



Prisoners' Legal Services

A Project of the West Coast Prison Justice Society

August 26, 2021

VIA EMAIL: financecommittee@leg.bc.ca

Select Standing Committee on Finance and Government Services

Room 224, Parliament Buildings
Victoria, B.C. V8V 1X4

Dear Honourable Committee Members:

RE: BC Budget 2022 Consultations

Thank you for the opportunity to provide a submission during the 2022 BC budget consultations. I am the executive director of Prisoners' Legal Services, a legal aid clinic for federal and provincial prisoners in BC. We assist prisoners with issues that affect their liberty rights, human rights and health care. We provide the following recommendations.

1. Invest in community-based mental health services instead of more prison beds

Prisoners' Legal Services is disheartened to learn that BC is spending \$167 million to build a new prison in Nanaimo, which will increase the number of beds available in secure (high) custody. BC does not need more prison beds. We need to invest in keeping people out of prison.

When BC spent \$45 million expanding capacity for high security women at the Alouette Correctional Centre for women (ACCW) in 2012, it resulted in many more women being held in high security. 104 new beds were created. At the time there were 70 women held in secure custody (at Surrey Pretrial Services Centre).¹ Occupancy at ACCW increased from 81% capacity in March 2011 to 110% with the new higher capacity in June 2014, despite a decrease in the overall counts of prisoners in the province in the same time period.² If you build it, they will come.

Instead of building more prison units, BC should focus resources on reducing the number of people held in custody on remand awaiting trial, on breach of parole and bail conditions and/or serving time for non-violent crimes. Nine percent of people in provincial custody are there for administration of justice

¹ Online: <https://news.gov.bc.ca/releases/2012JAG0221-001481>.

² Office of the Auditor General of British Columbia, *An audit of the Adult Custody Division's Correctional Facilities and Programs* (January 2015). Online: <https://www.bcauditor.com/sites/default/files/publications/2015/special/report/AGBC%20Corrections%20report%20FINAL.pdf>.

offenses, 28% are in custody for property crimes and 63% are awaiting trial. The average length of stay in custody for sentenced people is 64 days.³

Detaining people for administration of justice charges or for short periods of custody does nothing to protect public safety in the long term. It is costly and is extremely destabilizing for people who may lose their jobs, housing, and other community ties, resulting in increased homelessness and other harms.

Research by the BC Coroners Service shows that two thirds of people in BC who died of illegal drug overdoses in the province during the review period had been involved with BC Corrections, and 18 percent died while on community supervision or within one month of release from a correctional facility.⁴ Other research has similarly demonstrated that the period immediately following release from custody is particularly dangerous with respect to overdose risk.⁵

BC should invest in more community-based mental health services so people have the support they need to be successful in the community. Many of our clients have significant mental health needs, and there are not enough community-based services to help them stay out of prison. This violates the human rights of people with mental health disabilities and does not serve public safety.

As I reported last year, our clients with the highest mental health needs in prison often end up in solitary confinement, either in regular segregation cells or in cells in the segregation area designated for prisoners on suicide watch. In the past year, we have received reports of prisoners with high mental health needs being held in solitary confinement at the North Fraser Pretrial Centre in inhumane conditions. These individuals require a psychiatric hospital level of care. No one should be held in cells contaminated with feces and mice, isolated to a degree that the United Nations considers torture. The Forensic Psychiatric Hospital should be funded to provide a secure therapeutic environment for BC prisoners who have high psychiatric care needs.

2. Direct resources to Indigenous-run healing services

Thirty-five percent of people in BC Corrections' custody are Indigenous.⁶ Prisons represent a continuation of the genocide committed against Indigenous people through residential schools. If BC wants to be a leader in respecting Indigenous people's rights and in supporting First Nations in self-determination, it must end the practice of incarcerating Indigenous people.

BC should take the \$167 million now being spent to build more colonial prison bedspaces, plus a significant portion of BC Corrections' operating budget, and use that funding to resource Indigenous

³ Online: <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/corrections/reports-publications/bc-corrections-profile.pdf>.

⁴ British Columbia Coroners Service, *BC Coroners Service Death Review Panel: A Review Of Illicit Drug Overdoses - Report to the Chief Coroner of British Columbia* (April 5, 2018). Online: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/bccs_illicit_drug_overdose_drp_report.pdf.

⁵ Groot E, Kouyoumdjian FG, Kiefer L, Madadi P, Gross J, Prevost B, et al. (2016) Drug Toxicity Deaths after Release from Incarceration in Ontario, 2006-2013: Review of Coroner's Cases. *PLoS ONE* 11(7): e0157512. doi:10.1371/journal.pone.0157512; Shabbar I, Ranapurwala et al. "Opioid Overdose Mortality Among Former North Carolina Inmates: 2000–2015", *American Journal of Public Health* 108, no. 9 (September 1, 2018): pp. 1207-1213.

⁶ Online: <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/corrections/reports-publications/bc-corrections-profile.pdf>.

communities to provide healing services. This would ensure Indigenous communities have the resources to heal from multi-generational trauma, which is at the root of the criminalization of Indigenous people, and would help people already involved in the criminal system to heal.

I understand that BC is currently negotiating with the BC First Nations Justice Council on funding for the implementation of the Justice Strategy. We encourage BC to ensure the strategy is funded well so that it can establish robust alternatives to incarceration and dramatically reduce the numbers of Indigenous people in BC Corrections' custody now, with a goal of ending this genocidal practice.

3. Increase prisoner legal aid

Prisoners' Legal Services administers legal aid to one of the most marginalized and vulnerable populations in BC, providing representation to prisoners when their fundamental liberty rights and human rights are at issue. As I reported last year, we receive a much higher volume of demand for our services than our funding allows us to meet. Our core funding has not increased since 2012, but the demand on our services has increased significantly since that time.

We were grateful to receive a one-time grant of funding last year which helped us maintain staffing through the pandemic. Even with this assistance last year, we continue to receive reports that prisoners are going unrepresented in disciplinary hearings, because they are unable to get through to our over-subscribed phone lines for legal help before their hearing. We have received reports that many people are pleading guilty to disciplinary charges because they are unable to receive our assistance. This is concerning because disciplinary convictions can be punished with segregation, and can negatively affect eligibility for parole or bail.

As I noted in my comments last year, Jamie Maclaren, QC cited PLS as an effective model that should be followed for developing other specialty legal clinics that provide cost-effective services to specific marginalized groups, in his 2019 report *Roads to Revival*.⁷

Requiring clinics to serve a higher number of clients without an increase to core funding in a decade is not a sustainable model of legal aid delivery. We ask that BC ensure that our contract is increased so that we can continue to assist prisoners with their fundamental *Charter* and human rights, on an ongoing basis.

Thank you for your consideration of these submissions.

Yours truly,

PRISONERS' LEGAL SERVICES



Jennifer Metcalfe
Executive Director
Barrister and Solicitor

⁷ Page 52. Online: https://news.gov.bc.ca/files/Roads_to_Revival-Maclaren_Legal_Aid_Review-25FEB19.pdf.