

November 3, 2017

John Howard Society of Ontario (JHSO) applauds the foundation laid for a fairer and more efficient bail system in Ontario. The Ministry of the Attorney General (MAG) released the new [Bail Directive](#) on October 30th, 2017. In addition to recently expanded resources (new judges, bail vettors, expanded Bail Verification and Supervision Programs, and new bail beds), the new Directive is an important piece that can help reform bail practices in Ontario.

JHSO has been calling for significant reform to bail practices for many years. In 2013, we released our report [Reasonable Bail?](#) with key recommendations on how to improve bail processes in Ontario. We noted that the problems affecting Ontario's bail system required more than short-term, band-aid solutions. We noted the erosion of the presumption of release before trial and the presumption of innocence, the overreliance on sureties, and the liberal application of bail conditions. We have stressed that fixing bail in Ontario, which could also help address Ontario's overcrowded jails, would require significant systemic and organizational shifts.

We believe that the new Bail Directive offers an opportunity for this systemic shift. The Bail Directive outlines a return to some important principles:

- a presumption that individuals are released on bail;
- bail decisions are made with reference to the "ladder principle" outlined in the *Criminal Code* – each form of release must be considered before arriving on the least onerous option that is appropriate given the circumstances;
- any bail conditions are logically connected to the underlying charges.

These changes can lead to improved court efficiency, reduced overcrowding, and a fairer bail system. Transparent implementation and outcome evaluations following these changes will help Ontarians—and other provinces struggling with bail—to verify whether policy has translated into practice.

The new Bail Directive is more detailed and will necessarily be considered alongside other Directives related to mental health and indigenous persons. Given the significant changes, resources should be allocated for ongoing education and training for court officials.

Monitoring the implementation of the Directive and other bail investments will be imperative. If the goals are more efficient and fairer bail decisions and a vastly decreased remand population, these outcomes need to be defined, measured, and monitored. Involving public organizations in the implementation and monitoring process can help the government achieve its desired outcomes.

Publicly available data and reports are required. Data and reports from pilots underway, for example at courthouses in Ottawa and Toronto (where Judges rather than Justices of the Peace are [presiding](#) over bail hearings), should be publicly available for analysis.

The Government of Ontario and MAG have taken the bail crisis seriously, and have taken concrete steps towards making bail more efficient and more fair in the province. We do not expect changes overnight. As we made clear in *Reasonable Bail?*, policy reform is one of many steps towards improving bail processes in Ontario. It has taken many years to reach the current bail crisis. It will take time, dedication, and coordination amongst key justice entities such as MAG, MCSCS, and police to see the systemic changes we and others have long been concerned about.