addictions, and longer-term housing needs of high risk clients. Federally, the Reporting Centres are not viewed as a replacement for halfway houses or community

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<sup>7</sup> John Howard Society of Ontario. (1998). Adult Provincial Prisons in Ontario: The current picture and trends. Retrieved from:

<http://www.johnhoward.on.ca/wp-content/uploads/2014/09/facts-12-adults-provincial-prisons-in-ontario-the-current-picture-and-trends-december-1998.pdf>

<sup>8</sup> John Howard Society of Ontario. (2012). Effective, Just and Humane: A Case for Client-Centered Collaboration.

Retrieved from: <http://www.johnhoward.on.ca/wp-content/uploads/2014/09/effective-just-and-humane-a-case-for-client-centered-collaboration-may-2012.pdf>

<sup>9</sup> Reporting Centres are sometimes referred to as Transition Centres. See for example St. Leonard's Society Toronto's document, Day Reporting Centres: A Service Delivery Model. (\*Note, St. Leonard's Toronto is now a part of John Howard Society of Toronto). Available from:

<http://www.stleonardstoronto.com/pdf/Day%20Reporting%20Centres.A%20Service%20Delivery%20Model.pdf>



residential facilities, but instead they provide a less intensive supervision option for those transitioning back to the community who need it. Even if provincial halfway houses are not reinstated, Reporting Centres could relieve much of the overcrowding pressures in provincial correctional institutions while offering a safer supervised transition and re-entry mechanism.