



SUBMISSION

2020 Pre-Budget Consultations

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JohnHoward
SOCIETY OF ONTARIO

John Howard Society of Ontario

Centre of Research & Policy

T: 416-408-4282

W: www.johnhoward.on.ca

@Jhsontario

About the John Howard Society of Ontario

The John Howard Society of Ontario (JHSO) is dedicated to creating 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 (the Centre) at JHSO facilitates interdisciplinary innovation in the criminal justice space by combining partnerships with front-line service providers and creative and impact-oriented researchers and analysts. As a result, JHSO is a leader in non-partisan research, evidence-based program development, policy reform, and public education in the justice sector. We specialize in translating research into action.

Introduction

Please accept this document as the submission of the John Howard Society of Ontario (JHSO) to the consultations of the Minister of Finance ahead of the *2020 Budget*. 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, and our criminal courts continue to face challenges with packed dockets, delay and time-to-trial. These challenges are by no means new, and we appreciate the steps that the provincial government is taking to address them.

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

In addition, as the provincial government undertakes major health care reforms to improve the coordination of patient care, there is a unique opportunity to integrate health services for incarcerated populations with the community health care system. Ensuring that justice-involved individuals have access to effective case management for their physical and mental health issues while incarcerated, and that they are subsequently connected to appropriate services as they transition back to community prevents re-incarceration, saves significant dollars on acute care and ultimately supports successful reintegration.

Bail

In its latest report, the Auditor General of Ontario noted that the operating cost of a provincial correctional bed in 2018/19 was an average of approximately \$9060 per month (or \$302/day)¹. That translates into \$110,230 a year, per bed. Indeed, the Auditor General reports that the Ministry of the Solicitor General spent, on average, \$726 million annually (\$817 million in 2018/19) to deliver adult institutional services.² What is important to note is that 70% of the adult correctional population is on remand – not yet convicted or sentenced for a crime.³ That is about 5000 people on any given day. In Ontario, we spend hundreds of millions of dollars detaining legally innocent people every year – many of whom could be safely released on bail with the appropriate supports.

The challenges facing corrections must in part be dealt with upstream to try and reduce costly admissions and remand counts. The Ministry of the Attorney General (MAG) has several programs that have had demonstrated success and impact, which if expanded, could help the government save

¹ Auditor General of Ontario. (2019). 2019 Annual Report Volume 3: Reports on Correctional Services and Court Operations. Accessed at: http://www.auditor.on.ca/en/content/annualreports/arreports/en19/v3_100en19.pdf

² Ibid.

³ Ibid.

significant correctional costs for a small investment. These JHSO recommendations are briefly outlined below:

1. [Enhance funding to the MAG Bail Verification and Supervision Programs \(BVSP\)](#) in order to reduce remand stays and ensure that more Ontarians who do not present undue risk to public safety are released in a timely manner. An expanded BVSP program capacity (i.e. staffing ratios and mental health supports) would translate into more efficient releases, saving the government both correctional and criminal court costs. The BVSP offers community-based bail supervision for very low cost per client, with demonstrated success at ensuring that accused persons attend court and comply with bail conditions. In addition, when clients are supervised by the BVSP program run by JHS and other community-based agencies, as opposed to a surety, they have the value-added benefit of being able to access additional programming, resources and supports that address any risk factors onsite. Another benefit is that BVSP verification workers are court-based and are therefore able to interview and screen potential clients in a timely manner, unlike the processes involved with securing surety attendance, which can often cause adjournments and delay. Finally, the province could explore how an expanded BVSP capacity could allow for increased referrals directly from police when charges are laid and release decisions are being made, given the recently broadened police release powers under the *Criminal Code*. If this practice could be established with meaningful uptake, it could save the courts and corrections significant dollars in costly short-stay remand admissions and bail hearings.
2. [Invest in a “bail bed” expansion into more communities and consider a “higher-risk” bail bed pilot.](#) Accused persons who lack a fixed address or have “no contact” conditions in their bail orders cost the province significant dollars as a result of unnecessary or prolonged detention. Finding suitable residences or residential sureties for individuals who could be safely released into the community also results in expensive and unproductive delays in our criminal courts. Providing supervised housing that is supportive – not shelters – helps stabilize populations who have more complex needs and enhances community safety. In 2017, the Ministry of Attorney General rolled out “bail beds” in five jurisdictions in Ontario to provide supervised housing for individuals on bail with more complex needs. JHS currently operates MAG-funded bail beds in Thunder Bay and Ottawa. The beds are almost always fully occupied/accounted for, and have already demonstrated their value for dollar by housing a number of long-stay residents who would have instead been costing the province significant dollars in bed days in remand facilities. The cost saving potential for the provincial government is significant were capacity to be increased at existing sites, and expanded to additional communities. Bail beds operate at a small fraction of the cost of a provincial correctional bed, and clients of bail beds also benefit from the additional programming and mental health supports in the community.

