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Ottawa

Clerk of the Standing Committee on Legal and Constitutional Affairs
Senate of Canada
Ottawa, Ontario
Canada, K1A 0A4

Clerk of the Standing Committee on Justice and Human Rights
House of Commons
Ottawa, Ontario
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As front-line organizations, researchers and experts who work with people who use drugs, we write to express our opposition to Bill S-10, an *Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts*.

The Government has characterized Bill S-10 as getting tough on serious drug crimes in order to ensure the safety and security of neighbourhoods and communities. However, the Department of Justice concluded in a 2002 review that the imposition of mandatory minimum sentences for drug offences has little impact on crime. Furthermore, the experience in the United States with mandatory minimum sentences for drug offences over the last two decades has been disastrous, doing nothing to “solve” the drug problem except wreaking terrible damage on individuals (including those with addictions), families and communities, and exacerbating the harms to public health associated with problematic drug use.

Bill S-10 represents an intensification of punishment and imprisonment in response to drugs that has not to date yielded any substantial, sustained benefits. In particular:

Mandatory minimum sentences don't work

The evidence demonstrates that mandatory minimum sentences are ineffective because convicting people of drug-related offences does not reduce the problems associated with drug use. Justice Canada's own review of the evidence in 2002 concluded that mandatory minimum sentences are “least effective in relation to drug offences” and that “drug consumption and drug-related crime seem to be unaffected, in any measurable way, by severe [mandatory minimum sentences].”

Mandatory minimum sentences harm people with addictions, not large-scale traffickers

Bill S-10 will predominantly affect people who are addicted to drugs and involved in small-scale, street-level drug distribution to support their drug use. Studies have shown that of the most vulnerable, street-involved people who use drugs, many are involved in low-level tasks such as carrying drugs and steering buyers towards

dealers. The real profiteers in the drug market distance themselves from visible drug-trafficking activities and are rarely captured by law-enforcement efforts. The brunt of mandatory minimum sentences will be borne by people with addictions, not organized crime and gang leaders.

These sentencing provisions are also likely to apply to many young people and students for experimenting with drugs, as well as women who are dependent on drug-involved partners. Already in Canada, a significant percentage of women in prison have been incarcerated for offences related to drug use, many of whom are mothers of minor children. Because mothers who are incarcerated are most often sole caregivers to their children, there may be no alternative caregiver for the children after her arrest, resulting in countless numbers of legal orphans. Incarceration thus carries the societal costs of disrupting families and children. By casting the net of incarceration so widely as to encompass a significant number of people convicted of non-violent offences or offences that could better be managed in the community, Bill S-10 will not protect our communities from gangs and organized crime, but will instead put some of the most vulnerable people in our society behind bars, as well as young people with otherwise bright futures and others far removed from any violent or high-profit drug trade.

Incarceration does not diminish drug-related street activity, violence or petty crime

There is no empirical support and no examples from other jurisdictions to establish that crime rates will decrease as a result of increasing incarceration, including for drug-related offences. On the contrary, drug law enforcement practices aimed to disrupt drug markets may have the unintentional effect of increasing levels of drug market violence.

Incarceration doesn't address addiction

Putting people who use drugs in prison does not get them the help they need to deal with the problems that contribute to harmful drug use. For example, research has established that, without treatment, most people with heroin addiction who are incarcerated will return to using heroin following release. Moreover, following a prison sentence, employment prospects are limited and challenges such as inadequate housing and experiences of violence and abuse persist.

More imprisonment of people who use drugs is bad for public health

Putting more people, including people with addictions, in prison for drug offences is harmful to the public's health. Numerous studies in Canada and elsewhere show that people in prison have much higher levels of infection of HIV and hepatitis C virus (HCV), rates which are increased through incarceration. Bill S-10 would mean putting more people who are already vulnerable to HIV and HCV infection in prison, where drug use will continue, often with even higher risks for transmission of these blood-borne infections because incarcerated people lack access to sterile injecting equipment. This makes prisons less safe, not only for people behind bars but also for prison staff. Furthermore, incarcerated people's health directly affects public health, since the vast majority of them return to families and communities. As a matter of

public health, we should keep people who use drugs out of prison, not impose mandatory prison terms.

