

Brief to the Standing Committee on Public Safety and National Security
November 22nd, 2010
Regarding further changes to legislation governing Pardons

Respectfully submitted by
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Good afternoon, and thank you for this opportunity to appear. The John Howard Society of Manitoba, with support from John Howard Society Canada is here today along with Building Urban Industries through Local Development (BUILD) and Opportunities For Employment, to respectfully ask this committee not to make any further changes to the legislation governing pardons, specifically those set out in Bill C-23B. In our opinion the proposed changes are unnecessary and would ultimately make Canadians less safe. We are particularly concerned about changes that would:

- Double the waiting period for those wanting to apply for a pardon;
- Prohibit those who have committed specific offences from ever getting a pardon;
- Deny anyone convicted of more than three indictable offences from ever applying for a pardon.

The Society is also opposed to changing the term 'pardon' to 'record suspension'. In discussion around Bill C-23 last spring, it was said that the government should not be in the business of giving pardons and this was the prevue of victims. I respectfully submit that two different concepts, 'pardon' and 'forgiveness' are being confused here. Under Canadian law it is the Crown, on behalf of the government of Canada that brings charges as an aggrieved party, and not the victim. If convicted an individual is found to have committed an offence against Canada. Therefore, the government clearly does have a role in granting pardons as an aggrieved party, which is separate from forgiveness that the victim may or may not grant. Furthermore, the word pardon has a deeper significance than record suspension: Pardon implies that the individual in question is no longer an offender or a risk to the community in a way 'record suspension' does not.

According to National Parole board records, only *4 per cent* of the more than 400,000 pardons issued over the last 40 years have been revoked most usually because the individual was convicted of another crime (which may have taken place before the pardon was granted). Therefore it can be assumed that the vast, vast majority of those seeking a pardon have successfully rehabilitated themselves and are not a risk to the public. The government should recognize this by granting a pardon, as opposed to 'suspension'.

These same statistics raise the question of whether any further changes are necessary. *At most*, only 4% of those pardoned re-offend at a later date (as noted, some of the pardons

are revoked for *earlier* offences which had not previously come to light) strongly suggesting that the current criteria is more than sufficient. Nor does a pardon prevent a person from being investigated for other offences or make it any easier for the person to commit a crime in future. What benefit is there to public safety by doubling waiting periods and taking away pardons altogether from those who commit specific offences or more than three indictable offences?

On the contrary, putting additional barriers in the way of individuals trying to move forward and live crime-free lives decreases public safety. A pardon is a major incentive for those trying to put a criminal past behind them. The proposed legislation would put additional barriers in the way of hundreds of thousands of Canadians just by doubling the waiting period. Furthermore, those with three or more indictable offences, or certain types of offences would carry the stigma, and restrictions associated with having a criminal record for the rest of their lives, losing a strong incentive to live a crime free life in future. This also has implications for these individuals in terms of their getting a job, and moving to different, better paying types of work. The committee will hear from three individuals this afternoon who would all be in this position about the impact the proposed changes could have on each of them.

It is in the interest of public safety that once convicted of an offence the individual has a way through the pardon process of putting their past activities behind them and not committing any further crimes. Take away, or frustrate this hope unduly and there is far less incentive for positive life-change.

There is also an element of unfairness to the proposed legislation in terms of those it would most impact. It is well known that Aboriginal Peoples are over-represented in the correctional system. In Manitoba, Aboriginal people make up only 12% of the overall population but represent approximately 70% of those who are incarcerated. Therefore, Bill C 23B would be many times more likely to negatively impact this community. The proposed changes would further entrench the marginalization of Aboriginal Peoples in Canada without offering any meaningful and tangible benefit.

It has been said that this legislation has been drafted with victims in mind – yet the legislation does not give victims any say or part to play in the pardon process. Nor does Bill C-23B appear to advance victim's interests. In my experience from working as a mediator in criminal cases for many years, victims have three key needs:

1. To know that the offender will not victimize them again;
2. To know that the offender will not victimize someone else;
3. To know that the accused has learned from the experience and is making themselves into a better person as a result.

None of these needs are addressed by making it more difficult for an individual to get a pardon. In fact the victim is more likely to be satisfied that his/her accused has been able to move forward and demonstrably live a crime free life – which can be symbolized by the offender getting a pardon.

Pardons are also needed to help 'offenders' become 'ex-offenders'. By not allowing large numbers of individuals to obtain a pardon after *any* length of time, Parliament would be saying in fact, that 'once an offender, always an offender'. If you keep pasting a label on someone how long it is before he goes and does something to prove you right?

The committee will now hear from three individuals who have committed crimes in the past and are now working hard to move forward with their lives. Each of these individuals has three or more indictable offences and would not be allowed to apply for a pardon if Bill C23B were approved in its current format. I ask you to consider the consequences these individuals would face by not having a pardon, and how denying pardons in their instances would in any way make our community a safer place to live?