JHSO also sees potential in the idea of piloting bail beds for a more targeted, higher-risk population. For instance, in major urban centres in Ontario, including Toronto but also Ottawa, Hamilton and others, gang and organized crime are serious issues. Where the courts deem individuals accused of more serious crimes suitable for release under more intensive bail conditions, but where returning to their homes/former neighbourhoods may not be safe, there could be opportunities to build a bail bed model with more intensive staffing levels and supports

for these individuals. JHSO would be pleased to engage in conversations with the Ministry of the Attorney General on this concept.

3. JHSO supported the innovative MAG-led initiatives launched in 2017 that were designed to address the challenges relating to bail, including the embedded Crown (in police divisions) pilots in Toronto and Ottawa; “Bail Vettor” Crowns; institutional duty counsel (duty counsel “embedded” in certain high-volume correctional institutions to triage bail matters and prepare individuals for court); designated bail coordinator duty counsel positions; judges presiding over bail matters at two courthouses; among others. Consistent with the Auditor General’s recommendations, once evaluations are complete, assuming the results indicate positive impact, *JHSO recommends expanding these programs to more locations and adding additional capacity to high-volume courthouses.*

Pre-charge Screening

The number of charges withdrawn by Crown counsel in Ontario per year has continued to rise since 2014, as has the average number of days/appearances before charges are withdrawn.⁴ According to the Auditor General’s report, in 2018/2019, there was a total of 84,820 cases withdrawn by Crown attorneys.⁵ The costs to the court system and personal costs to the accused associated with these figures are significant. The costs to the prosecution for cases that were eventually withdrawn for reasons other than a resolution (like plea bargaining) was an estimated \$38 million.⁶ There are many reasons why charges may be withdrawn but some of these charges could be addressed earlier on in the process through pre-screening practices, potentially saving considerable time and money.

In Ontario, charges are laid by police officers without prior screening from a Crown prosecutor. Once charges are laid, the Crown must determine whether to proceed with the charges, considering whether there is reasonable prospect of conviction and if prosecution is in the public interest. In British Columbia, New Brunswick and Quebec, a pre-charge screening process requires officers to investigate a criminal matter and submit evidence to Crown counsel, who then makes the final determination on how many charges will be laid, if any, and what charges would be appropriate. The process varies by jurisdiction but generally the police submit a report to Crown counsel for review and in some jurisdictions, there is a 1-800 number that police can call to review charges outside regular business hours.⁷

Pre-charge screening can promote efficiencies and ease burdens on the court system. Ontario should consider implementing a pre-charge screening approach where Crown counsel must review potential charges and the relevant evidence prior to the laying of any charges. A pre-charge screening policy could reduce the number of charges that have to be later dealt with in court, by weeding out superfluous charges and those that don’t meet Ministry standards. This could reduce the number of charges that are

