Volume 17, Number 3

December 2000

JOHN HOWARD SOCIETY OF ALBERTA

The Reporter

INSIDE

FEATURE ARTICLE

In this issue of The Reporter, we continue our examination of community based sentences. Our feature article discusses attendance centres. Our focus is on attendance centres in Alberta but the broad issues surrounding attendance centres and community based punishment in general are also addressed.

Attendance Centres

A number of attendance centres have been established in Alberta in recent years, making the issues surrounding attendance centres of particular relevance to the John Howard Society in Alberta. Following a discussion of attendance centres as they exist here at home, we turn our attention to attendance centres elsewhere in the world and invite you, once again, to consider the long term policy implications of the ever expanding use of community based criminal justice.

ATTENDANCE CENTRES IN ALBERTA

There are currently two adult attendance centres in operation in Alberta. The Edmonton Attendance Centre was opened in 1994. An attendance centre based on the Edmonton model was opened in Calgary in April 1997. These attendance centres are non-residential community facilities to which offenders report frequently for supervision and programs. Attendance centres in Alberta target a range of offenders, including offenders on pre-trial release, on temporary absences, under conditional sentences and under house arrest. Under limited circumstances, such as where an offender's risk level or history of compliance requires a higher level of supervision, an offender on probation may also be supervised through an attendance centre.

The focus of the adult attendance centres in Alberta is rehabilitation through treatment programming as well as supervision. The attendance centres provide offenders with substance abuse, anger management and employment preparation programming. Those who are unemployed are required to join a work crew until they are able to secure a job. Both attendance centres supervise community service work placements for offenders in the Fine Option Program or those who are required to perform community service as part of their probation. Offenders spend evenings and weekends in their homes, but may still be subject to supervision at these times.

The adult attendance centres in Alberta were specifically designed to be an alternative to incarceration. Indeed, one provincial correctional centre in Alberta closed during the time that the Edmonton Attendance Centre began operating.

The John Howard Society is present in Alberta's attendance centres. Edmonton John Howard Society provides anger management programming for adults at the Edmonton Attendance Centre and offers an eight-week day program for youth at risk. In Calgary, the Society contracts with facilitators who deliver anger management and domestic issues programming on behalf of Calgary John Howard Society.

The Society supports attendance centres in Alberta because they represent a genuine alternative to incarceration, they focus on treatment programming and they include community agencies in program and service delivery.

ATTENDANCE CENTRES GENERALLY

Attendance centres are known in some countries as day reporting centres or day centres. Attendance centres target a wide range of offenders and offender risk levels. Adults serving conditional sentences or under house arrest may report to an attendance centre. The requirement to report to an attendance

(Continued on page 4)

A "Volume Discount" on Crime?

A "bulk rate" for murder. A "volume discount" on crime. These buzz words and catch phrases dominate the debate over concurrent versus consecutive sentencing for multiple violent offenders and they evoke an emotional reaction to the issue. The following is an overview of the major points of concern that arise out of this debate. While concurrent sentencing may appear to be too "soft" on offenders, an informed examination of the debate reveals that existing laws are adequate to deal with multiple violent offenders.

Life really does mean life. The penalty for murder is a life sentence. While there has been recent commentary to the effect that "life does not really mean life," this commentary is rarely accompanied by a factual context and it always reveals a fundamental misunderstanding about the nature and purpose of sentencing and parole eligibility.

According to existing law, a convicted murderer receives a life sentence. A life sentence means what it says: the sentence itself lasts for the entire length of the offender's life. While the offender may be eligible to be released on parole at some point during the life sentence, release on parole does not mean that the offender is set free unsupervised into the community at large. Release on parole simply means that the offender may, under certain circumstances and under specific restrictions, serve the remainder of the life sentence outside of prison. While there is a provision for a reduction of the legislated period of parole ineligibility for certain degrees of murder, this provision is totally unavailable to offenders who are convicted of more than one murder.

A life sentence means what it says: the sentence itself lasts for the entire length of the offender's life.

Parole is not a guarantee. In order to actually be released on parole at the time of eligibility, an offender must meet the requirements of the National Parole Board, an independent body with experience and expertise in determining whether an offender continues to pose a threat to public safety. Given that one of the goals of sentencing is rehabilitation, our laws must always recognize the possibility that the justice system will succeed in achieving this goal and that an offender can be rehabilitated. Therefore, in order to maintain the integrity of our criminal justice system, there must always be at least a possibility that an offender will some day be able to live outside of prison.

