



Criminal Justice Reform

February 15, 2007

Following the federal election of January, 2006, Canada's Prime Minister, the Honourable Stephen Harper, and successive Ministers of Justice, have introduced a plethora of "get tough on crime" amendments to the *Criminal Code of Canada*, all with the laudable intent of "making our communities safer". In this, they have received the support and encouragement of a number of provincial governments, including the Government of Alberta. You can find particulars of these proposed amendments, along with links to a number of federal government sites, at http://www.tacklingcrime.gc.ca/stronger_laws_e.asp

The John Howard Society of Alberta, and local John Howard Societies in Alberta have, for some 60 years, been working in the community to do just that – provide safer communities. Indeed, John Howard Societies across Canada have "been in the business of crime reduction and safe communities" since the very first John Howard Society was formed in Vancouver, B.C. in 1932.

In the well over half a century that John Howard Societies have been engaged in the work of crime reduction, we have learned quite a lot about what is effective to reduce crime in our communities, and what is ineffective. And, it should be noted, that throughout this period we have worked in close partnership with the governments of Alberta and Canada to the end of making our communities safer.

If you take the time to look at all the various proposals that the government has placed before Parliament, you will see that these proposals all have in common that they do not appear to be based on criminological evidence that has been collected over decades and across continents, or the experience of those who have been working to this end in our communities, but rather on a moral philosophy, first proposed by Cesare Beccaria in 1764, in his treatise, *On Crimes and Punishment*.

Beccaria, and others that followed him, such as the English philosophers, Jeremy Bentham and John Stuart Mill believed that "the punishment should fit the crime"; but it is important to note that they took this position in response to the excessive brutality arising during the centuries of the Inquisition that had preceded them. They were arguing for a "lessening" in the harshness of punishments inflicted, most often arbitrarily, on the citizens of the nations of Europe. It is from their work

that the concept of “due process”¹ was derived, which process remains at the heart of our legal system to this day.

In the 19th Century, Cesare Lombroso, and those that followed him (Enrico Ferri and Raffaele Garofalo), based on their scientific studies of individuals who had been convicted of committing criminal offenses, proposed that “the punishment should fit the criminal”; in other words, that the particular circumstances of each offender be taken into account when determining the appropriate sentence to be imposed. It is in this context that Canadian Judges exercise their discretion today, following the guiding principles contained in ss. 718 ff of the *Criminal Code*, to impose a sentence that not only “fits the crime”, but also “fits the offender”.

A significant number of lawyers, judges, criminologists, and community organizations dedicated to justice, civil rights and freedoms, and safe communities are opposed to the recently proposed amendments to the *Criminal Code* – not because they want our communities to be less safe; not because they are “soft on crime”; but because there does not appear to be any criminological evidence that any will have the desired effect of reducing crime, and there is, in many instances, considerable criminological evidence that suggests that, in the long run, they may have the opposite effect – they might well make our communities less safe.

In conjunction with the issue of “effectiveness” is the indisputable fact that moving in the direction of putting more people in jail, for longer periods of time, will cost enormous amounts of taxpayer dollars, as the experience in the United States has clearly shown. Government estimates for this range from “tens of billions of dollars” to as much as in excess of \$200 Billion over the next 10 years – and equally as clearly, it is provincial governments that will bear the largest portion of this burden, as by far the greatest number of those convicted are placed in provincial jails.

Should you wish to contact your Member of Parliament for more information on this issue, you can find the contact information at:

<http://webinfo.parl.gc.ca/MembersOfParliament/MainMPsCompleteList.aspx?TimePeriod=Current&Language=E>

and contact information for your Member of the Alberta Legislative Assembly at:

http://www.assembly.ab.ca/net/index.aspx?p=mla_home

Safe communities are everybody’s business and responsibility.

¹ See generally our Newsletters, *The Reporter*, at <http://www.johnhoward.ab.ca/newslet/archive.htm> with issues commencing in Fall, 2004.