The Punitive Turn?

Assessing the Impact of the Harper Government's Tough on Crime Legacy

By

Shanise Burgher

A Thesis
Submitted to the Faculty of Graduate Studies
in Partial Fulfillment of the Requirements for the Degree of

MASTER OF ARTS

Department of Sociology
University of Manitoba
Winnipeg, Manitoba

ABSTRACT

Prison populations in Canada have been increasing in recent years while crime rates have been on a steady decline. Critical criminologists have addressed such issues in terms of the emergence of a "new punitiveness" that emphasizes incarceration as a response to crime. Some commentators, however, have argued that Canada has been exempt from this punitive turn. Nevertheless, the "tough on crime" policies introduced by the Harper government during its tenure in power from 2006 to 2015 suggest otherwise. Using the safety of the public as its main justification for "getting tough on crime," the Harper government introduced an enormous number of bills and legislation that cracked down on Canadian crime laws, while simultaneously executing budget cuts that made it more difficult for the Correctional Service to operate at an acceptable standard. To assess the impact of the Harper government's "tough on crime" strategy, 16 frontline workers were interviewed to add a missing piece to the discussion surrounding these policies. These workers have seen first-hand what the impact of the Harper government's policies have been, providing evidence that the punitive turn has now taken hold in Canada. There has been a dynamic shift in the penal landscape of Canada from rehabilitation to toward the warehousing of prisoners. This shift is informed by a New Right rationality that places individualized responsibility onto offenders, while concurrently increasing state interventionism by warranting strict penalties for those who do not operate within society's desired moral ideals. Moving forward, the challenge for the new Liberal government will be to resist the punitive rhetoric of the Harper government's legacy that has taken hold on the Canadian landscape.

ACKNOWLEDGMENTS

I would like to express my most genuine thanks to my advisor, Dr. Elizabeth Comack, who has provided an immense amount of support throughout this thesis process. Dr. Comack allowed me the opportunity to work on the study, "The Impact of the Harper Government's 'Tough on Crime' Strategy: Hearing from Frontline Workers," from which data for this thesis were drawn. Her expertise and guidance have made working on this project an incredibly valuable experience. I would also like to thank my committee members, Dr. Andrew Woolford and Dr. Denis Bracken, for their support and assistance for this project. I would also like to express my gratitude to Margaret Currie, Donna Alexiuk, and Dianne Bulback for the support they have given me throughout my entire Master's journey. Generous support for the project was provided by the Social Sciences and Humanities Research Council of Canada through the Manitoba Research Alliance grant, "Partnering for Change: Community-Based Solutions for Aboriginal and Inner-City Poverty" and by the University of Manitoba Faculty of Graduate Studies through the Graduate Enhancement of Tri-Council Stipends (GETS) fund, for which I am sincerely grateful. Finally, I would like to thank the 16 criminal justice frontline workers who took the time from their busy schedules to share their extensive knowledge and experience.

TABLE OF CONTENTS

INTRODUCTION

The Canadian crime rate had been on a steady increase every year between 1962 and 1991. However, after reaching its highest peak in 1991, the crime rate has progressively decreased every year since (Statistics Canada 2015). In 2013, police reported crime rates were at their lowest point since 1969, and this year also marked the tenth year in a row of steady decline. While the police-reported crime rate rose 3 percent from 2014 to 2015, this number is still 29 percent lower than the 2005 rate (Statistics Canada 2016). The Crime Severity Index (CSI) measures both the volume and the seriousness of police-reported crime in Canada, and 2013 marked the tenth year in a row of steady decline. It had decreased 9 percent from 2012, and a remarkable 36 percent from 2003 (Statistics Canada 2015). Although the CSI increased 5 percent from 2014 to 2015, it was still 31 percent lower than in 2005.

Though crime has been on the decline since 1991, Canada's incarceration rates have been on the rise. In 2009/2010, the total number of incarcerated individuals nationwide averaged 49.51 per 100,000 individuals. This rate gradually increased to 53.63 in 2012/2013. Provincially, Manitoba has the highest incarceration rate at 242 per 100,000 of the adult population (Correctional Services Program 2015). Remand rates have also been steadily increasing. For the last 10 years, the remand population has surpassed the sentenced population, accounting for 57 percent of the custodial population in 2014/15. In that year, 13,650 adults could be found held in remand on any given day awaiting trial or sentencing, while 10,364 adults were held in sentenced custody in the provinces and territories (Statistics Canada 2016).

Canada's prison population is not only the highest it has ever been, the number of visible minorities has also increased 75 percent in the past decade (Brosnahan 2013). Aboriginal adults are consistently overrepresented in admissions to both provincial/territorial

services and federal correctional services. While representing only 3 percent of the Canadian adult population, they accounted for nearly one-quarter (24%) of those incarcerated in provincial/territorial correctional services and 20 percent of those incarcerated in federal institutions in 2013/2014 (Correctional Services Program 2015). Aboriginal females represented even more of the provincial/territorial sentenced custody population, at 36 percent compared to their Aboriginal male counterparts at 25 percent. Federally, the number of incarcerated Aboriginal women has increased almost 80 percent over the past ten years (Brosnahan 2013). Over the 11 years Howard Sapers served as Correctional Investigator, he had never seen a year where the Black prison population did not rise. During his tenure, Sapers watched the number of Black inmates grow by 69 percent (Office of the Correctional Investigator 2014). Though the Black population is less likely to re-offend and has a lower level of assessed needs overall, Black inmates are more likely to be placed in maximum security institutions, and are now the fastest growing group in federal prisons (Office of the Correctional Investigator 2014).

If crime rates have been falling in Canada, then why are more and more individuals ending up behind bars? Critical criminologists have addressed such issues in terms of the emergence of a "new punitiveness" that emphasizes incarceration as a response to crime. Writing in 2001—at a time when crime rates were rising in many Western societies—David Garland (2001) argued that a long list of measures, including mandatory minimum sentencing, imprisonment of children, and harsher prison laws, suggest that the punitive turn in contemporary penality had now occurred. Yet, some commentators suggested that the Canadian case did not fit the punitive turn. Jeffrey Meyer and Pat O'Malley (2005) have argued that penal modernism—or the focus on therapeutic intervention in the correctional system—is "far from

disappearing or even having become marginalized" in Canada and rather "appears as strong or stronger than ever as a central ethos of official discourse on Canadian criminal justice" (p. 208). However, Meyer and O'Malley also suggested that a "cultural lag thesis" may be at work in the Canadian case, suggesting that a "new conservative government could change matters" (p. 214).

The Conservative government under the leadership of Prime Minister Steven Harper would appear to have borne out this prediction. During its time in power from 2006 to 2015, the Harper government implemented a "tough on crime" strategy that involved passing legislation to: implement mandatory minimum sentences involving drug related offences, trafficking, and firearms; eliminate the possibility of early parole for non-violent offenders; eliminate the possibility of parole after 15 years for serious offenders; reduce eligibility for individuals to serve time in the community via conditional sentencing; and eliminate credit for time served in pre-trial detention (Office of the Correctional Investigator 2012, 2013, and 2014).

The legacy of the Harper government raises questions about whether the "punitive turn" has now, in fact, occurred in Canada and what that means for those individuals who are caught up in the Canadian correctional system. The aim of this project, therefore, is to consider the impact of the "tough on crime" strategy on the Canadian correctional system. Has the punitive turn that occurred in the U.S. with respect to the Reagan administration and the "War on Drugs" now taken hold in Canada with the Harper government and its "tough on crime" strategy? If so, what does this mean for criminalized individuals in Canada? Though many commentators and researchers have investigated the different societal impacts of the Harper government's "tough on crime" agenda (Green 2014; Mallea 2011), the on-the-ground impact as witnessed by those working on the frontlines of the criminal justice system has yet to be fully explored. This project

therefore endeavours to introduce a standpoint that has been often missing from discussions surrounding criminal justice policies aimed at "getting tough" on crime.

Outline of the Study

Chapter one examines how different commentators have theorized the punitive turn, drawing on the works of Michel Foucault (1995), Stanley Cohen (1979), Loïc Wacquant (2009), David Garland (1983), Pat O'Malley (1999), and Roger Matthews (2005). The discussion is focused on the similarities and differences in the arguments being advanced, and how each perspective conceptualizes the "punitive turn."

Chapter two investigates the origins of "tough on crime" strategies in the United States and how these strategies have now taken root on the Canadian landscape. It will look into the history of the U.S. "war on drugs" that helped to create mass incarceration, transformed the nation, and set a precedent for Canadian penal policy. The main purpose of the chapter will be to map out the reforms implemented by the Harper government during its time in power.

Chapter three outlines the methodology used for the study. Research consisted of interviews with 16 frontline workers who had an accumulated 200 years of knowledge and experience working with the Canadian criminal justice system. Drawing on these workers' knowledge provides significant insights into the on-the-ground impact of the Harper government's "tough on crime" strategy.

Chapter four relays the findings from the interviews with frontline workers to make the case that a punitive turn has, in fact, occurred in Canada. This chapter focuses on the impact of the cost cutting measures and legislation implemented by the Harper government, especially in terms of marking a decided shift in orientation from a criminal justice system

that previously focused on rehabilitation to one that now focuses on the warehousing of individuals.

The concluding chapter discusses the legacy of the Harper government and the potential for shifting away from the punitive turn under the tutelage of the Liberal government of Justin Trudeau.

CHAPTER ONE
THEORIZING THE PUNITIVE TURN

The literature surrounding the punitive turn involves contributions from several criminological theorists. This chapter will consider this literature in terms of how these authors conceptualize the punitive turn, and the connections and dissimilarities that emerge from their understandings. Loïc Wacquant, for one, has argued that the new punitiveness is "indicative of the rise of a new and exceptional state form. Its appearance is particularly evident in societies that have become restructured around neoliberal states that promote free-market principles" (Pratt et al. 2005: xxii). Understanding the role of governmental rationalities, therefore, is central to an investigation of the "new punitiveness" in the Canadian context. In particular, several authors have argued that both neoliberal and neoconservative rationalities have coalesced to inform a "New Right" form of governance that has significant implications for crime control.

Michel Foucault

Many of the criminologists who theorize the punitive turn draw insights from the work of Michel Foucault, especially in relation to his notion of "governmentality." While investigating political power in the 1970s Foucault introduced the term "governmentality" to address relations of power that go beyond the state (Foucault 2010: 64). Governmentality is literally government coupled with mentality; it is the taken-for-granted ideas, beliefs, and knowledge that inform the practices or ways of governing (Comack 2014: 54). It focuses on the *art* of governing, the "conduct of conduct," and how the conduct that is shaped between different individuals creates modern day truths that exist within a new *regime of government* (Comack 2014: 55). Modern governmentality has a focus on the population, and the triad of sovereignty, discipline, and

governmental management work together under the guise of providing security for that population (Pavlich 2011: 146).

Much of Foucault's theory of governmentality is based on the limitations that he found with Marxist theory (Foucault 2010: 85). Whereas Marxism conceptualized power as a commodity that could be owned, Foucault was more interested in the mechanisms of power. For Foucault, power exists everywhere; it is not just located within an institution or a structure as Marx viewed it. Marx saw history as one of struggle; however, Foucault went a step further. Though Foucault recognized the meaning of struggle, he identified that one's struggle is not more important or significant than another's or that one kind of power is always the most important one, as Marxist theory does (Valverde 2010: 54). Rather than being centred in the state, there are different localized sites of power that are dispersed throughout society.

Alan Hunt (1992) took Foucault's works as an "expulsion of law," meaning a "direct result of his pervasive concern to break with two closely related ways of posing the problem of power, both of which he views as endemic to Marxism. The first treats power as primarily a question of state-power and the second equates state-power with repression" (p. 2). Foucault sought to "expel" power from a solely juridical meaning, and to expand the notions of "government" and "governmentality" beyond the disciplines that society has become so preoccupied with (p. 3). Whereas power previously existed in a more transparent state within the Classical era, with the commanding power of the king or sovereign, power has become almost mysterious in modern society (p. 6). In modern society, governmental power is reconfigured within a concern for the population and the forms of knowledge and technical means appropriate to it (Dean 1999 cited in Comack 2014: 55). Nevertheless, according to Foucault, "We should not see things as the replacement of a society of sovereignty by a society of discipline, and then

of a society of discipline by a society, say, of government. In fact we have a triangle: sovereignty, discipline, and governmental management, which has population as its main target and apparatuses of security as its essential mechanism" (cited in Pavlich 2011: 146).

