

Report Summary:

More Than We Can Afford: The Costs of Mandatory Minimum Sentencing

This report is the result of a research project undertaken by the BC Civil Liberties Association concerning the social, economic and legal implications of the rise of mandatory minimum sentencing in Canada following the enactment of Bill C-10, *The Safe Streets and Communities Act*. The BCCLA is deeply troubled by the rising number of offences that attract mandatory minimum sentences. Canada is now second only to the United States in the number of mandatory minimum penalties, where efforts are being taken to reintroduce judicial discretion in sentencing.

It is the BCCLA's position – borne out in the research – that mandatory minimum sentences are ineffective, costly and unjust. They represent a short-sighted approach to legislating in the area of criminal justice where evidence-based policy is urgently needed.

- **Mandatory Minimum Sentences Are Ineffective**
 - They have no demonstrated effect on deterring crime.
 - Long periods of time in prison lead to recidivism.
 - “Tough on crime” measures distract from other, effective measures to address the underlying causes and risk factors for criminal behaviour.

- **Mandatory Minimum Sentences Do Not Increase Transparency**
 - They shift discretion away from judges to prosecutors.
 - Decisions made by prosecutors may ultimately determine the mandatory minimum sentence.
 - They increase the importance of plea bargaining, which can act as an inducement to plead guilty to lesser charges without minimum penalties.

- **Mandatory Minimum Sentences Are Unjust**
 - They disproportionately affect individuals from vulnerable and marginalized populations, such as the drug-addicted, the mentally ill, Aboriginal offenders and those with intersecting points of disadvantage.
 - They serve to perpetuate systemic discrimination in our justice system.

- They do not allow judges to properly account for the moral culpability or degree of responsibility of the offender in light of all the relevant circumstances.
- **Mandatory Minimums are Costly**
 - They **increase expenditures** in the justice and corrections systems
 - Expenditures have increased from 2002 to 2012 by 66% while crime rates have fallen just over 30% in the same time.
 - One aspect of Bill C-10 alone is estimated to cost over \$150 million in trial, corrections and parole costs.
 - Two aspects of Bill C-10 are estimated to add 470 inmates to BC's correctional system, at a cost of approximately \$31 million per year.
 - The **social and human costs** of mandatory minimums are staggering and affect the long-term health and well-being of communities
 - 20,000 children are separated from mothers every year because of incarceration, many of whom suffer from withdrawal, low self-esteem, depression, substance abuse and aggression.
 - Prisoners are three times as likely as the general public to suffer serious mental illness.
 - Four out of five prisoners have a serious substance-use problem upon entry.
 - Incarceration of significant numbers of people from a community affects the economic viability of that community for generations to come.
- **Mandatory Minimums are Ripe for Constitutional Challenge**
 - They have been found to constitute cruel and unusual punishment under s. 12 of the Canadian Charter of Rights and Freedoms.
 - They have been found to constitute an unjustifiable deprivation of liberty under s. 7 of the Charter.
 - They have been found to be discriminatory under s. 15 of the Charter.
 - The Supreme Court of Canada will hear a landmark case on the constitutionality of mandatory minimums in November 2014.