Canada's criminals are already spending great lengths of time behind bars. By international standards, Canada stands out for its particularly harsh sentencing policies and release practices for murder. Canada is second only to the United States in the average sentence review/parole eligibility period and the average amount of time that an offender is incarcerated. Worldwide, the average sentence review/parole eligibility period for the equivalent of first degree murder is 9.5 years and the average time served in prison is 14.3 years. In Canada, the parole eligibility period for first degree murder is set at 25 years and it is estimated that the average time spent in prison will be 28.4 years.

No number of years can equate to the value of a human life. Sentences are not intended to compensate for the losses resulting from violent crime, and the criminal justice system is a wholly inappropriate forum to attempt the individual healing that is required when a violent crime occurs. No number of years can equate to the value of a human life, and a society that attempts to perform this equation is misappropriating attention and resources on the criminal justice system that should properly be spent elsewhere to try to heal the emotional pain that is caused when a violent crime occurs.

Hard cases make bad law. Ever present in the debate over concurrent versus consecutive sentencing is the use of Canada's handful of notorious violent offenders to incite public emotion. While these individuals have been convicted of heinous crimes, they are not a realistic profile of those individuals who might benefit from existing laws regarding release on parole. Further, legislation forcing sentencing courts to impose consecutive sentences or life without parole undermines the role of the judiciary as an independent examiner of an offender's potential for rehabilitation and reintegration.

The John Howard Society opposes mandatory consecutive sentencing. It is true that in Canada, where a person commits more than one murder, the sentences are served concurrently. However, it is also true that some offenders may never be released from prison because of the risk that they present. Sentences that exclude the possibility of rehabilitation are sentences that are only retributive and punitive in nature, and these are clearly not the only purposes of sentencing in our country. The adoption of absurd sentences of 50 or 75 years redefines the notion of proportionality in sentencing to one of equivalence to pain. Consecutive sentences do not affect the most serious offenders because those offenders would receive a severe penalty in any event. These penalties affect the best cases, which are the cases where mitigating circumstances should be considered. True justice cannot be achieved in an environment of forced harshness and blind punishment. Corrections cannot exist without hope.

References available upon request.

Inmate Voting Rights

Every Canadian citizen has the constitutional right to vote. As with all rights and freedoms in Canada, this right is "subject to such limitations as are shown to be justified in a free and democratic society" (*Canadian Charter of Rights and Freedoms*, s. 1). For example, minors and some elections officials are not allowed to vote in elections. As well, the federal government and several provincial governments have enacted laws that prevent certain people from voting if they are incarcerated at the time that an election is held.

Federal elections are governed by the *Canada Elections Act*. Under the *Canada Elections Act*, inmates serving sentences of two years or less have the right to vote in federal elections. Federal inmates (those serving sentences of two years or more) are excluded from voting in federal elections. The Federal Court of Appeal recently upheld the constitutionality of that exclusion, although the ruling is under appeal to the Supreme Court of Canada and is expected to be heard in the spring of 2001. In November 2000, the Supreme Court of Canada granted the John Howard Society of Canada leave to intervene in this appeal.

All animals are equal but some animals are more equal than others.
- George Orwell, <u>Animal Farm.</u>

Provincial elections are governed by each province's applicable elections legislation. Until very recently in Alberta, *The Election Act* denied all inmates the right to vote in provincial elections in Alberta. That blanket exclusion was struck down by the Alberta Court of Appeal in 1998. As a result of the Court of Appeal ruling, the provincial government enacted changes to *The Election Act* that granted limited voting rights to inmates. As of December 1999, those inmates sentenced to 10 days or less, in jail for not paying fines or convicted but awaiting sentencing are allowed to vote in provincial elections. All other inmates are excluded from voting in provincial elections in Alberta.

Opponents of inmate voting argue that inmates should be denied the right to vote as a matter of principle. It is argued that inmates should be denied the right to vote as an added punishment and that offenders should be sent a message about respect for the rule of law. Other arguments against inmate voting include perceived political naiveté among inmates, the potential for election results to be skewed in favour of candidates with lenient criminal justice platforms, costs and administrative inconvenience.

The Society's position on inmate voting is that the denial of the right to vote is not a reasonable limit on the constitutional rights of incarcerated persons. The Society's reasons are:

1. Denying inmates the right to vote serves no rehabilitative function. On the contrary, it has a disintegrative function because it further isolates inmates from the world outside of the institution, a world to which most inmates will one day return.

