



PRESENTATION BY

THE CHURCH COUNCIL ON JUSTICE AND CORRECTIONS

to the

Senate Committee on Legal and Constitutional Affairs

39th Parliament

Regarding

BILL C-2

aka the *Tackling Violent Crime Act*

An act to amend the Criminal Code and to make consequential amendments to other Acts

February 22, 2008

Good afternoon.

My name is Lorraine Berzins and I bring you greetings today from The Church Council on Justice and Corrections, (CCJC), where I have worked for 24 years after working for 14 years in the federal corrections system. CCJC is an ecumenical coalition of 11 founding national Christian Church denominations. Our membership also includes multi-faith groups and other community partners, like-minded individuals and organizations who want to join us in efforts to bring about fundamental change in the way Canada handles the issue of crime. Our NGO was founded 35 years ago by people of faith who also understood very well how our criminal justice system works; and what it is about the way it works that is very damaging to community life and Canadian society. Our primary role is to help our fellow citizens understand this better, and push for initiatives and changes that can make a difference. When people are harmed and traumatized by crime, - be they victims, offenders, their families or those around them, - they need help to recover and heal, far beyond what the State's system of legal justice can provide. We know this, and we work to get our communities and churches involved in taking their own responsibility to help with this. However, we also know that *how* the State carries out the responsibilities that it does have, can make a big difference, for the better or for the worse. The laws you enact, the financial resources you are accountable for, the public messages you send out with your actions and statements – all of these can either assist community efforts OR they can undo community initiatives by giving the problems we already have with crime a twist for the worst.

There are several things about our current criminal justice system that are already very destructive. And we believe that now, in addition, there will be impacts from several features of this Bill C-2, which you are about to pass, that are going to worsen those very things.

You are hearing about many of these issues from witnesses far more expert than we are about the technicalities, and so we don't want to needlessly go over again what you already know. Instead, I would like to take a step back from the detail and describe for you:

Some impacts that are really going to matter to people's lives:

It has been said, for example, that this bill speaks for victims. But think for a moment about any situation you know of, more personally, that has involved a criminal charge and a court case. What do we really want and need when we are a victim, if ever we get a chance to really think about it? (*I have been a victim of serious crime myself, including a hostage-taking when I worked in a prison; and I have spoken with many other victims*). We want to be safe, we want emotional support, we want assistance and whatever care required to heal and recover, we want information about many aspects of what happened; we want the offender to be held accountable, but even better we wish that person would take responsibility, realize the harm that was done, the wrongness of it, try to do something to repair or make up for it, show remorse and some desire to compensate in some way; and we want to know what kind of a person would do such a thing, and what

can be done so it doesn't happen again. Many victims are concerned about prevention, they want us to learn something from their experience that can help us all go on with life in greater peace, they need to believe again that life can be good and safe and worth living despite everything. This is what many many victims tell us, in the most unexpected circumstances. Real life goes on after court, and these are the things that become important for survival.

But these needs are harder to meet because of the way our justice system works.

It is adversarial. It's all about the LEGAL case, and the offender is encouraged NOT to take responsibility or show remorse or reveal any information that could damage *'the legal case'*...even when their own moral instinct is to want to. The victim is a pawn of legal strategies and is cross-examined in traumatizing ways. The system is so overloaded that 'plea bargaining' happens a lot to save time, and out the window go the other needs. And *'shorthand'*- 'reasons-for-sentencing' happens a lot, or no reasons given at all, and out the window go more other needs. And I'm not even mentioning here all the impacts of this on offenders and their families – which matters a lot for their future in our communities....the stigma is so strong, but there has got to be a way back in among us, isn't that the kind of society we want to be? But instead of talking about that, all the human, real-life-stuff gets squeezed into criminal code slots of legal jargon, and it's the legal jargon slots that move along the assembly line, the human stuff doesn't count. And with the adversarial process, those slots also get polarized into 2 extremes, and if you are not one extreme, you can only be its opposite extreme.

This is how we illustrate this for the people we work with in communities – to help them understand why this is a problem.

ILLUSTRATION:

Events happen -----→ *Criminal code squeeze*-----→ no more human talk

What the system talk becomes-----→ *binary rope, 2 extreme poles, black – white:*

Accused/Offender – victim

Good – bad, evil

Guilty – innocent

Then media/politicians frames results as:

Tough/Severe punishment – lenient /no consequences at all...he walked, slap on wrist

Responsible accountability – benevolence that makes excuses

REAL LIFE NOT LIKE THAT

Rainbow of colours in between:

Fear – trauma - emotions- social conditions – relationships – abuse - mental health problems, psychiatric disability – poverty – learning disabilities, illiteracy – family conflicts – emotional trauma – brain trauma – alcoholism – drug addictions – Fetal Alcohol Syndrome...