⁴ Auditor General of Ontario. (2019). 2019 Annual Report Volume 3: Reports on Correctional Services and Court Operations. Accessed at http://www.auditor.on.ca/en/content/annualreports/arreports/en19/2019AR_v3_en_web.pdf

⁵ *Ibid*

⁶ *Ibid*

⁷ Steering Committee on Justice Efficiencies and Access to the Justice System, Report on Bail. (October 2016). Available at: <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/esc-cde/pdf/ecc-epd.pdf>

later withdrawn or dismissed, reduce the workload on Crown counsel downstream and save court time and resources that would otherwise have been spent on hearing those charges. In many cases, it is not just the time and money spent on court appearances to consider but also the significant costs associated with pre-trial detention. In addition, pre-charge screening provides an opportunity to connect individuals with pre-charge diversion programs. Opportunities to divert individuals to community-based programs can be identified at the outset. JHSO recommends the following pilot project to explore the cost-saving impacts of pre-charge screening:

1. **Identify 3 mid-sized jurisdictions to test out a pre-charge screening/approval model.** A protocol should be established where police officers carry out an investigation and propose charges based on the evidence they identify. This would be submitted to Crown attorneys who would then confirm charges before they are laid. The project should be evaluated by examining any changes to the number of charges later withdrawn, the number of charges laid, court time spent on hearing the charges and assessments of the protocol established from the perspective of Crown attorneys and Police Services. This project is different from the model of embedded Crowns currently under pilot at MAG because police officers would be required to get approval from Crown attorneys before charges are laid. In other embedded Crown projects, Crown attorneys are made more accessible to police officers to provide guidance, but approval of charges is not required.

Support Successful Re-entry and Reintegration

Even short stays in a provincial correctional institution can have a profoundly disruptive impact on people's lives. They can result in a loss of income, employment, housing and undermine mental health. Effective discharge planning is critical to ensuring a successful re-entry post-release by helping individuals maintain (or regain) access to these vital services and supports. Today, however, discharge planning is not provided at all for remand populations – 70% of those in Ontario's correctional institutions on any given day – leaving these individuals without any plan or support when they exit the institution's doors. And what is available for sentenced populations varies by institution and the length of one's sentence.

Implementing early and comprehensive discharge planning for all correctional populations, including those on remand, has many advantages for both the individual and the broader community. Not only will incarcerated individuals be better prepared for release and make stronger connections to community-based service providers, but the public will also benefit from more efficient use of social and health care services and safer communities through lower rates of recidivism.

Planning for an individual's eventual release back into the community should start the day they are admitted to a correctional institution. Meaningful discharge planning that commences upon admission should take place regardless of prisoners' sentence length or sentencing status (i.e. if they are on remand). This would include early screening for risks/needs and arranging housing, mental health treatment, securing an I.D., and other services before release. Early discharge planning will also help identify and triage pressing matters such as imminent loss of benefits, subsidies or eviction, and serve to prevent this, in the case of rapid release. For remand populations, the initial screening could be a very short screener interview to flag release planning priorities, recognizing the fact that some individuals will be staying only briefly until bail is set. For remand populations identified as staying longer than a few

days, that process can be built upon with more in-depth case management, similar to the process for a sentenced individual. In this way, all persons admitted to correctional facilities can be screened at admission for release planning purposes, and even where urgent discharge supports are not required, the ministry would benefit from being able to track important metrics such as housing status for all correctional populations. We therefore recommend that the Ministry of the Solicitor General invest in and partner with community-based agencies such as JHSO on the following pilot project:

