

**A Correctional Services Act  
for  
Newfoundland and Labrador**

**A DISCUSSION PAPER**

The Department of Justice has started the process of drafting new corrections legislation which will govern our corrections system in order to make it contemporary and comprehensive. In this regard we wish to seek your views on some of the themes and issues that could be reflected in a new Correctional Services Act for Newfoundland and Labrador. The purpose of the new legislation will be to provide the legal framework necessary to create a safe, secure, progressive, and humane environment for inmates and staff. Written presentations will be accepted up until Friday, October 8, 2010.

**Background**

In 2008, an independent panel, following extensive consultation with correctional staff, inmates, ex-inmates and their families, community-based and government agencies, and various other professionals, submitted a report on the operation of our provincial prison system. The Report, *Decades of Darkness: Moving towards the Light*, illustrated that corrections has had difficulties in the past and that change is needed and attainable. The Report included recommendations related to the need to update corrections legislation to reflect a more modern and rehabilitative approach. The Report can be viewed at [www.justice.gov.nl.ca/just/index.html](http://www.justice.gov.nl.ca/just/index.html).

The Government of Newfoundland and Labrador, in keeping with the recommendations of the correctional review, is taking steps to consolidate the *Prisons Act* and the *Adult Corrections Act* into a single statute to reflect the administrative and operational integration of Adult Custody and Community Corrections. This is now the case in all other Canadian jurisdictions.

The Department has completed a jurisdictional scan and plans to incorporate best practices from various jurisdictions across the country into a new Correctional Services Act.

### **Input from Stakeholders**

Correctional systems significantly impact the lives of offenders serving community and custodial sentences. New legislation will set guidelines and rules, meet the recommendations of the independent review of adult corrections, incorporate best practices, and reflect operational realities.

A well-functioning and progressive provincial corrections system in tune with the needs of the community and the persons who become involved in the system is important to the residents of Newfoundland and Labrador. In an effort to create a sound legislative basis for this regime, we are hoping to receive input on such themes ranging from staff powers and duties to inmate grievance procedures; the special needs of women and Aboriginals; and citizen involvement.

## **Staff Powers, Duties and Obligations**

The corrections system attempts to achieve the seemingly contradictory goals of punishment and rehabilitation. Probation officers and prison staff face many challenges, which include those brought about by the dual roles of providing supervision and support. On the one hand probation officers and prison officials must enforce the law and at the same time support the aims of rehabilitation and reintegration into society. The safety of the public is paramount.

In order to maintain safety within the institution, correctional staff must ensure that offenders comply with certain conditions and rules. They must also ensure that offenders are treated with dignity and respect. While the work of probation officers is carried out in the community, the work of prison staff is carried out behind prison walls.

Correctional staff in both community and custodial settings deal with the many individual needs and varying problems of offenders. Staff provide supervision, security and care for extremely vulnerable people. They deal with offenders who often lack social and educational skills, who have poor employment histories, a high rate of addictions and mental health issues, and various other untreated health problems. Few want to be under supervision and fewer still want to be in prison. The role of these professionals is both complex and demanding.

- 1. What in your opinion should be the authority, standards and duties expected of community corrections staff (e.g. probation officers), and of prison staff (e.g. correctional officers), that should be included in a new Correctional Services Act?**

## **Offender Obligations and Rights**

Offenders face many constraints when they are serving a community-based or custodial sentence. Numerous aspects of their lives are regulated. For example, probationers' movements are restricted, and for those who are incarcerated additional restrictions apply, ranging from routine searches to minimal family contact. By being convicted of a crime, offenders must be held accountable and abide by conditions of their sentence. They must live by the rules and are expected to make strides toward their rehabilitation.

### **2. What in your opinion are the behaviours and expectations that should be included in a new Correctional Services Act to be placed on offenders/inmates to counter criminal lifestyles?**

One underlying value of our corrections system is that offenders must be treated with dignity and fairness. They are entitled to such fundamental rights as a safe environment, nutritious and sufficient food, and adequate medical care. Other than those rights and privileges that have been removed or restricted due to their sentence and/or other legal mechanisms, offenders do retain rights and privileges of all members of society. This is particularly challenging in the prison system where due to the stressful environment, conflict often occurs among inmates and staff and among inmates themselves.

