



Submission to the House of Commons
Standing Committee on Justice and Human Rights
regarding

Bill S-6, An Act to amend the Criminal Code and Another Act
(elimination of the Faint Hope Clause)

40th Parliament, 3rd Session

November 16, 2010

Mission Statement of the John Howard Society of Canada:

“Effective, just and humane responses to the causes and consequences of crime.”

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Opening Statement, November 16, 2010

I thank the Committee on behalf of the John Howard Society of Canada for the invitation to appear. We appreciate the opportunity to meet with you today to discuss Bill S-6.

I have left with the Clerk, copies of our submission on this legislation presented to the Senate's Standing Committee on Legal and Constitutional Affairs in June of 2010.

There has been to date, extensive and detailed discussion on this proposed legislation. As such, I will provide a brief opening statement.

The John Howard Society of Canada is a non-profit organization whose Mission is to promote "*effective, just and humane responses to the causes and consequences of crime*".

The Society has 65 front line offices across the country delivering programs and services to support the safe reintegration of offenders into our communities.

The John Howard Society of Canada does not support this legislation.

What we appear to have here is a proposed solution in search of a problem.

While the faint hope clause over the years has become synonymous with a claimed "soft on crime" approach, the data and our experience say otherwise.

The faint hope clause was introduced in 1976 as an offset to the abolition of capital punishment and the establishment of the 25 year maximum sentence without parole eligibility for first degree murder convictions.

Between 1961 and 1976 the average period of incarceration before conditional release for those serving a sentence for capital murder was 15.8 years. Currently, the average length of time served prior to conditional release on first degree murder convictions is 28.4 years.

How can this huge increase in time spent in federal penitentiary subsequent to the introduction of the faint hope clause be portrayed as soft on crime?

The data also shows, in an international comparison with other western democracies, that the time spent in custody on first degree murder convictions in

Canada is double that of other jurisdictions. Again, where is the evidence of excessive leniency?

The current process for obtaining a reduction in parole eligibility for those serving life sentences is rigorous. It includes reviews by a judge, a jury and eventually, the National Parole Board.

The number of offenders applying under the provisions of the faint hope clause is low. There were, according to CSC figures in April of this year, 1062 offenders eligible for review, yet only 174 applications had been received. These low numbers are evidence of an extremely limiting self selection process resulting in very few, if any, frivolous applications coming forward.

Those applications approved by a judge as having a “reasonable” prospect of success and then granted a reduction of time on eligibility by unanimous decision of a jury are being granted a conditional release by the National Parole Board in the vast majority of cases (148 positive jury decisions and 135 conditional releases).

So where is the problem with the current process that this legislation is attempting to address? Who within this process is being soft on crime? The judiciary? The juries? The National Parole Board?

I would suggest that the data indicates clearly that Canada, in comparison to other western democracies, is in fact unreasonably tough on crime.

Society is not well served by long prison sentences. Legislation which increases the period of incarceration should not be accepted. This legislation is not an effective, just or humane response to the reasonable management of life sentences.

I recommend that the Committee reject this legislation and turn its attention to a thorough review of how we as a country have moved from an average period of incarceration for those convicted of first degree murder of 15.8 years prior to 1976 to the current unreasonable 28.4 years.

I thank you for your attention and look forward to your questions.