

**The Church Council on  
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**Le Conseil des Églises pour  
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**PRESENTATION BY**

**THE CHURCH COUNCIL ON JUSTICE AND CORRECTIONS**

to the

**Senate Standing Committee on Legal and Constitutional Affairs**

Regarding

**Special Study on Delays in Criminal Proceedings**

**March 2016**

## **Introduction**

The Church Council on Justice and Corrections (CCJC) is a national, bilingual organization founded by 11 Christian denominations in Canada. United by the common values of our member denominations, CCJC nevertheless operates independently of these member bodies. Membership is open to individuals and organizations interested in restorative justice and want to join us as we strive to bring about change in the way Canada handles the issue of justice and corrections. We do not expect our legal system alone to be able to do this for us. The *job of justice* is also a community responsibility.

Through research, projects, workshops and presentations, the CCJC promotes education on restorative justice and sponsors initiatives to build healthier and safer communities, while fostering and encouraging new and creative thinking about justice. CCJC is widely known and has a long history as a non-governmental organization in the criminal justice field, nationally and internationally. It has worked since 1972 to bring to public attention the need for a more compassionate justice system. Council activities have included promoting educational conferences, supporting local community restorative justice projects, conducting research on initiatives that build safer communities, analyzing public policy, and partnering with the arts community in public education about justice.

We appreciate the opportunity to participate in your special study on delays in the criminal justice system. We begin by recognizing the complexity of this matter and the fact that there are numerous factors at play when looking at delays in the criminal justice system. We have included a number of resources at the end of the document that we feel would be beneficial to this study and offer the following information for your consideration:

### **1. REFORMS TO THE BAIL SYSTEM:**

**The CCJC recommends that the Bail system in Canada should be comprehensively overhauled to bring its operation into harmony with the primary ground for detention for which pre-trial detention was established: ensuring the accused's attendance in court.**

There are staggering numbers of people in Canadian jails who are legally innocent and awaiting trial. We would point to the comprehensive report by the Canadian Civil Liberties Association (2014) titled "Set up to Fail" which notes "the bail system is operating in a manner contrary to the spirit- and at times, the letter- of the law. Legally innocent individuals are processed through a bail system that is chaotic and unnecessarily risk adverse and that disproportionately penalizes" (p.1).

The CCJC also supports the recommendations made by criminologist Dr. Cheryl Webster in her 2015 Report to the Department of Justice "'Broken Bail' in Canada: How We Might Go About Fixing It." It is notorious and unconscionable, that Canada's crowded prisons are filled with ever

increasing numbers of our population, and with more people on pre-trial remand than in sentenced custody.

Canada needs a comprehensive new legislative framework that is predicated on the presumption of innocence. No one should be detained pretrial unless the Crown demonstrates a need for the detention that connects back to the fundamental purposes of pretrial detention. Changes to the Bail system should be made carefully, with an appreciation for the nuances and potential consequences of amendments made. A reformed Bail system should support judicial discretion and involve the availability of flexible provisions.

## **2. INCREASED SUPPORT OF RESTORATIVE JUSTICE:**

**The CCJC recommends that the Government of Canada should make increased use of restorative justice principles and practices across the criminal justice system.** A restorative approach is one that emphasizes meaningful accountability, healing, and support for all parties—victim, offender and community. As noted above the number of Canadians being held in prison awaiting trial is at an all-time high. When accused persons are held on remand they are often not able to access programs that can support the important work of healing, rehabilitation and restoration. We encourage the consideration of restorative programs that are available at all levels of the justice process: police, courts and corrections. For instance, programs that divert cases away from the courts all together will free up much needed resources for courts to process cases and do its work. The Collaborative Justice Program is also an example of an effective service whose contribution to justice for our community has been strengthened by the availability of flexible sentencing provisions and judicial discretion.

In the corrections field, similar delays exist and have created problems of overcrowding in many jurisdictions. Changes in recent years have led to a reduction in number of offenders applying for parole. With more and more offenders being held to the end of their sentence, they are no longer eligible for reintegration support. This support is critical to ensuring they avoid future contact with the justice system and to keeping our communities safe. Restorative justice programs, such as Circles of Support and Accountability (CoSA) offer much needed reintegration support that has been proven to reduce the likelihood of coming back into contact with the justice system (Chouinard and Riddick, 2015). The Church Council on Justice and Corrections (CCJC), in collaboration with CoSA sites across Canada, recently completed a five year demonstration project funded through the National Crime Prevention Centre of Public Safety Canada. The result of this project is a comprehensive evaluation report of CoSA in Canada looking at the important role they play in reducing victimization and keeping communities safe. (Chouinard and Riddick, 2015) However, programs like CoSA and other community based services are struggling for survival due to a lack of funding.

**Restorative programs are being shown to be a more efficient and effective options.** There are many successful restorative justice initiatives across Canada. Two programs in Manitoba, a diversion program, as well as one offering aboriginal restorative justice, each received roughly

300 referrals last year. Both programs have shown low recidivism rates and much quicker processes when compared to the criminal-justice system. (May, 2015). Another example is the Collaborative Justice Program at the Courthouse right here in Ottawa, which CCJC helped pioneer as a community partner. Recent research is finding clear evidence of positive psychological and physical health benefits for both victims and offenders from this Program.

We would also encourage more formal entrenchment of restorative justice options within our legal system, which would allow more flexibility and discretion in determining the outcome of cases. Some options already exist through case law and legislation such as the new Manitoba Restorative Justice Act (2015). It is important to remember that while these restorative justice initiatives and legislation exist they are often under used or poorly understood by those within the system. For instance, at the court level restorative justice programs cannot exist without referrals. If these initiatives are to truly make a difference they not only need funding but also buy in from the key people within the justice system.

### **3. RE-INSTALEMENT OF FEDERAL LAW REFORM COMMISSION:**

**The CCJC suggests that the Law Reform Commission of Canada should be re-instituted in order to facilitate detailed, thorough, expert and creative analysis of our laws with a view to improving the law and enhancing the efficiency and effectiveness of the administration of justice.**

While consultations like the one in which we are currently engaged are useful, they are not a replacement for the establishment of a permanent, independent, expert body to study and undertake systematic reviews of Canadian law.

#### ***Conclusion***

In sum, the CCJC recommends that, in order to remedy delays in criminal proceedings, the Government of Canada should reform the Bail system, make increased use of restorative justice practices nationwide, and re-instate the Law Reform Commission. All study of the criminal justice system and those within it should be made with a compassionate eye, and all changes should be made from the perspective of an operating logic of inclusion, not exclusion.

**Respectfully submitted,**

*The Church Council on Justice and Corrections.*

## **Addendum:**

The Canadian Council of Churches and the Canadian Conference of Catholic Bishops co-founded The Church Council on Justice and Corrections in 1972. CCJC was formed to unite denominations to promote a faith view of justice. Many of our denominations are also actively involved in the area of justice. Our ten member denominations listed below appoint the majority of board members. While we consult with our member churches about our objectives, actions, and policies, the CCJC does not represent them or speak for them.

- The Anglican Church of Canada:
- Baptist Convention of Ontario and Quebec
- Christian Reformed Churches of North America
- Disciples of Christ in Canada
- Evangelical Lutheran Church in Canada
- Mennonite Central Committee Canada
- The Presbyterian Church in Canada
- The Religious Society of Friends (Quakers)
- Canadian Conference of Catholic Bishops

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