1. **Establishing embedded release planners in the admissions units at 5 correctional institutions across Ontario, representative of the different regions.** In short, once newly admitted individuals have cleared the security measures, embedded release planners could administer a brief release planning screening tool, and then case manage screened individuals. This pilot would build on JHSO's existing expertise that we have acquired from providing in-reach and institutional services in provincial correctional institutions across the province for decades. JHSO currently provides institutional services at more than half of all adult correctional facilities on a routine basis, including the five largest institutions. JHSO is uniquely positioned to partner with the Ministry on this initiative as we have established expertise working with incarcerated populations; our local offices already deliver evidence-based programs in the community that incarcerated persons could be connected to upon release; and, our provincial office has the research and evaluation capacity to develop survey tools and information management systems to capture key data points and drive outcomes. We envision the release planners screening all admitted individuals – remanded or sentenced – but emphasis would be on more rapid triaging of remand populations, given that there is some (variable) discharge planning provided for sentenced individuals.

Integrated Health Services

Individuals who come into contact with the criminal justice system have higher rates of physical and mental health issues than the general population. This population often lacks access to primary health services in the community and relies heavily on expensive emergency services for their health issues. A large proportion of justice-involved individuals spend short stays in correctional institutions and then return to their communities, bringing with them unmanaged physical and mental health conditions. Incarcerated populations present an opportunity to bring hard to reach, vulnerable populations into the health care system. This improves individual and public health outcomes and reduces the burden on costly emergency services and complex, long-term care by improving access to early intervention and primary care services.

We laud the Ministry of Solicitor General's creation of a Corporate Health Care and Wellness Branch dedicated to improving health care delivery in correctional facilities. The establishment of this Branch demonstrates a commitment to prioritizing health care delivery for provincial correctional populations and we look forward to working with the Branch as they strengthen the correctional health care system. The transformative changes to Ontario's health care system make this the opportune time to work with the Ministry of Health to streamline health care services for individuals as they transition out of correctional institutions.

The newly established Ontario Health Teams (OHT) will provide the essential, wraparound health services that justice-involved populations often lack. Ideally, individuals can be screened and assessed

inside correctional institutions, provided treatment plans and care while incarcerated and then be connected to the appropriate OHT services upon their release, reducing the risk of gaps in treatment or lack of communication or continuity between care providers.

Mental health screening within 96 hours is mandated by the 2018 OHRC Consent Order. Health screening at the point of admissions should inform treatment plans for the individual while incarcerated and transition to OHTs in the community that are able to continue the care required for the individual upon release. This streamlined approach will not only benefit the individual by improving their health, but it would also help prevent future contact with the criminal justice system and acute care/emergency departments. Investments in correctional health care create safer, healthier communities and contribute to successful reintegration and reduced recidivism. JHSO makes the following recommendations to integrate and streamline health services to improve health care delivery and outcomes for justice-involved populations:

1. As the Ministry of Health continues to restructure Ontario's health care system, there is the opportunity to explore ways to integrate the health care provision for correctional populations into the broader health care system. [JHSO recommends that the Ministry of Health work closely with the Corporate Health Care and Wellness Branch at Solicitor General to explore ways to integrate correctional health care with the OHT model in order to build a seamless health care delivery pathway for those involved with the justice system.](#)
2. [JHSO also recommends continuing to study the impact of transferring the responsibility of health services in correctional institutions to the Ministry of Health.](#) British Columbia has recently transferred the responsibility of correctional health care to their health authority, joining a list of other Canadian provinces who have done so, and can provide valuable information on their processes and experience to date. The government should invest in a cross-ministerial working group to study other jurisdictions that have made the transfer and evaluate potential models and opportunities for a more integrated health care system in Ontario.

[Ontario Human Rights Commission and OPSEU Corrections Management-Employee Relations Committee \(MERC\) Joint Submission on Ontario's 2020 Budget](#)

The John Howard Society of Ontario was pleased to be consulted on a pre-budget submission by the [Ontario Human Rights Commission \(OHRC\) and the OPSEU Corrections Ministry-Employee Relations Committee \(MERC\)](#). Further to JHSO's recommendations above, [JHSO endorses the recommendations and themes identified by the OHRC and MERC in their joint submission.](#)