Foucault's notion of governmentality has been adopted in theorizing modern forms of governance, especially the advent of a neoliberal rationality. In these terms, rather than a policy or an ideology, neoliberalism constitutes "new forms of political-economic governance premised on the extension of market relationships" (Larner 2000: 5). Given the Foucauldian distinction between government and governance, it follows that "while neo-liberalism may mean less government, it does not follow that there is less governance. While on one hand neo-liberalism problematizes the state and is concerned to specify its limits through the invocation of individual choice, on the other hand it involves forms of governance that encourage both institutions and individuals to conform to the norms of the market" (p. 12). Neoliberalism therefore exists as both a political discourse about the nature of rule and a set of practices that facilitate the governing of individuals at a distance. New forms of globalized production relations and financial systems are forcing governments to drastically change their commitment to, and their stance on, the welfare state (p.6). As we will see, this neoliberal rationality has had implications for crime control.

Stanley Cohen

In 1979 Stanley Cohen drew upon Foucault's notion of the "punitive city" to discuss what he believed to be a world evolving from inside prison walls to a society of social control. Cohen begins his analysis by drawing a quote from Foucault's *Discipline and Punish*: "This, then, is how one must imagine the punitive city. At the crossroads, in the gardens, at the side of roads

being repaired or bridges built, in workshops open to all, in the depth of mines that may be visited, will be hundreds of tiny theatres of punishment" (Foucault cited in Cohen 1979: 339).

Cohen believed physical boundaries were becoming blurred with societal ones, and a punitive city was emerging where control extended beyond the walls of the penitentiary. The criminal justice system was expanding and the lines were becoming blurred between freedom and captivity, the guilty versus the innocent, and the imprisoned versus the released (Cohen 1979: 344). "At the end of the eighteenth century, asylums and prisons were places of *last* resort; by the mid-19 century they became places of *first* resort, the preferred solution to problems of deviancy and dependency" (p. 341). Yet, after a commitment to "decarceration" that began in the mid-1960s these institutions once again came to be viewed as places of last resort. Nevertheless, Cohen suggests that there has been a "net widening" effect whereby "new forms of intervention result, which are often difficult to distinguish from the old institutions and reproduce in the community the very same coercive features of the system they were designed to replace" (p. 343). In effect, new patterns of social control were emerging that had their basis in the community—the "punitive city"—as opposed to the prison.

In *Visions of Social Control* Cohen (1985) Cohen maps out the "master patterns" that occurred in the history of social control in Western industrialized nations: phase one is the pre-eighteenth century; phase two is from the nineteenth century; and phase three is from the mid-twentieth century. Within each phase occurred different and complex changes with regard to the prison. One of the key changes in the history of social control described by Cohen was "[t]he increasing involvement of the state in the business of deviancy control – the eventual development of a centralized, rationalized and bureaucratic apparatus for the control and punishment of crime and delinquency and the care or cure of other types of deviants" (p. 13).

What has happened, however, is something Cohen describes as diametrically opposite to the ideological justifications out of which they were born (p. 14). A tale is told of how the decarceration of society has instead turned into a society with an attitude of punitiveness. The birth of the prison in the late eighteenth century signified a movement towards expert opinion and intervention over earlier barbaric and cruel practices (p. 18). In phase three, Cohen suggests that the visibility of control from the mid-twentieth century onward signified the blurring of boundaries, while the 'inside' remains invisible and disguised (p. 16).

For Cohen, the path of destructuring that he saw as the future in "The Punitive City" changed with his work *Visions of Social Control*. The early nineteenth-century master patterns of destructuring have instead given way to an increase in the power of state control, and the powers of bureaucracy remain. As stated by Cohen:

> The conservative, neo-classical movement now gaining dominance in crime-control politics, looks forward to a return to an undiluted behaviourism: no discretion and no discussion of motivation or causation; only fixed and determinate sentencing, deterrence, and incapacitation based on the gravity of the act. The original radical thrust in the struggle for justice movement, is now almost fully co-opted. (Cohen 1982:151)

Cohen was observing a movement towards a society whose criminal justice systems were becoming more and more influenced by political ideals, and less on the reasoning behind the criminal offence. A powerful, centralized system of state control was beginning to occur within the changing justice model of the nineteenth century (Cohen 1985: 137).

In 1994, Cohen offered a definition of what exactly these changing criminal justice systems are comprised of, by attempting to dissect punitiveness itself in what he refers to as "punitive style":

> It entails the infliction of pain (loss, harm, suffering); it must always identify an individual held responsible for the breaking of abstract rules (notably legal rules); it is moralistic in essence; it is coercive rather than voluntary and ... it involves the transfer of social control functions to a third party – that is, the deviance or conflict is removed from

> the parties concerned (for example, the victim and offender) and handed over to a specialized agency (usually the state's criminal justice system). (Cohen 1994: 67-68)

Cohen also discusses society's different "cognitive grids": political, anthropological, and deviance and crime. Identified through Western social control systems, most notably within the U.S.A., these grids are different traditions of thought in social control. With the move towards a more punitive society, these three grids are becoming less separate as state monopoly is used over social control through criminal law, policing, and criminal justice welfare (1994: 64-65).

Punitiveness exists within a monopolization of society, and is explained by Cohen through theory as well. The privatization of what was formerly socialized welfare is now demonstrated in a crime control system that mirrors "looking after yourself" (1994: 73). Trends have moved towards a society that offers—only to a public with enough forethought, and to those with enough money—what Cohen calls "situational crime prevention."

Loïc Wacquant

For Loïc Wacquant (2009), the punitive turn occurred with changes in modern U.S. penal policy. However, there was also a punitive turn with regards to public policy, which applies to both social welfare as well as the criminal justice system (p. 172). Punitive containment served as a technique for managing social insecurities (p. 167). To solve problems existing in multiple areas in society, punitive attitudes grew as a response and a solution to more than one existing social problem. Wacquant claims that the punitive turn also effects the social welfare system, the political world, and serves as a response to the destabilizing efforts of the lower rungs of society, those individuals existing in the ghettos that he discusses at length in *Prisons of Poverty* (2009).

One of the most widely recognized scholars for his work on racism, the poor, and the American prison system, Wacquant (2011) discusses punitiveness as directly related to social

inequality. It marries the market's "invisible hand" with the penal state's "iron fist" (p. 1). For Wacquant, there was a mission behind the move towards the punitiveness in the United States for three reasons: first, to bend what he calls the fractions of the post-industrial working class to perilous wage-work; second, to control via warehousing those who are unneeded or disorderly; and, finally, guarding the confines to those who are deemed worthy while simultaneously reaffirming the power of the state in this self-assigned regulated area (p. 1). The state has been remade in an era of hegemonic market ideology, and this includes the penal expansion of the United States (Wacquant 2009). The net is widening, and the previously mentioned blurring of boundaries discussed by Cohen is expanded upon with Wacquant's works. Wacquant states, "the police, the courts, and the prison are, upon close examination, the somber and stern face that the Leviathan turns everywhere toward the dispossessed and dishonored categories trapped in the hollows of the inferior regions of social and urban space by economic deregulation and the retrenchment of schemes of social protection" (2009: Prologue).

In *Prisons of Poverty* (2009) Wacquant also refers to the police, courts, and the prison as more than authoritative figures that respond to acts of crime; they also serve as political bodies of the state that produce, as well as manages, inequality, marginality, and identity (pp. 175-76). Wacquant, again looking only at the American penal system, claims that this social policy, with its economic style of reasoning, has turned into the locking up of society's racialized poor (p. 58): "Then came the 'law-and-order' revolution aimed less at fighting crime than at bolstering the economic, ethnoracial, and moral order via the punitive regulation of the behaviors of the categories deemed threatening or prone to delinquency as they became trapped at the bottom of dualizing ethnic and class structure" (p. 59).

In *Prisons of Poverty,* Wacquant also adds that there is a "color of punitiveness" (2009: 155). The number of African Americans admitted to both state and federal penitentiaries has grown exponentially in the United States from 1960 to 1995 (p.155). Wacquant is one of the few theorists who describes punitiveness as bred out of a circumstance of racialized poverty. The dualizing class and ethnic structure means that, for Wacquant, punitiveness is not a blind circumstance. It is formed out of a society that survives off of its inequality. There is a "color of punitiveness," and those who bear the burden of an increasingly punitive society are the Black sub(proletariat) whose incarceration numbers dramatically increased the same time as punitive attitudes have expanded (p. 156). Punitiveness is experienced by African Americans in the form of "preferential enforcement" of certain laws (p. 155), and it can be used to describe why there are dramatic increases in the criminal justice system for African Americans when there has been a lack of increase in societal discrimination since the 1970s. Yet the ghettos are expanding, and Wacquant believes that society has not only taken a great leap backwards from its previous movements towards decarceration and social control policies, notably the conditional sentencing outlined by Cohen (1979: 360), but he also refers to the modern day hyperactive penal state as one of the cruelest unforeseen circumstances of the democratic era (p. 159).

David Garland

David Garland states that in order to understand punitiveness we must realize that the effects and social functions of penality are more than just a response to criminality alone; penality is tied to a complex series of relations, political, economic, legal, and ideological (Garland and Young, 1983: 21-23). For Garland, incarceration serves as a risk-based technology, and these technologies are used to measure the "punitive turn."

Various risk-based technologies contribute to neoliberal rationality and explain the "punitive turn." Incarceration, for example, has been widely used as a risk-based strategy. Starting in the 1980s, crime came to be understood as a response of opportunity, rather than as a response to individual behaviours and a disadvantaged upbringing (Garland 1996). Risk arose as a response to the middle class feeling unprotected by the prevailing correctional justice programs, as well as the simultaneous rise of the neoliberal government's hostility to welfare (Garland 2001). Risk was then used as a technique for managing social problems. Neoliberal governance brought risk to the forefront; because loss prevention is economically better than punishing after the fact, the risk-as-prevention approach became very attractive.

The same thread of responsibilization—placing the onus on individuals to manage their own wellbeing—seen in neoliberalism is discussed by Garland (2001: 124) as well with regard to risk, whereby the objective is to shift the responsibility of crime control from the government to the individual, agencies, or organizations. With this sense of responsibility individuals are ideally persuaded to act "appropriately" (p. 125).

One of the most widely referenced scholars in regard to punitiveness, most notably with his book, *The Culture of Control*, Garland (2001) explains how society has entered into a new age of punitiveness, and how a less physical, more network-based "culture" of crime control has emerged, forming around three central elements: a re-coded penal-welfarism, which entails redefining rehabilitation, repositioning probation, changing the society-offender relationship, and reinventing prisons; a criminology of control, which emphasizes the emergence of diversified criminological thought and maintains social order in a way that is amoral and technological; and, finally, an economic style of reasoning, which emphasizes the shift from a social style of

reasoning to an economic one, changing the American criminal justice system (Garland 2001: 175-192).

There were many changes in structure that occurred in the United States starting in the 1960s and 1970s. The 1970s and 1980s were what Garland calls "Crisis Decades" (2001: 81), yet the 1960s and 1970s were eras in which a historically distinctive experience of crime began taking shape (p. 147). These eras saw a change in the welfare state that affected those who were at the bottom of the ethnic and class structure described by Wacquant. The 1970s saw an increase in the recently arrived middle class, who saw the previously positively viewed welfare state as something that no longer worked to their advantage (p. 96). This meant that for the subsequent decades, increases in what were previously marginal issues began to occur for certain parts of the population. For example, in the 1990s there was an increase by 70 percent in single-parent households, particularly in the African-American communities (p. 83). The changes in structure that occurred during these crisis decades created a huge negative impact for those at the bottom of the class and ethnic structure.

Garland outlines what he refers to as "punitive segregation" as the increasing strategy of choice in society (p. 142). This is described by Garland as lengthy prison sentences for individuals who have a stifled existence waiting for them upon their eventual release, thereby "segregating" them from the rest of the population for the rest of their lives. Garland also notes that punitive strategies are not exactly born out of lengthy research studies with statistical evidence; they are political and populist, constructed in ways that place societal opinion over expertise by criminal justice experts (pp. 143-5). Similar to Cohen's notion of the blending of what used to be separate "cognitive grids," Garland discusses the "experience of crime" as a

historically situated, complex set of practices, knowledges, norms, and subjectivities that are making up the punitive time that is now part of the society of crime control (p. 147).

Pat O'Malley

Pat O'Malley (1999) finds explaining the punitive turn difficult using neoliberalism as the main factor for the emergence of a punitive society, the reason being that neoliberalism cannot fully explain the rise in punitive practices in Western societies, yet simultaneously explain the push for rehabilitative practices (p. 185). Neoliberalism's "enhanced autonomy," as stated by O'Malley, is at odds with the blind obedience that is called for in modern punitive policies. At the time his article was written, there was a push for reintegration, rehabilitation, and restitution at the same time as there were calls for harsher policies for criminalized individuals (such as boot camps and lengthier prison sentences). For O'Malley (p. 185), the changes in contemporary punitive practices seem to be best explained by attention to the New Right, a political rationality that combines "a neo-conservative *social authoritarian* strand and a neo-liberal *free-market* strand" (p. 185). The dual and contradictory existence of these policies and strategies demonstrates some of the complexities behind identifying the origins of the punitive turn.