### **3. What in your opinion are the offender/inmate rights that should be specified in the new Correctional Services Act?**

## **Women Offenders**

Women offenders bring with them unique needs. Often they are the primary caregivers of children and have been victimized by husbands or partners. Women have higher unemployment rates and on average lower incomes than men, head up the majority of single parent households and often experience inadequate access to health, housing, employment options and other services. Women offenders are often convicted of non-violent crimes involving drugs and property offences.

Research has shown that women have different reasons than men for getting into trouble with the law. Women offenders have a higher degree of diagnosed mental health problems than their male counterparts and have a very high rate of addictions. They have different programming needs, for example violence prevention supports and more complex housing needs.

### **4. What should be taken into account in drafting the new Correctional Services Act to address the needs of women offenders?**

## **Aboriginal Offenders**

Aboriginal men and women, especially the Inuit and Innu, are significantly over-represented in Newfoundland and Labrador's prison system. Colonialism has caused high rates of poverty, spousal violence, addictions and the disruption in Aboriginal people's lives and communities. Due to their cultural and linguistic backgrounds, Aboriginal people have many different needs, and the Department of Justice has worked to develop programs and services to meet those needs, such as the hiring of Aboriginal Prison Liaison workers and a Fetal Alcohol Spectrum Disorder Project Coordinator. The

Department has also reestablished the land-based program at the Labrador Correctional Centre. Further specialized programming and development is planned and we have recently hired a Corrections and Community Services Liaison Officer to work with Aboriginal communities and promote the recruitment of Aboriginal workers into the corrections system.

**5. What should be taken into account in drafting the new Correctional Services Act to address the unique cultural needs of Aboriginal offenders?**

**Citizen Involvement in Corrections**

Prison is a part of the corrections system, which in turn is part of the community. Citizens have a vested interest and a responsibility to be informed about, and involved in, the criminal justice process. Programs and services cannot be provided to all offenders by the Department of Justice alone. Volunteers active in the prison system provide important services. Government enters into correctional service and program delivery agreements with community organizations which work with offenders and their families. These organizations have developed trust and goodwill among offenders and also the community at large. They provide important services that help facilitate offender reintegration and reduce recidivism.

**6. Should a new Correctional Services Act provide for an advisory group with representation from the community to offer suggestions which may be used to improve the system?**

**7. Do you have any suggestions as to the composition of such a Committee?**

## **Disciplinary Court and Appeal Procedures**

Any well functioning correctional system will require inmates to abide by rules to maintain a safe environment for both staff and inmates. Institutional rules also facilitate the creation of an atmosphere in which inmates may seek rehabilitation. An inmate found guilty of a breach of the rules can receive serious punishment which includes loss of remission and a period of time spent in segregation. The establishment of rules also brings with it the duty to enforce in a manner which is fair. The current process of internal discipline is dealt with by senior prison officials. The Correctional Review recommended “that policy be developed which outlines two distinct categories of inmate offences – and that serious violations hearings be conducted by an independent chairperson.”

### **8. Do you agree with this recommendation? What provisions should be put in the Act to ensure an effective appeal procedure for internal disciplinary matters regarding inmates?**

The foregoing are some of the most important issues that we have identified. These are not meant to be exhaustive, but are meant to serve merely as a guide. You may wish to provide observations and commentary on other matters of concern, as this legislation will be comprehensive in scope.

### **9. Are there any other matters that you wish to comment upon?**

## **Conclusion**

It is our goal to have a comprehensive code of inmate and staff rights and responsibilities with appropriate procedural safeguards in place to ensure fairness in decision-making and the humane treatment of offenders. For example, we will ensure that effective legislation is in place to guide search and seizure, and that the use of force is in strict compliance with legal requirements. These legislative changes will help improve correctional services in this province. By creating a strong legal framework with high professional standards we hope to optimize fairness and human rights compliance in a new, modern Correctional Services Act.

Should you wish to comment in writing on any or all of these issues or any others affecting the operation of our adult corrections system please do so by **Friday, October 8, 2010.**

Submissions can be emailed to [correctionsconsult@gov.nl.ca](mailto:correctionsconsult@gov.nl.ca) or mailed to the following address:

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