Mandatory minimums waste public resources in imposing unjust sentences

The “aggravating factors” included in Bill S-10 that trigger mandatory prison sentences cast the net so widely as to include a significant number of non-violent offences. The societal, fiscal and health-related costs of imprisonment are much too high to be imposed automatically in every case where a minimum sentence is triggered by factors such as being “in or near an area normally frequented by youth” or having been previously convicted of another substance offence within the previous 10 years — in essence, a rule of “two-strikes-and-you’re-out”. Judges need flexibility in order to ensure that sentences are tailored to a particular individual, the unique circumstances and a specific offence. With judges’ hands tied, inappropriate and unduly harsh sentences are guaranteed to be handed down.

Moreover, as reported by Parliamentary budget officer Kevin Page, a slew of pending crime bills will create significant ongoing future costs to be borne by taxpayers. Bill C-25, a bill that was passed to limit credit given for time served in pre-sentencing custody, will alone cost between \$7 and 10 billion over the next five years, as well as swell prison populations and already-stretched building facilities. While the direct financial cost of ineffective crime bills is shocking in itself, such calculations do not take into account the devastating social costs of incarceration on Canadian families, as well as the indirect costs of an overburdened and under-resourced child welfare system.

In light of the evidence that mandatory prison terms for drug offences have little, if any, effect in reducing crime, but impose significant financial, human and societal costs while undermining public health, Bill S-10 is an inefficient and counter-productive misuse of public funds that could be better spent on evidence-based prevention, treatment and harm reduction programs.

Instead of further criminalizing and marginalizing people, government policy should support communities and front-line workers in responding to the public health problem of drug addiction and related harms. We therefore urge your refocus on scientifically proven approaches to addressing drug use and drug-related crime within Canada, approaches that work for people who use drugs and for our communities more broadly.

Organizations

- | | |
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| 1. The Canadian Harm Reduction Network | 7. Canadian AIDS Treatment Information Exchange / Réseau canadien d’info-traitements sida |
| 2. Empowerment Council | 8. AIDS Saint John |
| 3. Harm Reduction Joint Action Team | 9. AIDS Thunder Bay |
| 4. PEERS Victoria | 10. Breakaway Addiction Services |
| 5. End Prohibition | 11. Peel HIV/AIDS Network |
| 6. Canadian Students for Sensible Drug Policy (CSSDP) | 12. Positive Women's Network |

13. Many Rivers
14. Toronto Police Accountability Coalition
15. The Health Officers Council of BC
16. Queer Ontario
17. Harm Reduction Victoria
18. Interagency Coalition on AIDS and Development / Coalition interagence sida et développement
19. Family Service Toronto
20. Frontline Partners with Youth (FPYN)
21. Parkdale Community Health Centre
22. Canadian Treatment Action Council / Conseil canadien de surveillance et d'accès aux traitements
23. Canadian AIDS Society / Société canadienne du sida
24. BC Persons with AIDS Society
25. Sandy Hill Community Health Centre
26. Housing Homelessness Services
27. National Specialty Society for Community Medicine (NSSCM)
28. l'Association des médecins spécialistes en sante communautaire du Québec
29. Inner City Health Associates
30. Support & Housing - Halton
31. AIDS Committee of Toronto (ACT)
32. National Alliance for Medication Assisted Recovery
33. Elizabeth Fry Society of Saskatchewan
34. Prisoners' HIV/AIDS Support Action Network
35. Coalition des organismes communautaires québécois de lutte contre le sida
36. Caerleon Group
37. National African Integration and Families Association
38. Notre Dame of St. Agatha Inc.
39. Canadian Drug Policy Consortium
40. Canadian HIV/AIDS Legal Network / Réseau juridique canadien VIH/sida

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