Differing from the rationality of the neoliberals, who focus so intently on individualism, traditional entities including the nation, community, and the family are of most importance in neoconservativism (O'Malley 1999:186). Those entities that control moral order—the law, courts, and police—exercise an immense amount of control in that they have the power to criminalize and punish those who commit offences against the moral order via incarceration. These entities also heavily impact the relationships of the individuals affected by the regulation of moral order. Discipline is seen as absolutely crucial for the social good and that is why

neoconservativism works to maintain society's social order (p. 187). Neoconservative rationality "matches punishment and penal discipline with support for a unified moral order under the governance of state paternalism" (1999:189).

The "New Right," therefore, describes a particular form of governance that has emerged in several Western countries and involves a combination of neoliberal and neoconservative discourses. The privileging of the market as a technology of social order that informs neoliberalism is simultaneously supported by the neoconservative concern for the state's role as the "preserver of order and the governor of the nation" (O'Malley 1999:186). And what strongly binds neoconservatism to neoliberalism is the aggressiveness in which they both believe in the capitalist economy and their shared hostility to welfarism (O'Malley 1999:186, 187). There is no area of social life that is not open to economic analysis (Gamble 1986: 43). In the welfare state, social supports and programs that are "given" to its citizens are not without their share of consequences if one falls out of the moral order of the desired societal ideals. Therefore, if one is "unsuccessful" and has found themselves within the criminal justice system, they have simply not adopted the appropriate behaviour needed to survive (Korten 2001).

Within the New Right, state paternalism exists in a way that teaches individuals to believe that if one just works hard enough and follows the moral order, they too are able to thrive (O'Malley 1999:189). This discourse helps to promote the interests of the New Right, and at the same time perpetuates inequality (Olsen 2011:182). Issues of intersectionality and lack of access to opportunities further contribute to the oppression of certain individuals in society (Wright 2002). If an individual is a visible minority, has poor economic standing, and does not have the opportunity to get an education, for example, all of these different issues intersect and the chances of thriving in society are greatly diminished. Nevertheless, in New Right discourse

crime is seen as an act that a person does of his or her own free will, and not as a result of a disadvantaged background or class status.

O'Malley (2010) shares lines of agreement with Garland in the sense that he describes the use of risk as a technique for managing social problems (p. 3) as well as in that risk may be used to further particular political or moral agendas (p. 38). Nevertheless, O'Malley believes that Garland's bleak prognosis misses out on a large part of punitive analysis and leaves out the underestimated exceptions by solely relying on crime control and risk-models in his analysis (p. 39). O'Malley agrees with Garland in that society has been heading towards increasing punitiveness, and that the downward side of punitiveness is that it can lead to things such as racial profiling (p. 28); yet, the negative connotation that many criminologists have attributed to risk-based techniques overshadows the potential positives of using these strategies in the governance of crime (p. 81). Though O'Malley and Garland differ on the possibility to change risk as a governing technique, they both agree that risk has taken on the neoconservative rationale of shaping the morality of society, and that it has become an increasingly important technique in political agendas. In particular, risk has become a central feature in the realm of crime control.

O'Malley believes that Garland's pessimistic account of risk techniques with regards to the criminal justice system overshadows the potential positives in living in a more punitive society (pp. 38, 84). From O'Malley's standpoint, Garland's account on crime control is too rigid. Examples of some of the positives are commodified sanctions associated with certain criminal behaviour that work to reduce the chances of individuals engaging in the behaviour again (pp. 85-86). While incarceration has been widely used with the rationale that incarceration is better than punishing after the fact and risk has become a central focus in crime control,

O'Malley maintains that this turn to punitiveness is not necessarily a solely disparaging one (p. 98).

Roger Matthews

In one of the most widely cited articles critiquing the punitive turn literature, Roger Matthews (2005) highlights the potential misunderstandings that may occur when discussing what many are viewing as an increasingly punitive society, and offers an alternative explanation as to the reasons behind a changing society. For Matthews, punitiveness as a whole is something that has been misunderstood (p. 179). Though Matthews does not deny that a radical change is occurring within the criminal justice system, he agrees with O'Malley and suggests that the approach criminologists such as Garland have taken in explaining a punitive turn are a pessimistic exaggeration of reality (pp. 195-6). There are changes that are happening within society, and punitiveness is a result of these societal changes. In fact, punitiveness for Matthews occurs as a consequence of wider structural changes (p. 183). Punitiveness is generally viewed as an overreaction to a crime resulting in an increased range or intensity of interventions (p. 179). However, what may be viewed as punitive may in fact be a change in different structures of society, and these changes have affected the world of crime control. An example is society changing its stance on domestic violence. Harsher sanctions for those committing these acts are not necessarily unjust according to changing standards of society, but are harsher in comparison to previous laws of previous years. This is one example of how society changes, but the punishment served is not necessarily unproportioned to the crime.

Matthews also takes issue with the definition and terminology of punitiveness itself, as he believes many criminologists may have prematurely used the concept of punitiveness to apply to

modern day attitudes about the criminal justice system. He states that the concept of "punitiveness" has not been exhaustively dissected nor deconstructed (p. 178) and this is why it should not be so widely accepted among criminologists and other scholars. Matthews mentions Stanley Cohen's (1994: 67-68) attempt at providing a working definition of punitiveness, but then suggests that these explanations are nothing new (p. 178). What Matthews suggests is that the manifestation of punitiveness does not signify something resulting in a 'punitive turn,' but is in fact something that one can expect when living in a neoliberal society.

Also, the application of the term punitiveness is troublesome for Matthews in that if the main desire of seemingly harsher public policies is to promote public safety, and it is the consequences of these policies that happen to lead to formal intervention but not the intent, then to apply 'punitive turn' terminology proves to be problematic (p. 179). The principal concern of these policies is what matters most with Matthews, and although he recognizes that in practice it is not necessarily that easy to differentiate, knowing the intent is important, and the term 'punitiveness' carries with it an idea of excess punishment (p. 179). What Matthews points to is the lack of evidence for overly harsh sanctions and punishment in relation to crime and victimization. It must be noted that his article was published in 2005, and at this time there was little evidence to demonstrate in the United States that punishment was overly punitive and disproportionate to the crime. Illustrating his point further, for Matthews the 'punitive turn' does not properly fit due to the fact that although punitive sanctions have increased over the twenty years prior to writing his article, at the same time non-punitive or community-based alternatives have increased at the same rate in the U.K. and the U.S. (p. 180). These alternatives do not get the same amount of attention that other punishments viewed as more disproportionate to the crime receive.

Matthews therefore challenges the positions of many of the criminologists who have attempted to theorize and define punitiveness. In particular, Matthews dissects and critiques the explanation offered by Wacquant with regard to the prison becoming the replacement of the ghetto, and the advent of a new "prison of poverty" with the decline of the welfare state and the increase of ethnic minorities in prison in an effort to "keep them in their place" (p. 183). Matthews points out that although the connection of the ghetto to the prison has occurred in the U.S., this is not the case everywhere. Other capitalist countries have been able to transition from a welfare state to an increasingly neoliberal society, and have not necessarily seen an increase in their prison populations (p. 183). The prison and the ghetto, according to Matthews, are not one and the same as Wacquant's work claims, and the increase of minorities in European countries without the same history of hyperghettoization is evidence of this.

When discussing what O'Malley has claimed to be an overall pessimistic view of an increasingly punitive society brought forward in the account by David Garland (2001), Matthews agrees with O'Malley's stance, in that there are positives that have occurred with the structural changes in Western capitalist societies in recent years (p. 183). Matthews also has difficulty with Garland's account in that he does not present any real evidence of a rise in the general public's punitive attitudes, other than public opinion polls (p. 184). And, finally, there is little attention brought to the fact that the punitive policies in the U.S., such as mandatory minimum laws, include exception clauses that judges are able to impose if they see fit (p. 184).

Concluding Remarks

The punitive turn literature suggests that society has altered its position on criminal conduct. Socialized welfare has changed to a neoliberal individualizing of behaviours and responsibilities.

Therefore, changing attitudes towards crime have occurred as a part of society's changing stance on welfarism; the understanding of society has now shifted to one in need of protection by those unwanted individuals existing in society who threaten public safety. Hence, stricter laws and legislation are viewed as an integral part of ensuring public safety.

Mapping out the literature regarding the punitive turn can assist in understanding the impact of the Harper government's "tough on crime" strategies. Does the Harper government represent this shift in governance toward an increasingly punitive stance? Are neoliberal and neoconservative attitudes associated with crime prevention and risk strategies behind the Harper government's "tough on crime" strategies? Addressing these questions requires a closer look at how increasing attitudes towards punitiveness have been put into action through legislation.

CHAPTER TWO
GETTING TOUGH ON CRIME

To understand what the impact of the Harper Government's tough on crime strategies has been on the Canadian landscape, one needs to understand where the move to increasing punitiveness originated. Increasingly harsh strategies centred on "getting tough" on crime popularly took place in the United States of America. Indeed, the U.S. is known internationally for imprisoning more of its population than any other country ("BBC NEWS | In Depth World Prison Populations" 2016). Criminologists have variously situated this punitive turn within neoliberal, neoconservative, and New Right rationalities. This chapter will discuss crime control strategies in the U.S. It will then consider how these U.S. strategies have been translated into Canadian policy with the various legislations introduced by the Harper government.

The U.S. Precedent

The idea of "getting tough on crime" has its roots in the Nixon Administration, when President Richard Nixon called for a "War on Drugs" during his presidency. Very recently, a twenty-two-year-old interview resurfaced of Nixon's former domestic policy chief John Ehrlichman discussing the real intention behind the declaration of a War on Drugs:

> The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people…. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black [sic], but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt those communities…. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did. (Cited in LoBiancio 2016)

Some writers would suggest that the rhetoric accompanying the War on Drugs created a moral panic in American society. Erich Goode (1989: 26) describes a moral panic as "the

widespread feeling on part of the public that something is terribly wrong in their society because of the moral failings of a specific group of individuals." Goode's definition aligns with the New Right rationality and its emphasis on moral order and the failure of specific groups of individuals to live up to desired societal ideals (O'Malley 1999). And although politics are not made inevitable by events or circumstances happening elsewhere, certain policies may occur due to the presence of certain background conditions (Garland 2000: 348). This is what some perceive to have happened with the War on Drugs. The background conditions, the failing economy, created moral panics and the perceived moral failings of a certain group of people created a rationality that led to legislative action from the political parties in power.

It was not until the presidential campaign of Ronald Reagan, however, that this New Right rationality became more solidified as a form of governance and the so-called "War on Drugs" began in earnest. The conservative revolution of the Republican Party did not reach full development until the election of 1980 (Alexander 2012: 47). In 1982, although only 2 percent of American citizens believed drugs to be a societal issue, President Ronald Reagan announced the War on Drugs (Beckett 1997). FBI anti-drug funding soared from $8 million in 1980 to a whopping $95 million in 1984 (p. 49). By 1986, Americans were convinced that drugs were sweeping the nation in something reminiscent of a "white plague" (Hawdon 2001: 419). The media also helped to foster a moral panic, leading many Americans to believe that the drug problem was more severe than it was (Sole 2007). Rapidly increasing arrest rates were heralded as evidence that police officers were really cleaning up the streets of America, ridding them of the drug lords and cartels that were ruining neighbourhoods and flooding the streets with drugs (Alexander 2012). However, the origins of the War on Drugs are precariously more complex.

Though crack cocaine was indeed travelling through America's poor Black neighborhoods at an alarming rate, what was simultaneously happening but was not discussed to the same degree was the aftermath of the collapse of the U.S. economy in the 1970s (Wilson 1996). Specifically affected were those already at a societal disadvantage: those Americans attending segregated, underfunded schools, living in urban ghettos, and experiencing job losses as manufacturing companies relocated to suburban areas. The problem of joblessness coexisted with the emergence of crack cocaine, yet the Reagan administration chose to avoid focusing on these other social issues and concentrated instead on the War on Drugs.

The impact of these U.S. drug policies meant a dramatic increase in the country's prison population. Marc Mauer and Tracy Huling (1995) note that following the Reagan administration's launch of the War on Drugs, the number of incarcerated individuals rose 510 percent between 1983 and 1993. Between the years of 1980 and 2007 the incarcerated population more than quadrupled in the United States, growing from 329,000 to nearly 2.6 million (Reiman and Leighton 2010). The United States has, by far, imprisoned more of its population than any other country in the world (Pelaez 2014). As of December 2011, over 2.2 million people were incarcerated in America (Walmsley 2013), working out to about 748 inmates per 100,000 residents (Randall 2011). The U.S. has locked up almost 600,000 more of their citizens than China, a country with a population five times greater than that of the United States (Walmsley 2013).