We already have a criminal justice process that makes it hard to get at the stuff we really need to address, to deal with crime in more healing ways – which is what is going to matter most for safety and wellbeing in our communities. And we at CCJC and elsewhere are doing many things to help people with this in other ways, through many community programs and services at all stages of the process – before, instead, alongside, after (*Satisfying Justice* compendium, *Pour une vraie justice*).

But as I said,

Bill C-2 is going to make this even harder, and for no valid reason. This is no trade-off of pain for gain--- because there is no gain as far as all the research tells us. And you know that already, but let me repeat.

The negative impacts:

- Reducing Judges' sentencing discretion to address the real situations will deprive many citizens of some very good services and sentencing options.
The proposed legislation will severely restrict the ability of judges to make use of some programs, and to impose specifically tailored sentences in other cases where such sentences would benefit everyone involved. Ex The Ottawa Collaborative Justice Program Recent research is finding clear evidence of positive psychological and physical health benefits for both victims and offenders from this Program.
- Increasing sentence severity ups the stakes for the accused and this will feed the legal industry, lead to more and longer adversarial trials, more plea bargaining, less transparency. More frustration of real victim needs
- There will be cost implications for courts, prosecutors, legal aid, prisons .. and that impact has not been discussed with any transparency or fiscal accountability.
- There will be cost implications for psychiatric assessments and services that are already insufficient for present needs – where is any discussion about that?
- There will be no provision for funding community programs even though they are cheaper and more effective... and where will the money come from if it is tied up in these other increased costs.

The lack of positive impacts:

- A long track record of credible research evidence points to lack of effectiveness of harsher sentences to deter crime OR to reduce crime by selective incapacitation OR to reduce recidivism (evidence to the contrary). (Doob; Webster; Roberts; Auerhahn; Bonta, Andrews, Smith, Groggin and Gendreau)
- A long track record of research evidence points to ineffectiveness of mandatory minimum policies in Canada and other jurisdictions (Canadian Sentencing Commission, etc).
- US experience with mandatory minimums and 3-strikes-type policies have led to prison overcrowding scandalizing results, no space, no money to operate new space, shocking lack of fiscal responsibility, renting prison space from other jurisdictions, prison population caps, increased prison health care costs for aging population – with no related impact on decreasing crime rates. (See New York Times editorial below, Washington Post, American experts.)

“An Idea Whose Time Should Be Past”

The mandatory sentencing craze that began in the 1970s was a public-policy disaster. It drove up inmate populations and corrections costs and forced the states to choose between building prisons and building schools or funding medical care for the indigent. It filled the prisons to bursting with nonviolent drug offenders who would have been more cheaply and more appropriately dealt with through treatment. It tied the hands of judges and ruined countless young lives by mandating lengthy prison terms in cases where leniency was warranted. It undermined confidence in the fairness of the justice system by singling out poor and minority offenders while largely exempting the white and wealthy.

RECOMMENDATIONS:

Our preferred recommendation would be that you refuse to pass Bill C-2 until you ensure that the following is put before you:

- A. **FISCAL ACCOUNTABILITY CHECK:** Insist upon a cost analysis of the impact of these proposals before passing this legislation
- B. **INDEPENDENT NON-PARTISAN EFFECTIVENESS CHECK:** Require that Bill C-2 be assessed as to its potential effectiveness and impact by a specialist panel including areas of knowledge related to crime prevention, victimology, criminology, corrections, policing, judiciary, offender re-integration, and community safety.

Our second-best options would be to amend Bill C-2 before passing it, as follows:

- C. **PRESUMPTION vs absolute:** amend sections relating to mandatory sentencing to insure that the changes made are presumptive, not absolute.
- D. **PROVISION FOR OTHER FUNDING:** include a section which requires that adequately funded victim support services, and offender re-integration programs, be available, and that the latter be provided for all offenders who are released, regardless of the timing of that release in the range of their sentencing; this would include those released at the completion of their sentence.

Our final recommendation, regardless of the above, is that one or more of you may see fit to take a special interest in these issues we have raised regarding the need for fundamental change in how we deal with crime in Canada: take leadership, initiate a serious look at this, become champions for this important issue:

- E. **ESTABLISH A SENATE COMMITTEE TO FUNDAMENTALLY REVIEW GOVERNMENT ACCOUNTABILITY FOR CRIMINAL JUSTICE LEGISLATION AND POLICY RESULTS.**

We at CCJC would be delighted to collaborate with you in this, along with many other allies you will find in the community: if you do it, they will come.

Respectfully submitted,

Lorraine Berzins, Community Chair of Justice