2. Many inmates are politically well-informed and they are capable of learning about political issues through access to television and newspaper reports.

3. Conducting polls in institutions is relatively simple, inexpensive and completely non-threatening to the public. The federal government has demonstrated that administrative hurdles can be overcome by enacting special voting rules for incarcerated offenders.

4. Denying inmates the right to vote unfairly distinguishes between those offenders who are currently incarcerated and those who are not. Only those offenders in custody on election day are barred from voting. Offenders who are in the community on bail, probation, conditional sentences and parole are eligible to vote.

5. Allowing inmates to vote encourages responsible citizenship and represents to offenders that they are still part of society as a whole.

It remains to be seen whether the Supreme Court will uphold the Federal Court of Appeal's ruling that the federal government is justified in denying the vote to federal inmates. If the Supreme Court reverses that ruling, Alberta's legislation may once again be the subject of a court challenge. The Society believes that incarcerated individuals should have the right to vote to increase their sense of responsible citizenship and to reduce the inequity caused by the chance timing of an offender's sentence.

References available upon request.

Attendance Centres cont'd from page 1

centre can either be an alternative to incarceration or it can be an additional community based option for offenders who are not otherwise bound for custody.

Attendance centres elsewhere in the world have raised issues that are of relevance to the Society in weighing their various advantages and disadvantages.

The first issue of general concern to the Society in this area relates to measurement of success. Typically, the success of a given correctional initiative is measured by recidivism rates. Most studies do not look at an offender's employment status, educational achievement or other personal development after participation in the initiative as measures of success. The Society considers both of these outcomes to be indicators of rehabilitation and successful reintegration. More research to determine the effectiveness of attendance centre participation in rehabilitating and reintegrating offenders might help convince the judiciary and the public that attendance centres are a valid alternative to custody by building an understanding that recidivism is not the sole indicator of success.

Net widening is a second and more significant issue for the Society regarding attendance centres and community corrections in general. The "net" of the corrections system is widened when enthusiasm for a correctional initiative results in its use in cases where it is not required. In community corrections, net widening occurs when a community based penal measure is introduced to reduce the use of custody but, in practice, the measure is applied to offenders who would otherwise have been given a lighter sentence such as probation, a fine or community service. It is a worrisome possibility that some offenders go to attendance centres simply because they exist. It seems that the more sanctions, facilities and programs that are available to deal with offenders, the more offenders there are who will be formally dealt with by the justice system in ways that are not consistent with those offenders' needs and risks. As part of the education process that is necessary with respect to attendance centres, evidence of net widening must be noted by the judiciary, the government, the public and all those involved with the justice system.

CONCLUSION

To effectively reduce the use of custody in Canada, attendance centres and other community based correctional initiatives must be specifically aimed at higher risk custody-bound offenders who require supervision and programming rather than at low risk offenders such as probationers. For those who do not pose a significant risk to the community but who do require intensive supervision and programming, attendance centres may provide the most appropriate degree of interference with their liberty. For lower risk offenders who do not require supervision or treatment, less intrusive measures such as probation, fines and community service are sufficient.

Community based sanctions such as attendance centres have the potential to provide offenders with focussed treatment while developing and maintaining their identity with the community, and this has been the case so far with attendance centres in Alberta. It is our hope that the above-noted areas of concern will continue to be addressed in Alberta and that they will receive greater attention wherever attendance centres are in operation.

References available upon request.

CONTACT US

The John Howard Society of Alberta Reporter is distributed free of charge to a wide audience of citizens, educators, agencies and criminal justice system staff. Our goal is to provide information and commentary on timely criminal justice issues. We welcome and encourage your feedback on The Reporter.

The John Howard Society of Alberta is an agency composed of citizens in Alberta who are interested in criminal justice reform and preventing crime in our communities. We recognize that dealing with crime is as much the responsibility of the community as it is of government.

We gratefully accept donations to help offset the costs of our efforts in criminal justice reform and crime prevention. Donations are income tax deductible.

ISSN 1192-4381

To provide feedback, obtain information or make a donation, please contact us at:

The John Howard Society of Alberta
2nd floor, 10523 - 100 Avenue
Edmonton, Alberta T5J 0A8
Phone: (780) 423-4878
Fax: (780) 425-0008
E-mail: info@johnhoward.ab.ca

Visit our website at: www.johnhoward.ab.ca to find out 'what's new' and view recent research publications.

Visit us on the world wide web