As Wacquant (2009: 58) highlights in his work, the impact of these policies is especially felt by poor and racialized groups. Almost 90 percent of those charged with drug offences were either Black or Hispanic, and the majority were from disadvantaged inner-city neighbourhoods where law enforcement practices were being concentrated (Black 2013). It was easy to construct

Blacks, Hispanics, and other racialized groups as the enemy in the War on Drugs (Nunn 2002: 390). And it was easy to target the low-level drug dealers in communities populated with racialized people at which the war was aimed. Reagan's entire campaign consisted of racially coded rhetoric that targeted disaffected whites, both poor and working class, who felt betrayed by the Democratic Party's embrace of the civil rights agenda. Reagan used anecdotes such as the story of a "welfare queen" taking advantage of the system and the criminal "predator," using racially driven language without making explicit reference to race itself (Alexander 2012:48). When the Reagan Administration declared a War on Drugs a broad cultural change took place in the U.S., moving from a period of doubt and concern towards the government, while simultaneously stressing the importance of personal freedoms, to giving more respect to the government and the powers of authority, while stressing personal responsibility (Nunn 2002: 388).

Garland (2001: 142) offers a long list of measures that signify the U.S. taking a more punitive stance in contemporary penality. Mandatory minimum sentences are one of those measures. Mandatory minimum sentences take most of the blame for the explosion of the United States' prison population. The Anti-Drug Abuse Act of 1986 included mandatory minimum sentences for the distribution of cocaine (Alexander 2012: 53). Interestingly, a difference in sentencing laws exists between powder cocaine and rock cocaine. For possession of 5 grams of crack cocaine or 3.4 ounces of heroin, federal law orders five years of imprisonment without the possibility of parole (Mandatory Minimums & the Federal Sentencing Guidelines | Drug War Facts, 2016). In contrast, a conviction for possession of less than two ounces of rock cocaine or crack could result in a sentence of 10 years' incarceration. To get a sentence of 5 years' incarceration for possession of cocaine powder, one has to have at least 500 grams on their

person; 100 times more than the amount of rock cocaine for the same sentence. All of this is significant because those who use rock cocaine are mostly poor Blacks and Latinos, while powder cocaine is used mostly by rich white people (Lopez 2010). First-time offenders could be jailed for a mandatory minimum of five years for simple possession of cocaine base without intent to sell (ussc.gov). This is dramatically different from most other industrialized countries where a first-time drug offence warrants an average of six months in jail, if that. Oftentimes, the individual serves no jail time at all (Mauer 1999).

One of the more infamous of the punitive measures was the "three strikes" laws, which emerged in the U.S. in the 1990s and refer to a specific group of statutes enacted by states. These statutes involve long periods of imprisonment for persons convicted of three or more felonies on three separate occasions (Three Strikes Law & Legal Definition, 2016). Unfortunately, a third felony conviction usually brings with it a sentence of life in prison with no possibility of parole until, in most cases, 25 years has been served. Three strikes laws also vary considerably from state to state.

Garland also mentions "truth in sentencing" and "no-frills prisons" laws. Truth in sentencing laws were enacted to reduce the possibility of early release from prison ("Truth in Sentencing Law & Legal Definition," 2016). Many individuals who are locked up for drug–related offences face no possibility of parole and receive no programming. The No-Frills Prison Act amended the Violent Crime Control and Law Enforcement Act of 1994. With this amendment, in order to be eligible for "truth in sentencing" incentive grants a state had to demonstrate that it:

> (1) Does not provide more luxurious living conditions and opportunities to its prisoners than the average prisoner would have been afforded had they not been incarcerated.
> (2) Does not provide to any such prisoner specified benefits or privileges

> (3) Gives incredibly strict conditions in the case of prisoners serving a sentence for a violent crime that resulted in great bodily harm to another individual. ("H.R.663 - 104th Congress (1995-1996): No Frills Prison Act," 2016)

There has also been a move towards a more punitive stance in regards to juvenile court and the imprisonment of children. During the 1980s and 1990s, there was a nationwide belief that crime rates were increasing in the youth demographic. Although the validity of the data behind this belief is questionable, legislators were pressured to create stricter laws pertaining to juvenile delinquency (Henning 2009: 1113). Many of these changes were similar to those in the adult criminal justice system, including mandatory minimum sentences.

Garland also includes the revival of chain gangs in his list of punitive measures. In 2013, a sheriff re-introduced the idea, stating: "You work somebody six days a week, 12 hours a day, they don't have time to sit around and think about how to be stupid anymore." In response, South Carolina State Representative Bill Chumley (R) introduced a bill that included the revival of chain gangs, justifying their re-introduction in terms of shorter prison sentences and more money for the state ("Bringing Back the Chain Gang and Other Crazy Legislative Proposals," 2013).

Part of what Garland would refer to as a risk-management technique, supermax prisons are penitentiaries that contain the "worst of the worst" (Ross 2013: 3). These high-security prisons contain those who are considered to be a constant danger and are seen as needing even further detachment from society: inmates with histories of repetitive violence against other inmates, attempted escapees, gang leaders, terrorists, etc. These inmates are locked up for twenty-three hours a day and have minimal human contact. Almost every state in the United States has a supermax prison or a supermax wing, in spite of the claims that these types of prisons impose human rights violations (p. 89). O'Malley (1999) and Pratt (2002) see supermax prisons as part of the neoliberal policy that stresses efficiency and effectiveness. Similarly, boot

camps for adult offenders serving time in penitentiaries are military style training programs aimed at reducing recidivism rates by targeting young, first-time offenders. Also called shock or intensive incarceration programs, these boot camps are rigourous programs that include manual labour and physical training, again with goals targeting reduced prison costs (National Institute of Justice, n.d).

The multiplication of capital offences and executions are also mentioned in Garland's list of measures. The number of individuals under the death penalty started skyrocketing in the 1980s when the conservative revolution of the Republican Party had reached its full development (Alexander 2012: 47). Only in recent years have these trends been declining due to the enormous cost of death penalty trials to different U.S. states (Death Penalty Information Center: Facts about the Death Penalty, 2016).

As well, community notification laws and pedophile registers are now being used to enlighten the public of potential convicted sex offenders in the community. In 1996, President Clinton signed "Megan's Law," which required states to distribute registry information to the public ("The Registration and Community Notification of Adult Sexual Offenders | ATSA," 2010). With the goal being to better assist law enforcement in tracking sex offenders, community notification aims to allow the public to protect itself by warning potential victims that a convicted sex offender may be residing, working, or going to school nearby. This notification is an attempt to decrease the likelihood of recidivism of sexual violence. However, various studies by the United States Department of Justice have actually found sex offence recidivism rates are not as high as is commonly believed; follow-up studies indicate that, on average, only between 5 percent and 20 percent of known adult sex offenders will actually be rearrested for a new sex

crime within three to six years ("The Registration and Community Notification of Adult Sexual Offenders | ATSA," 2010).

Garland (2001: 142) notes that these "tough on crime" measures typically operate upon two different registers: "an expressive, punitive scale that uses the symbols of condemnation and suffering to communicate its message; and an instrumental register, attuned to public protection and risk management. The favoured modes of punitive expression are also, and importantly, modes of penal segregation and penal marking." These measures are a manifestation of the political rhetoric introduced and disseminated by America's political leaders. John Pratt (2002: 182) states that a punitive power has emerged "in which the indifference of the general public is increasingly giving way to intolerance and demands for still greater manifestations of repressive punishment." Society has changed. Societal concerns are becoming more individual problems, and those forms of penal segregation spoken of by Garland, include "tough on crime" policies. These policies, made possible through New Right rhetoric, have not been introduced without debate.

In recent years, it has been acknowledged that mass incarceration has not led to the elimination or even the reduction of crime in the United States. As well, concerns have been expressed over the immense costs of various tough on crime initiatives. Attitudes of the general public as well as politicians have shifted from the days of the Reagan Administration. A 2014 study conducted by the Pew Research Center (2014) showed that 67 percent of the American population agreed the government should focus more on treatment than incarceration for those who use illegal drugs, such as heroin and cocaine. Although there was more support by Democrats than Republicans for the treatment option, still 51 percent of Republicans agreed to a more treatment-focused approach than prosecution or incarceration. While most of those

surveyed still view drugs as a serious problem in the U.S., 63 percent saw the move away from mandatory minimum sentences for non-violent drug offences as a positive thing.

Various U.S. Republican politicians have also voiced their support for limiting mandatory minimum sentences, including senators Rand Paul, Ted Cruz, and former Texas Republican governor Rick Perry (Simpson 2015). Perry was quoted in the *New York Times* as saying "a big, expensive system—one that offers no hope for second chances—is not conservative policy, conservative policy is smart on crime" (Baker 2015).

Attorney General Eric Holder has supported the Federal Sentencing Guidelines that would reduce the average sentence of drug trafficking offenders by 18 percent or 11 months. "The straightforward adjustment to sentencing ranges—while measured in scope—would nonetheless send a strong message about the fairness of our criminal justice system, and it would help to rein in federal prison spending while focusing limited resources on the most serious threats to public safety" (United States Department of Justice 2014). Holder is just one of the many politicians that have taken a different approach to crime in the U.S. His "Smart on Crime" initiative focuses specifically on reserving strict, mandatory minimum sentences for violent or high-level drug offenders.

The 2010 National Criminal Justice Commission Act acknowledged that minority communities are disproportionally affected by strategies that are promoted as being a benefit to all parts of society (National Criminal Justice Commission Act of 2010 (2010 - H.R. 5143), 2010). Incarceration is a costly endeavour that many states can no longer afford to sustain. These realizations have led to a major scaling back of mandatory minimum sentences for drug offences by a number of states and efforts to reduce the use of incarceration as a response to crime (congress.gov).

One of the more prominent American politicians to advocate for a punitive turn was Republican Newt Gingrich. Gingrich believed that the liberal welfare state discouraged independence and innovation and, more than any other politician, deliberately targeted the welfare state to encourage fundamental change towards the right (O'Connor 2004: 206). In regards to punitiveness, in 1995 Gingrich stated: "For some years we have liberated prisoners, tolerated drug dealers, put up with violence, accepted brutality, and done it all in the name of some kind of bleeding-heart liberalism which always had one more excuse, one more explanation, one more rationale" (cited in O'Connor 2004: 208). More recently, however, Gingrich has changed his stance, noting that increasing incarceration has had relatively little impact on reducing crime and that these policies have failed (CCPA-MB and The John Howard Society of Manitoba 2012: 6). Gingrich became a part of the "Right on Crime" coalition, where the focus is less on imprisonment and more on preventative programming. Gingrich's changed stance towards more rehabilitative measures is hugely symbolic of a turn away from a punitive stance in the U.S. Yet, while the United States was moving away from "tough on crime" strategies, the Canadian government was embracing them, especially under the leadership of Prime Minister Stephen Harper and his Conservative Party.

The Canadian Experience

Prior to 2006, criminal justice policies and practices in Canada were not as punitive as that of the U.S. The predominant Canadian perception of individuals who committed criminal offences was that these individuals were socially disadvantaged and in need of assistance (Webster and Doob 2015: 303a). Federal/Provincial/Territorial Ministers, along with Parliamentary reports and Royal Commissions, all reflected an attitude that looked down upon the warehousing of

individuals and focused on alternatives to incarceration (Webster and Doob 2015: 304-308a). For instance, in 1971 former Cabinet Minister Jean-Pierre Goyer stressed the importance of rehabilitative measures by stating in the House of Commons: *"*too many Canadians … disregard the fact that the correctional process aims at making the offender a useful and law-abiding citizen, and not any more an individual alienated from society and in conflict with it.... Consequently, we have decided from now on to stress the rehabilitation of individuals rather than protection of society" (Publicsafety.gc.ca 2014). In 1982, Liberal Minister of Justice Jean Chretien and other policy makers were of the sentiment that crime was by and large a social problem. A Liberal Party policy statement on Canadian law was released in 1982 that echoed this sentiment (Government of Canada). In fact, the Conservative government, with little change to the 1982 document, re-released this statement in 1989. This document was viewed as one of the most comprehensive policy statements on crime in the previous few decades, demonstrating that core values relating to crime were reflected similarly on both Liberal and Conservative sides (Webster and Doob 2015).

In 1990 Conservative Minister of Justice Kim Campbell stated: "Imprisonment is expensive and it accomplishes very little, apart from separating offenders from society for a period of time…. Crowded prisons are not schools of citizenship. Advocates of intermediate sanctions have suggested expanding the range of options available to provide for effective, tough, non-incarcerative penalties that would require offenders to take responsibility for their actions" (Cited in Doob 2012: para 32). The Conservative Party reflected this sentiment in its 1993 election platform, stating that the moral entities of the family, school, and communities are where safety and security begin (Progressive Conservative Party of Canada 1993: 26).

Between 1960 and 2003, there were no significant changes in Canada's imprisonment rate (Webster and Doob 2006: 331) and the Correctional Service of Canada (CSC) was moving towards smaller, not larger, prisons with a focus on more therapeutic approaches. Though there existed pressure from other countries to adopt more punitive policies, such as mandatory minimum sentences in 1996, the legislation contributed little to prison populations (p. 334). In fact, mandatory minimum sentences actually disappeared for drug offences, the same legislation responsible for the dramatic increase of the United States prison population. In the same vein, legislated maximum sentences were rarely actualized due to the sentencing judges giving considerably more lenient sentences in court (p. 335).

Also important was the reintegration of individuals into the community via conditional or community sentences. Policy makers saw this reintegration into the community as paramount (Webster and Doob 2015: 304). Introduced in Canada in September 1996, conditional sentencing allows for sentences of imprisonment to be served in the community rather than in a correctional facility (Conditional Sentences (PRB 05-44E), 2016), provided that several pre-conditions under section 742.1 of the Criminal Code are met:

- the offence must not be punishable by a mandatory minimum sentence;
- the court must impose a sentence of imprisonment of less than two years;
- the court must be satisfied that service of the sentence in the community will not endanger the safety of the community;
- the court must be satisfied that a conditional sentence would be consistent with the fundamental purpose and principles of sentencing;

- the offence is not: a serious personal injury offence, a terrorism offence, or a criminal organization offence punishable by a maximum of 10 years and prosecuted by indictment. (Office of the Parliamentary Budget Officer 2010)

Conditional sentences were not introduced in isolation, but as part of a review of the sentencing provisions in the *Criminal Code*. These provisions included the fundamental purpose and the principles of sentencing. The fundamental principle of sentencing is that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. The sentencing review set out further sentencing principles, including restorative justice measures. With the focus being on victim compensation and community service, restorative justice aims to encourage the offender to accept responsibility, express remorse for the criminal act, as well as apologize to the victims affected (Government of Canada, 2015). Programs are often characterized by the four values of encounter, amends, reintegration, and inclusion. Special attention was devoted to the over-representation of Indigenous people in the criminal justice system with the addition of section 718.2(e) to the sentencing principles: "All available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders."

Although many changes in Canadian criminal justice practices took place during the pre-Harper years, commentators have argued that these changes did not reflect a punitive turn. Crime strategies were not a significant part of the government nor the opposition party's political platforms (Webster and Doob 2006: 341). And although the media and general public were well aware of discussions for tougher policies, Canadians did not strongly support "get tough" strategies as a solution to crime. Rather, Canada was seen as embracing a balanced and

comprehensive approach to treating what was considered to be a social justice issue (Meyer and O'Malley 2005: 205).

It would seem, therefore, that Canada has taken a different approach, resisting the pressures to resort to increasing punitiveness. Indeed, in 2003 the CSC stated that crime prevention was best promoted via social development, an approach that focuses on "the complex social, economic, and cultural factors that contribute to crime and victimization" (2003: 12). Jeffrey Meyer and Pat O'Malley point out that Canada does not have the same contrast between the 'golden age' that existed in the 1960s and the abandonment of penal modernism in the 1990s that the neighbouring U.S. experienced (2005: 202). Instead, Canada took a more "balanced approach" to issues of crime, meaning that policies were meant to balance the rights and freedoms of society, victims, and offenders. (p. 205). And although Meyer and O'Malley discuss the high rate of imprisonment in Canada, the historically balanced approach to crime exempts this increased rate of incarceration from being labelled "punitive."

Where Canada and the U.S. differ, according to Meyer and O'Malley, is that Canada does not have the same neo-conservative rationality that the U.S. embraces. Although there has been the occasional sentiment of getting tough on crime, evidence of drastic change has been lacking (p. 204). Rather, according to Meyer and O'Malley (1999), Canada was heading towards decarceration and improving the condition of the welfare-state (p 214). Canada's history also differs than that of the U.S., in that Canada has not had a War on Drugs or any similar confrontation. Nonetheless, Meyer and O'Malley suggest that what has occurred in Canada may reflect a "cultural lag thesis" (p.213), meaning that Canada had not yet arrived at a punitive turn. In that regard, they concede that while a punitive turn had yet to occur in Canada, the introduction of a new Conservative government could change things.

The Harper Government's "Tough on Crime" Strategy

On January 2, 2006, the Harper Conservatives used the shooting of 15-year-old Jane Creba to begin marketing their "tough on crime" strategy. During a campaign stop in Toronto, Harper stated that, "A Conservative government will crack down on crime, we will act quickly, we will act comprehensively, and we will act decisively to fix our criminal justice system" (NEWS 1130 2012). As Garland (2000: 351) notes, "A political logic has been established wherein being 'for' victims automatically means being tough on offenders." The victim is a symbolic figure that has taken on a life of its own in political debate, as well as policy arguments (p. 351). This symbolic figure played a key part in executing the Harper government's mission of implementing their "tough on crime" strategy.

During the 2006 election campaign, Harper promised that the worst offenders would experience the most serious jail time, in what he phrased (similar to the U.S. rhetoric) as "serious crime means serious time" (Stand up for Canada 2006: 21). When the Conservative government won the election on January 23 2006, it wasted no time in introducing "tough on crime" legislation in the interest of promoting public safety. Since 2006 there have been a wide range of amendments to the Criminal Code and related legislation (Mangat 2014). In the five years that the Conservatives formed a minority government (2006 to 2011), they introduced an unprecedented 61 crime bills. Several crime bills were introduced by the Harper government but died on the order paper before they could be passed. Though only 20 of the bills were actually made into law, the number of bills introduced signalled the desire of the Conservative government to actively demonstrate the seriousness of their agenda (Greenspan and Doob 2012).

The Harper government tried its best to convince the Canadian public that crime was out of control and strict "tough on crime" policy was required (Doob 2012). Many of the bills

proposed by the Harper government received vehement opposition by other political parties, special interest groups, those working within the justice system, and the Canadian Bar Association. Critics, for example, pointed to the difficulties that mandatory minimum sentences produced in the neighbouring United States, the impact of harsher sentences on young offenders, and the potential for exacerbating conditions in prisons. The Harper government claimed, for instance, that 30 percent of offenders breach their conditions and are in fact sent back to jail (Mallea 2011) when this is simply untrue. The effects of conditional sentencing have actually been praised by renowned sentencing experts and statistics show a 13 percent reduction in admissions to provincial jails (MacCharles 2007). For these reasons and more, much of the "tough on crime" legislation introduced by the Harper Government was initially unsuccessful. That changed, however, once the Harper Conservatives gained a majority government.

In April 2007 the Minister of Public Safety, Stockwell Day, announced the appointment of a four-person independent review panel. Chaired by Robert Sampson, the purpose of the panel was to review the operations of the Correctional Service Canada "as part of the government's commitment to protecting Canadian families and communities" (CSC Review Panel 2007: iii). The review panel released its 241 page report, *A Roadmap to Strengthening Public Safety,* in October 2007. This report—and its 109 recommendations—played a calculated role in the introduction of harsher policies within the Canadian criminal justice system. Included among these recommendations was the elimination of statutory release, the abolishment of accelerated parole reviews, ending the 2-for-1 credit for time served in pre-trial custody, the abolition of the Faint Hope clause, the implementation of mandatory minimum sentences, and tougher youth offender laws (Mallea 2011; De Blonde 2010).

The *Roadmap* panel consisted of individuals with limited expertise in the areas of criminal justice and Canadian penality: a deputy police chief, a British Columbia First Nations chief, a victims-rights advocate, and an individual involved with previous Conservative governments (i.e. Robert Sampson). The panel made its conclusions about areas of Canadian correctional practices largely based on a series of visits to prisons; no experts in the areas of criminal law or penology were consulted (Mallea 2011: 19). The *Roadmap* report was therefore produced with virtually no human rights considerations, and no reference to the history of correctional operations or prior high-level reports pertaining to correctional matters. Michael Jackson and Graham Stewart (2009) wrote a report heavily criticizing the *Roadmap* for its lack of human rights considerations, as well as the fact that the report seems to be based on ideological myths rather than statistical evidence. The *Roadmap* recommendations aimed to dramatically change Canada's criminal justice system in what many saw as too short of a period of time (Jackson and Stewart 2009). Unlike previous reports, the focus was squarely on punishment rather than preventative measures. Even Conrad Black, a vocal supporter of Stephen Harper, called *Roadmap* "repressive" (Mallea 2011: 20).

The following are some of the more controversial bills that were passed by the Harper government during its tenure in office.

Bill C-2, the *Tackling Violent Crime Act,* grouped together five previous bills that had been initially introduced separately in the first session of the 39th Parliament, which ran from April 3, 2006 to September 14, 2007. These previous bills had failed in legislative process. Bill C-2 was both introduced and received first reading in the House of Commons on 18 October

2007 and given Royal Assent on February 28, 2008. Bill C-2 involved several changes to the *Criminal Code*. It aimed to:

- Introduce an increase in mandatory minimum sentences of imprisonment for serious firearm offences, as well as introduce two new firearm offences in clause 9; breaking and entering to steal a firearm (new s. 98) and robbery to steal a firearm (new s. 98.1).
- In clause 37, imputing a reverse onus during bail proceedings for those accused of serious offences involving firearms and other regulated weapons.
- Make it easier to have someone declared a dangerous offender. Automatically resulting in an indeterminate prison sentence in a penitentiary, a dangerous offender designation will result in the harshest sentence in Canada's system of criminal law (Department of Justice Canada 2006).
- Introduce harsher penalties for impaired driving, as well as introduce a new system for the detection and investigation of drug-impaired driving (i.e. a physical coordination test or provide a breath sample).
- In clause 54, increase the age of consent for sexual activity, previously 14 years, to 16 years (parl.gc.ca 2007).

In their analysis of Bill C-2 the Canadian Bar Association stood with the government's stance on reducing violent crime, yet feared that certain portions of this bill would result in an increase in caseloads as well as trial delays in an already swamped criminal justice system (Canadian Bar Association 2007). University of Ottawa law professor Carissima Mathen stated: "any time you use a reverse onus, you are fundamentally changing the normal way that the criminal law works where the government has to prove every part of a crime beyond a reasonable doubt. And a reverse onus gets away from that fundamental principle" (CBC News

2012a). In that same news item, former Superior Court judge James Chadwick stated that sentencing was one, if not the hardest, part of being a judge. When asked if the introduction of mandatory minimum sentences made sentencing easier Chadwick replied, "Well, I guess it makes it easier for throwing the key away" (CBC News 2012a).

Ministers of Justice from federal, provincial, and territorial jurisdictions held meetings in 2006 and 2007. These meetings resulted in an agreement that culminated into Bill C-25. Bill C-25, the *Truth in Sentencing Act*, was given royal assent in October, 2009. The Act limits the credit a judge may give for any time spent waiting in pre-trial custody (parl.gc.ca 2009). As noted by the Parliament of Canada:

- In general, a judge may allow a maximum credit of one day for each day spent in pre-sentencing custody ("custody" in the bill) (clause 3 *Criminal Code* section 719(3)).
- However, if, and only if, the circumstances justify it, a judge may allow a maximum credit of one and one-half days for each day spent in pre-sentencing custody (clause 3 *Criminal Code* section 719(3.1).
- If the person's criminal record or breach of conditions of release on bail was the reason for the pre-sentencing custody, a judge may not allow more than one day's credit for each day spent in pre-sentencing custody (clause 3 *Criminal Code* section 719(3.1).

The Act also specified that credit for time served should not apply in the following circumstances:

- the offender has been convicted of a violent offence and shows little hope of rehabilitation;

- the offender has had full access during pre-sentencing custody to educational, vocational, and rehabilitation programs;
- the evidence shows that the offender will likely not be granted parole.

Statistics from adult correctional services show a considerable increase in the use of pre-trial custody between 1996/1997 and 2005/2006 (Kong and Peters 2008). On average, the proportion of adults in pre-trial custody in provincial and territorial institutions in 2005/2006 was 53 percent, an increase from 30 percent in 1996/1997. Also on the increase was the length of time an individual spent in pre-trial custody. The proportion of adults who were held in pre-trial custody for three months or longer increased from 4 percent in 1996/1997 to 7 percent in 2005/2006. Individuals spending less than a week in pre-trial custody declined from 62 percent in 1996/1997 to 54 percent in 2005/2006 (Kong and Peters 2008). The government promoted Bill C-25 as a way to reduce these numbers, as it was believed that individuals facing criminal charges were staying in remand custody in order to benefit from the 2-for-1 credit. By stalling their adjudication and spending increased time in pretrial custody individuals would serve less time incarcerated one they were sentenced (Cook and Roesch 2011: 218).

On March 23rd 2011, just prior to issuing the writ for the May federal election, the government repealed what was known as the "Faint Hope" clause. Formerly, under section 745.6 of the *Criminal Code,* offenders serving a sentence for murder or high treason had "hope" with the possibility of a judicial review to enable them to be considered for parole after having served 15 years, where the sentence has been imprisonment for life without eligibility for parole for more than 15 years. Parole is only granted upon approval by the National Parole Board, with the earliest parole eligibility for offenders sentenced to first-degree murder being 25 years, with life in prison as a minimum sentence. Those convicted of second-degree murder would also receive

life in prison, but would formerly have had the potential for parole after having served between 10 and 25 years in prison. Of course, not all who apply for parole are granted it. Individuals serving life in prison who have a high risk of reoffending are never released. And those who are granted parole have to abide by the conditions of their parole for the rest of their lives, always monitored by a parole officer. Bill S-6 eliminated Section 745.6 of the Criminal Code, and with it the possibility of these prisoners being granted early parole after 15 years.

Also in March 2011, Bill C-59, the *Abolition of Early Parole Act* was passed. Bill C-59 abolished accelerated parole reviews for first-time, non-violent offenders. Previously, those offenders were eligible to be considered for conditional release at one-sixth of their sentence (parl.gc.ca 2011). Under Bill C-59, accelerated parole reviews are no longer granted and thus there is no differentiation between non-violent versus violent offenders. Bill C-59 also tightens rules regarding eligibility dates of both day parole and full parole for offenders serving their first sentence in incarceration who have been convicted of a non-violent offence or a serious drug offence (parl.gc.ca 2011). Bill C-59 also means that parole may not be granted to offenders who the Parole Board of Canada (PBC) believes would commit a non-violent offence before their warrant expiry date. Previously, the PBC had no choice but to grant parole under these conditions.

The Harper government won a majority (166 seats) in the 2011 federal election. The Conservative election platform during the campaign included a commitment to consolidate a number of crime bills into one omnibus bill and pass it within 100 days of forming a majority government. Bill C-10, the *Safe Streets and Communities Act*, was tabled in the House of Commons on September 20, 2011 and given royal assent on March 13, 2012 by a vote of 154 to

129. Bill C-10 was incredibly controversial, and efforts were made right up until the end to stop the passing of Bill C-10 by the NDP opposition (Fitzpatrick 2012c).

Bill C-10 combined nine bills that had been separately introduced in the previous Parliament, including Bills C-23B, C-39, C-54, S-10, and C-16. There are five parts to Bill C-10 relating to: 1. Justice for victims; 2. Sentencing; 3. Post-sentencing; 4. Youth criminal justice; and 5. the Immigration and Refugee Protection Act. Discussed here will be Parts 2 and 3.

Part 2 of Bill C-10 (parl.gc.ca 2011):

- Makes amendments to the Criminal Code and introduces new mandatory minimum sentences, as well as increases existing mandatory minimum penalties.
- Makes provisions to the former *Controlled Drug and Substances Act.* The main amendments involved minimum penalties for serious offences, including weapon use or violence, and dealing drugs for the purposes of organized crime, for which there previously were none (parl.gc.ca 2010).
- Also makes restrictions on the use of conditional release, and eliminates the use of conditional sentencing on acts involving serious personal offence.

Part 3 includes amendments to the *Corrections or Conditional Release Act*. These amendments increase the accountability of offenders and stiffen the rules governing conditional release (for those offenders serving two years or more) by:

- Stating that the active participation of offenders in obtaining the objectives of their correctional plan and their progress will be considered in decisions regarding their conditional release or any other privilege (clause 5);
- Expanding the categories of offenders subject to continued detention after their statutory release date when they have served two-thirds of their sentence (e.g., offenders convicted

of child pornography, luring a child or breaking and entering to steal a firearm) (clause 55);

- Increasing the waiting period from six months to a year following the Parole Board of Canada's decision to refuse a parole application (clause 27).

Bill C-23B, *An Act to Amend the Criminal Records Act and to make consequential amendments to other Acts* (short title: Eliminating Pardon for Serious Crimes Act), was initially part of Bill C-23, which was introduced on May 11, 2010. On June 17, 2010 the House of Commons made the decision to split the Bill into two parts. While Bill C-23A, *An Act to Amend the Criminal Records Act* (*Limiting Pardons for Serious Crime Act),* was given Royal assent on June 29th, 2010, Bill C-23B became part of Bill C-10. It contains 48 clauses and does the following:

- Amends the Criminal Records Act by replacing "pardon" with the term "record suspension";
- Extends ineligibility periods for applications for a record suspension for five years for summary conviction offences, and to ten years for indictable offences;
- Makes those convicted of sexual offences against minors and those who have been convicted of more than three indictable offences ineligible for a record suspension;
- Enables the Parole Board of Canada to consider additional factors when deciding whether to order a record suspension.

Part 3 of Bill C-10 also advocated increasing public safety in several ways. One of the ways was through the rhetoric of public safety and protecting victims; hence, the Harper government included in Bill C-10 the unpassed Bill C-39: *An Act to Amend the*

Corrections and Conditional Release Act and make consequential amendments to other Acts (short title: Ending Early Release for Criminals and Increasing Offender Accountability Act). Bill C-39 was both introduced and received its first reading in the House of Commons on June 15, 2010. It was intended to further increase the accountability of offenders and stiffen the rules governing conditional release (for those offenders serving two years or more). Bill C-39 promoted protecting public safety in the following ways:

- Authorizing a peace officer to arrest without a warrant an offender who is on conditional release for a breach of conditions (clause 42);
- Granting the Correctional Service of Canada permission to oblige an offender to wearing a monitoring device as a condition of release, when release is subject to special conditions regarding restrictions on access to victims or geographical areas (clause 14);
- Increasing the number of reasons for the search of vehicles at a penitentiary to prevent the entry of contraband or the commission of an offence (clause 15).

Bill C-39 is said to protect the interests of the victims by:

- Expanding the definition of victim to include anyone who has custody of or is responsible for a dependant of the main victim if the main victim is dead, ill, or otherwise incapacitated (clause 2);
- Allowing disclosure to the victims of the programs in which an offender has participated in for the purpose of reintegration into society, the location of an institution to which an offender is transferred, and the reasons for the transfer (clause 7);

- Entrenching in the Act the right of victims to present a statement at parole hearings (clause 46) (parl.gc.ca 2010).

Also, to promote the safety of children, Bill C-54, *An Act to Amend the Criminal Code (sexual offences against children)* (short title: Protecting Children from Sexual Predators Act), was included in Bill C-10. This Act introduced new as well as increased mandatory minimum sentences for those found guilty of sexual offences involving children. Two new offences were also introduced:

- That of making material of a sexually explicit nature available to children; and
- That charges may be laid for not just the act itself, but of agreeing or arranging to commit a sexual offence against a child.

Bill S-10 *An Act to Amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts*, or more briefly described as the *Penalties for Organized Drug Crime Act*, was first introduced on May 5, 2010 and was included in Bill C-10 **(**parl.gc.ca 2009). Bill S-10 was formerly known as Bill C-15, which was heavily criticized for the increase in maximum penalty for marijuana possession as well as other substances (cannabisfacts.ca 2015). Bill S-10 includes mandatory jail time for serious drug offences, as well as where aggravating factors are present. Bill S-10 seeks to amend the Controlled Drugs and Substances Act to include minimum penalties for serious offences, including weapon use or violence and dealing drugs for the purposes of organized crime, for which there were previously none (parl.gc.ca 2010). This bill included mandatory prison terms for many drugs, examples being methamphetamine, heroin, and cocaine, as well as marijuana.

One of the recommendations in the *Roadmap* report involved amendments to conditional sentencing. Conditional sentences were initially created to ease some of the many costs of mass incarceration (MacKay 2009), yet the Harper government proposed amendments to restrict the use of conditional sentences. On April 22, 2010 the government introduced Bill C-16, *An Act to amend the Criminal Code* (short title: Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act) (Office of the Parliamentary Budget Officer 2010). The Bill was not passed, but was later re-introduced as part of Bill C-10. The proposed amendments would forbid using conditional sentences for the following offences:

- Offences for which the law prescribes a maximum sentence of 14 years or life.
- Offences prosecuted by indictment and for which the law prescribes a maximum sentence of imprisonment of 10 years that: result in bodily harm, involve the import/export, trafficking and production of drugs, or involve the use of weapons.
- The following offences when prosecuted by indictment: prison breach, luring a child, criminal harassment, sexual assault, kidnapping, forcible confinement, trafficking in persons, material benefit, abduction, theft over $5000, auto theft (as proposed in Bill C-26), breaking and entering with intent, being unlawfully in a dwelling-house, arson for fraudulent purpose.

Although it is perceived by many as a "slap on the wrist," house arrest is otherwise. Oftentimes the length of the house arrest is longer than the original sentence would have been, and there are a number of strict conditions in place that the individual must abide by or the rest of the sentence must be carried out in custody **(**parl.gc.ca 2010; Mallea 2011). House arrest is only available to those offenders who are not deemed dangerous or seen as a threat to society **(**parl.gc.ca 2010) and, because of this, among other reasons, less than 5 percent of cases are

actually granted conditional sentences (parl.gc.ca 2010). Also, an individual's term of imprisonment cannot be any longer than two years in order to be considered for a conditional sentence. Elimination of conditional sentences means that individuals are immediately incarcerated when in fact not all crimes are necessarily indicative of a sentence of incarceration ruling. Many individuals held in custody are not able to get the all too important education or job training needed for life after the criminal justice system.

Many commentators vehemently opposed Harper's "tough on crime" bills. Many judges and lawyers, for instance, viewed Bill C-10 as violating the *Charter of Rights and Freedoms* (Maher 2015). Raji Mangat (2014: 58) of the British Columbia Civil Liberties Association (BCCLA) commented that "Section 7 of the Charter preserves the right to life, liberty, and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. A sentence of imprisonment—mandatory or otherwise—clearly constitutes a deprivation of liberty. This raises the question: may mandatory minimum sentences be challenged substantively under s. 7 as contrary to the principles of fundamental justice?"

Bill C-10 and the mandatory minimums within it have also been deemed cruel and unusual punishment, especially in certain cases dealing with drug offences (Mangat 2014: 47). As stated by Adrienne Smith, a lawyer with Pivot Legal Society, "mandatory minimum sentences are bad public policy for everyone, they're cruel and unusual punishment, especially as they apply to members of Canada's marginalized communities. We need to allow judges to consider the conditions of the offence and the offenders to ensure sentences are fair" (Cited in Madondo 2014).

There are also discrimination concerns that come with the implementation of Bill C-10, in that Indigenous peoples and other members of racialized communities who already experience the effects of discrimination within the criminal justice system will feel these effects even more so (Mangat 2014: 74). The Canadian Bar Association noted that with the elimination of conditional sentencing more individuals will be required to serve their time in custody. Taking them far away from their rural and remote communities, the already vulnerable Indigenous population will be even more marginalized with the implementation of Bill C-10 (Ernst 2011).

Bill C-10 also came under harsh criticism for potentially reversing the advancements made by the *Youth Criminal Justice Act*. Paula Mallea (2011: 76) states that crime rates have significantly dropped when compared to the former *Youth Offenders Act* (1984) where 42 percent more youth were incarcerated, compared to the passing of the *Youth Criminal Justice Act* in 2002 (which eschewed the use of incarceration for youth). Crime rates have significantly dropped.

The increased costs associated with *The Safe Streets and Communities Act* have also been raised as a matter of concern. While the government did not provide a complete cost analysis of Bill C-10, it did acknowledge that the increased penalties for drug offences was estimated to cost $67.7 million over five years and the new mandatory minimum sentences for sexual offences were estimated to cost $10.9 million over 10 years. The Parliamentary Budget Office estimated that the changes to conditional sentence eligibility would add an additional $156 million in trial, corrections, and parole costs. No cost accounting was provided for the impact of these changes on the provincial governments (Comack, Fabre, and Burgher 2015: 6; BCCLA, n.d.). Madeleine Meilleur, the Ontario Community Safety and Correctional Services Minister, stated that: "Ontario taxpayers cannot be expected to pay the full costs for federal anti-crime initiatives"

(Cited in Postmedia News 2012). The Ontario government announced that Bill C-10 would cost them an additional billion dollars (CCPA-MB & The John Howard Society of Manitoba 2012: 6). Quebec Justice Minister Jean-Marc Fournier also expressed disappointment with Bill C-10 by saying, "We would have preferred Parliament accept the amendments put forward by the Quebec government in conjunction with a number of organizations" (Postmedia News 2012). Quebec has stated that these "tough on crime" measures would cost an estimated $600 million for the province.

The Deficit Reduction Action Plan

In addition to implementing its "tough on crime" strategy, the Conservative government also undertook neoliberal-inspired measures to reduce the federal deficit. Initially introduced in 2011 as the "Strategic and Operating Review" (SOR), the Deficit Reduction Action Plan (DRAP) was implemented by the Harper government in 2012. The goal of DRAP was to achieve $4 billion in savings by 2014 through cuts to federal government expenditures. These measures affected all areas of government operation, including the Correctional Service Canada, which was expected to undertake $295 million in cost saving measures over the three-year period.

In May 2012, Public Safety Minister Vic Toews announced a number of correctional changes, claiming that they would result in $10 million per year in savings to tax payers. One change involved the elimination of "incentive pay" for inmates working at CORCAN facilities. CORCAN is a job-training program existing in 31 penal institutions, which gives employment to prisoners in industries such as manufacturing, construction, and textiles, as well as laundry operations and printing services (Fitzpatrick 2012a). Minister Toews defended this decision by saying a high demand already exists for the CORCAN program, therefore an incentive is no

longer necessary. Critics such as former inmate Rick Osborne claimed that the majority of this pay goes to the prisoners' families, and that an individual working all week without receiving any income at the end is a form of slavery (Fitzpatrick 2012a). Depending on the location and the nature of the work, CORCAN pay can vary from 50 cents per hour to $2.30 per hour. With these cuts, Correctional Investigator Howard Sapers (2013-14) estimated that inmates working a standard 40 hour week in the prison industry were now making only about 40 cents per hour.

Canteens are the places where prisoners can buy clothes, books, food, and toiletries. Another change made by the DRAP cuts was the transfer of responsibility for the canteens run by prison staff to the prisoner population. About 85 percent of canteens were already run by inmates; the implementation of the DRAP cuts meant that the remaining 15 percent would also be transferred. The way in which inmates purchase goods from outside stores was also changed. Before, when inmates desired goods from outside stores, a request form was filled out while a staff member made one trip at a time to the various requested locations. Now, a set list of stores is chosen and the staff may only go at designated times to make the purchases for the inmates. Additionally, inmates may now order through catalogs (Fitzpatrick 2012a). The DRAP cuts also extended to access to telephones and the amount prisoners had to pay for their room and board. Sapers (2014) makes the point that these deductions do not serve reintegration, as the meagre 10 percent that is allotted to an inmate's savings account does not help the prisoner when released.

DRAP also led to dramatic changes with regard to the prison populations themselves. In April 2012, the government announced that by closing three penitentiaries—the Kingston Penitentiary, the Regional Treatment Centre in Ontario, and Leclerc Institution in Quebec—it would save $120 million per year (Office of the Auditor General of Canada 2014). Public Safety Minister Vic Toews maintained that the closing of these penitentiaries was due to the fact that

the facilities are "simply not working well anymore" and that the facilities are old and "not appropriate for managing a modern prison population" (Fitzpatrick 2012b). Toews also claimed that the additional construction to existing prisons would help to absorb the influx of prisoners. The Union of Canadian Correctional Officers quickly condemned this decision, stating that these decisions were made "in haste, secrecy and with minimal research" (Fitzpatrick 2012b). The union added that with the closing down of these particular facilities, in particular the treatment centre, many prisoners with mental health issues would not be so easily absorbed into the other prisons.

The implementation of DRAP also meant the elimination of the Lifeline program (CBC News 2012b). The Lifeline program, in existence for nearly 20 years, received awards for its success in rehabilitating offenders and keeping victims safe by reducing the rate of recidivism. Lifeline was the only program servicing long-term offenders, those that make up 20 percent of the prison population. It protected the public by helping to reintegrate this specific population now out on parole. This program cost a mere 2 percent of the CSC's $3 billion budget, at an operational cost of $2 million per year. Again, Vic Toews (2012) spoke on this decision, stating that Lifeline "was not producing any results that improved public safety." Yet research done by the CSC found that inmates who were a part of the Lifeline program were less likely to get involved in incidents while in prison (*Prison rehab program axed due to budget cuts,* 2012).

The DRAP was also affecting public service workers. A Workforce Adjustment situation arises when employment is no longer required by the employer for the following reasons: lack of work, a discontinuance of a function, or a relocation to which the employee does not wish to relocate (Professional Institute of the Public Service of Canada 2010). In 2012, CBC reported

that as a result of Workforce Adjustment and DRAP, 19,200 federal public service individuals would become unemployed by 2015-16 (Peyton 2012).

Concluding Remarks

The implementation of the Harper government's "tough on crime" strategy and accompanying DRAP budget cuts occurred at the same time that incarceration rates were rising—despite drops in the crime rate in the previous decade (Boyce 2015). In 2009/2010, the total number of incarcerated individuals averaged 49.51 per 100,000 individuals. The rate gradually increased to 53.63 in 2012/2013. Provincially, Manitoba has the highest incarceration rate at 242 per 100,000 of the adult population (Correctional Services Program 2015). Remand rates have also been steadily increasing. For the last 10 years, the remand population has surpassed the sentenced population. In 2013/2014, 11,493 adults on average could be found in remand custody, awaiting trial or sentencing—accounting for 54 percent of the custodial population—while 9,889 inmates were in sentenced custody in the 12 reporting provinces and territories (Statistics Canada 2015).

So what do these statistics mean? While scholars writing prior to the Harper government's time in power claimed that Canada was an exception to the punitive turn (Meyer and O'Malley 2005), the actions of the Harper government suggest otherwise. However, to find out if Canada's "tough on crime" policies have truly signalled a punitive turn, more information is required. One way of assessing the impact of the implemented crime strategies on the criminal justice system is to consult with frontline workers, those who have "on-the-ground" knowledge of how these strategies have played out. The next chapter describes the methodology used to collect this information.

CHAPTER THREE

METHODOLOGY

In order to determine whether the "punitive turn" has now taken hold in Canada as a result of the Harper government's "tough on crime" strategies, a study was conducted involving interviews with individuals who work on the frontlines of the criminal justice system. The main purpose of the study was to uncover frontline workers' knowledge of the federal government's "tough on crime" strategies and how these policies have affected correctional practices in Canada. This chapter describes the study sample, the interview process, and the method used to analyse the data that emerged from the interviews.

The Study Sample

Since there are many different kinds of frontline workers, the study aimed to reach individuals who work in a diverse array of positions relating to the Canadian correctional system, including probation officers, correctional officers, and parole officers working within the correctional system, as well as prisoner advocates, counsellors, and support workers working in the community. While some of the study respondents were employed by Correctional Service Canada to work within the federal system, others had experience working in the provincial system, involved with the management of prisoners in correctional facilities or in supervising individuals on their release from custody. The community workers offer support for newly released individuals, helping them find housing, employment, programming, and other services for support in the community, as well as looking after their emotional and mental wellness.

Participants in the study were located in two provinces: Manitoba and Ontario. Participation for the study was voluntary and recruitment snowballed via word-of-mouth through the participants' contacts and connections. In total, 16 respondents were interviewed, some with over 20 years of experience as frontline workers. Together, these respondents had a cumulative 200 years of knowledge and experience working with individuals involved in the Canadian correctional system.

The Interview Process

Ethics approval was received from the UM Psychology/Sociology Research Ethics Board. The interviews took place between February and July of 2015. Participants were assured that confidentiality would be maintained in the reporting of the findings, and that the participants' organizational affiliations would remain anonymous. The interviews took place in various locations: at their workplace (for those who worked with community-based organizations), in private homes, or at local coffee shops. To thank them for their time and contribution to the study, each participant was offered an honorarium of $25 at the beginning of the meeting. Consent was obtained in writing prior to each interview (see: Appendix A). The interviews ranged in duration from 28 minutes in length, to 86 minutes, with an average length of 59 minutes.

During the interviews respondents were asked a series of questions pertaining to the impact of the Harper government's "tough on crime" strategy (see: Appendix B). The questions surrounded the nature of the work respondents did in relation to the criminal justice system, the different changes they have seen within the past few years in relation to their work with the criminal justice system, the types of clients they may deal with in their work,

and their awareness of the various policies and reforms implemented and how these changes have impacted their work.

With the respondents' permission, the interviews were recorded using an audio recording device, and then were later professionally transcribed to facilitate analysis. No information was recorded that could personally identify those being interviewed, including business affiliations, agencies, or communities.

Method of Data Analysis

All of the respondents shared insights as to how the Harper government's "tough on crime" strategy has played out on-the-ground. All of them were critical of the changes that had occurred as a result of this strategy. In order to organize these comments and reflections, the interview transcripts were analysed with a view to mapping out the key themes that emerged.

The first theme was the issue of overcrowding in provincial jails and remand centres, leading to more dire conditions under which prisoners are doing time. A second theme was the impact of the federal budget cuts under DRAP on the operation of the federal prisons and the provision of programming within the prisons. The impact on the human rights of the prisoners, the legality of the Harper government's policies, as well as the mental health of the workers themselves emerged as key themes. The disproportionate number of Aboriginal people in Canadian jails and penitentiaries was also an issue brought up in many of the interviews. Another theme was the issue of release conditions and the difficulties prisoners encounter in meeting their correctional plans, resulting in fewer prisoners being granted early release. Key pieces of legislation that would give prisoners a chance to be released have also been eliminated. When prisoners are released, they are not prepared to transition back into the

community due to lack of supports and programming within the prison, and this also came up in the interviews. The workers state that this sets the community up for danger, as opposed to keeping streets and communities safe. Overall, a key theme to emerge from the interviews was a decided shift that has occurred from a focus on rehabilitation to the warehousing of prisoners within the Canadian correctional system, suggesting evidence of a punitive turn.

Concluding Remarks

Interviewing frontline workers provides insight into what it means when a New Right political rationality informs government policy via the Harper Government's "tough on crime" strategies. Politicians and those creating these policies are often too far removed to know what these impacts actually mean for prisoners, their families that do time along with them, and those who work within the correctional system. Chapter Five elaborates on the changing penal landscape by way of the main themes that emerged from the interviews with the frontline workers.

CHAPTER FOUR

HEARING FROM FRONTLINE WORKERS

There has been a change in the penal landscape of Canada that has transformed the way in which punishment occurs in the Canadian correctional system. Formerly, rehabilitation was the focus of correctional sentencing; however, there has now been a dynamic shift in Canada's punitive landscape toward the warehousing of prisoners. Through various legislation and cost cutting measures implemented by the Harper government, penal measures have moved in a direction that is indicative of a punitive turn. This chapter discusses the experiences of frontline workers, drawing on their insights to make the case for a punitive turn in Canada.

Changes at the Provincial Level

Previously, the Canadian prison landscape went many years without seeing any drastic changes to the size of the prison population (Webster and Doob 2006); however, the effects of the Harper government's changes in legislation have resulted in a dramatic increase in the number of people who are sitting in provincial jails and remand centres awaiting their court dates. As one frontline worker remarked:

> I saw more backlog in the courts, you know, 'cause people are, are just sitting there. They're more and more being warehoused because we don't have the capacity to move them through the system, you know. It's just too many people in jail, too many people in remand. You know, like, right now the majority of people that are in Headingley and Milner [Ridge] is, is remand, you know. They're all, all in the holding pattern, hey. That's what you are when you're in remand. You're in a holding pattern. You're waiting, you know. (Interview 3)

Provincially, Manitoba has the highest incarceration rate at 242 per 100,000 of the adult population (Correctional Services Program 2015). Remand rates have also been steadily increasing. For the last 10 years, the remand population has surpassed the sentenced population.

In 2013/2014, 11,493 adults on an average day could be found in remand custody, awaiting trial or sentencing—accounting for 54 percent of the custodial population—while 9,889 inmates were in sentenced custody in the 12 reporting provinces and territories (Statistics Canada 2015). The numbers continued to rise in the 2014/2015 year, with 13,650 adults awaiting trial or sentencing being held in remand—accounting for 57 percent of the custody population—while the number of individuals held in sentenced custody in the provinces and territories had grown to 10,364 (Statistics Canada 2016).

The elimination of the 2-for-1 credit as a part of Bill C-25, the *Truth in Sentencing Act,* has been a large contributor to that changing penal landscape. Previously, the Criminal Code had allowed a 2-for-1 credit (and, in exceptional circumstances, a 3-for-1 credit) for the time spent in remanded custody. The 2-for-1 credit had been enacted due to the realization that time spent in pre-trial custody or remand is actually hard time. Remanded prisoners have limited access to treatment or rehabilitative programs, and the conditions are often unsanitary and overcrowded (MacCharles 2014). It is also seen as "dead time" in that it does not count toward parole eligibility, if granted, or early release. Reducing the credit for time served to 1-for-1 (and 1.5-for-1 "if circumstances justify it") has had very little impact on reducing the number of individuals being held in remand. Using the 2007/2008 fiscal year as an example, the Parliamentary Budget Officer (2010) has estimated that individuals are now spending an additional 722 days, or 1.98 years, in jail.

There are stringent conditions handed down by the judges if individuals are to be conditionally released (or granted bail) pending their court dates. The number of conditions has grown in recent years, resulting in more individuals being taken into remand custody. The most common conditions include the requirement to abstain from drugs and alcohol, as well as to

attend rehabilitation programs for addictions (Basen 2009). Individuals may be taken into custody for something as minor as breaking curfew (Mallea 2011). As one worker commented:

> So if you violate even a single condition of your bail, you're brought back into custody or a warrants issued for your arrest, and you're brought back into custody…. We are locking people up for having a drink, maybe for being alcoholics … for getting home late, for not having a watch, for not having an alarm clock ... for having the audacity to live with people that don't have an alarm clock. (Interview 2)

Changes at the Federal Level

> The biggest thing – and it's not legislative, but the budgetary restraints. (Interview 7)

The Correctional Service of Canada (CSC) is the federal government agency responsible for administering sentences of two years or longer. The CSC had formerly offered an assortment of program options for prisoners within various penitentiaries, as well as for individuals on parole in the community, to assist in a successful reintegration into society and aid in the reduction of recidivism. The mission statement of the CSC, adopted in 1989, is as follows:

> The Correctional Service of Canada, as part of the criminal justice system and respecting the rule of law, contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control. ("CSC's Profile and Mandate" 2010)

There are many pieces of legislation that govern the operation of the CSC; one key piece is the Corrections and Conditional Release Act (CCRA). This legislation governs the federal correctional system, and the CSC must operate within the legal framework set forth by the CCRA. The CCRA defines the requirements for the calculation of sentences, release eligibility criteria, and the forms of conditional release that are not included in the Criminal Code. With the principal goal being safety, the CSC is also mandated by the CCRA for the following responsibilities:

- care and custody of inmates

- provision of programs that assist with rehabilitation and successful reintegration into the community
- preparation of inmates for release
- parole, statutory release supervision and long-term supervision of offenders
- providing a program of public education about the operations of CSC (Correctional Service Canada, 2012a).

The goal of the CCRA is to allow for the fair balance of humane control within the correctional institution, as well as to create a safe law-abiding citizen once released. Nevertheless, operating at the same level of service has proved impossible within federal prisons with the Harper government reforms, and unfortunately many beneficial programs have been sacrificed as a result of budget cuts.

The $295 million budget cut to the CSC under DRAP has meant that programs and positions in all areas of CSC have been affected—programs that ranged from the Access to Information and Privacy Division (2013), to critical rehabilitation programs (CBC News 2012b) that the frontline workers felt had an immensely positive impact, to positions that helped prisoners locate resources that they otherwise may not have known were available to them. When the budget cuts were implemented, workers were helpless to do anything to change the decisions that had been handed down to them, and expressed frustrations with having to do more with less.

> They put us behind the eight ball. They've increased our populations, then they cut the budgets. And when they cut the budgets, they cut a lot of the programming. They cut a lot of the schooling or, like, the access to programs and schooling, and they cut the farming system completely out of the institutions, which was the main source of, the main source of employment at a minimum-security prison, and they didn't replace it with anything. (Interview 14)

With the implementation of DRAP, the inmates' day-to-day lives have been significantly impacted. Telephone access is one of the services directly affected by the budget cuts. Phone calls are of great importance to those inside the prison, and when a prisoner is not able to contact

their supports on the outside, doing time becomes even more difficult. This point was brought up in a few of the interviews, along with the changes in the food service that have also occurred.

> So, yeah, it really, really impacted—like, phone cards are such a big thing and being able to send money out to families, and just it reduced so much people's ability to do that, and, you know, yeah, some people completely lost contact with their families for extended periods of time, and especially people that have to call internationally or, you know, don't have support locally. (Interview 8)

> Some didn't even require legislation; it just made prison more miserable…. Not letting guys have food drives, cutting back on, on social, social things. Some of it just seemed, like, really mean-spirited, making phone calls more expensive. (Interview 6)

> People are often encouraged to supplement their diet with canteen. Like, if they don't like what's on the menu, go buy it off canteen, like, they can go buy it off canteen. If they don't like this, they can go buy it off canteen. It's like, well, with what money? Like, you just cut our pay. And there, you know, there's this, like, the phone rates are expensive; it's like 11 cents a minute, which is pretty significant for a long distance call. So that's, I think, that's really difficult for people. (Interview 9)

The closing down of full functioning kitchens has completely altered how prisoners are fed. The food system for the inmates was changed to a "cook-chill preservation food system" in order to save an approximate $6.3 million over the course of two years (Clancy 2015). Instead of cooking meals at the penitentiaries, the food is delivered pre-cooked and then reheated at the prison. Food shortages were also reported by the workers:

> Someone was saying – I think this was maybe at the women's institution – they were saying that, like, one item had suddenly become, like, scarce. I think it was coffee. And so suddenly, there was all this, like, trading and stuff happening around coffee. It's kind of like tobacco, right, like, now there's this huge black market for tobacco, and people are in debt around tobacco. So those kinds of changes make an impact. (Interview 9)

Inmates' pay has also been affected as a result of budget cuts, and facilities such as CORCAN have been directly affected with the elimination of "incentive pay" for inmates working at CORCAN facilities.

> One of the things when they cut the pay is they got rid of the incentive pay, so they stayed with CORCAN. So people were able to make quite a bit of money working at CORCAN, and suddenly they couldn't, and it was just like the regular pay, and so now they were really having a hard time filling the CORCAN jobs…. 'Cause, I mean, they're saving, like, piddly amounts by cutting people's pay, but it's so significant for them. (Interview 9)

The introduction of DRAP also meant the elimination of the Lifeline program, as well as many other influential services and programs operating under the CSC (CBC News 2012b). Programs such as Lifeline that work to target specific individuals within the criminal justice system dramatically increase the success of rehabilitation and reduction in recidivism. Lifeline was the only program servicing long-term prisoners, who make up 20 percent of the prison population. It protected the public by helping to reintegrate this specific population while out on parole.

> They're not—one woman who really, regional headquarters when they cancelled Lifeline, she said, "I just sat there and cried," 'cause she actually believed in what she was doing 'cause she was, she was one of the community programming people, and it looked like we were getting all these programs in. Then, of course, a stroke of a pen, "No, your work's not valuable." Parole officers who – they do all this work to get a guy ready and they really believe in him, then they turn him down, and they're like, "Well, why did I bother doing that?" (Interview 7)

This program cost a mere 2 percent of the CSC's $3 billion budget, at an operational cost of $2 million per year. Many of these types of programs had significantly impacted the imprisoned population for the better.

Penitentiary placement and security classifications of prisoners have also changed. Upon arrival at a penitentiary, a Custody Rating Scale is used and a prisoner is assigned a minimum, medium, or maximum security classification. This scale includes several variables, such as seriousness of the offence committed, any outstanding charges, or a physical or mental illness or disorder. The security classification is based on variables such as probability to escape, the level

of danger to the community in the event they do escape, and how much control and supervision is required for the inmate while in the penitentiary (CSC Commissioner's Directive 705-7). The programs offered, as well as the operations within the prison, are determined by the level of classification. Maximum security prisoners are offered less programming and privileges than minimum or medium security prisoners. This is significant due to the fact that many prisoners who would fall under medium security are now held in maximum security facilities, with fewer prisoners receiving programming upon their release.

As previously mentioned, the opportunity for prisoners to receive rehabilitation through programming is something that has been dramatically affected through budget cuts. Many therapeutic services are no longer available for prisoners, making it incredibly difficult for them to fulfill their program requirements and demonstrate that their behaviours have changed enough to permit statutory release.

> We used to use, you know, we used to use a lot of community resources for, you know, psychological services. We used to use forensic psychological services with Dr. Lawrence Ellerby, who was like the, you know, I mean, he's world renowned for his, his sex offender programming. And we don't use him anymore. So, in part, we don't provide low intensity programming, so it's hard for inmates to demonstrate how they've changed. We may say that they have to see a psychologist, but those resources are simply not available. (Interview 4)

The Office of the Auditor General (2015) reported that in the 2013/14 fiscal year, about 2,000 male prisoners were first released from custody at their statutory date. Of this number, 64 percent were released from medium-security penitentiaries, and 11 percent were released from maximum-security penitentiaries. Many prisoners were eligible for release but had not completed their programs—about 65 percent in the 2013/14 fiscal year.

All of these changes have had a drastic impact on the penal landscape for those who live and work inside penitentiaries. An increased level of unrest and tension has been the result, as illustrated by this poignant story about one inmate:

> Individually, he's usually a really good inmate, and he is doing murals through programs, and he's got this whole prison area. He's got them painted and Aboriginal murals, and he's not even Aboriginal, but he's painting Aboriginal murals, and he was painting, just, he had, they have a lifers' room in the basement, which is an area specifically for lifers only just to, to let them get away from the population kind of thing, give them a break. So in this whole room, he had been able to – with obviously the, the blessing of all the group – they had given him and paid for the paints for him to paint the walls. So he painted this comic book scene that went all superhero kind of stuff, like dark superhero type of shit, but it was all the whole damn place and that was his, his way, he just was really into it. He really liked it. They had a project for him to do areas in the prison, and he would do these murals in the prison, and everybody was—it was very good, it would bring the area up. They wouldn't, nobody would put like graffiti over it, so if you found a heavily graffiti area, "Here's the paint, here's your job, go ahead, man, do whatever you want on the wall." So that's what he did, and he really enjoyed it, and it was soothing for him; it was almost therapeutic for him.
>
> The cuts come in. The ability to get out of your cell drops, and his Programs person was cut. So at that point, the individual goes from a prison that he's known all his life, and "I need to get out of here, can't stand it," starts to get aggressive, starts to become assaultive with some of the younger inmates, and moves from an inmate on a very positive path with that support, with the, you know, the counselling here and there and with that the job and something to do, something, and he was proud of it. Take that completely away by funding cuts, and you've just taken one of our success stories, and you've thrown it right in the gutter…
>
> And the guy really took a turn, and now he's just another hard-core inmate. And it's unfortunate to see that. So when I left, that's when they shipped him to maximum security. You've gone from a person who, we were looking at moving him to minimum security and having a murderer in minimum security, which does happen all the time, but it changed it completely. Completely. (Interview 14)

Operating with Less

With the changes to the legislation, doing time, though already difficult, has become even more challenging for prisoners. CSC workers have had to take on the impossible task of continuing to operate with a drastic reduction in funding and support. When speaking on the additional 10 percent reduction in funding to the CSC in the 2014/15 year, Correctional Investigator Howard Sapers (2014: 23) stated, "I question the appropriateness of reducing investment in a program that delivers sound public policy benefits from both a health and public safety standpoint." The result has been increased frustration by workers who have to do more with less, and unrest in the general prison population who are receiving less programming and treatment to deal with the issues that may have imprisoned them in the first place.

Many of the frontline workers expressed a shared feeling of helplessness with the increased challenges faced by having to do more with less. These workers spoke of how those in management positions within the criminal justice system felt discouraged with the major budget cuts to the CSC.

> So it was a real demoralizing time for everybody, and management teams had thought they were in the know – became very, very quickly understood that they were not. The control came from all outside. When we did get a hold of the Commissioner, for example, he was, it was from, well, outside of him, too, that this all came. So, it was really, I think, at that point, that's when everything really changed 'cause that's when everything took effect – when he got and nailed everybody there, took the money, changed everything to more of a, I guess, at this point now, looking back, it's a very easy way to go start privatizing things. (Interview 11)

Nevertheless, the most recent evaluation of CSC's correctional programs showed that the programs offered by the CSC are successful and have positive results. The rates of re-admissions and recidivism dropped by as much as 45 percent, while violent reoffending was reduced by up to 63 percent (Correctional Service Canada 2014a). The programs offered by the CSC for

women prisoners place focus on a balanced life after their release, as well as helping to understand the impact of their behaviour in different situations and relationships. The needs of the inmates within the criminal justice system do not change; yet now fewer of these needs are being met. The well-being of prisoners is severely impacted when programming is cut to areas that would provide rehabilitation and much needed psychological support. As expressed by this worker:

> They are going to get out, so we have to do something to make sure they don't come out as, as they go in… And I think that these cuts have really hurt in that respect. (Interview 14)

Human Rights

The Canadian Charter of Rights and Freedoms is a significant part of the criminal justice system, and though inmates do not have all of the same rights as other Canadian citizens, the Charter will always prevail over other federal legislation if rights appear to be violated (Privy Council Office 2003).

The measures introduced by the Harper government have brought up questions surrounding the impact of these policies on human rights violations. As controversial as these policies are, are they still constitutionally permissible under the Charter of Rights and Freedoms? The frontline workers have seen the lines blur when it comes to the rights of those involved in the criminal justice system and the changing penal landscape in Canada.

> I mean, this is the problem, see, in the end we're very dependent on principles. The law doesn't save you if the lawmakers and the people who administer the country ignore it. You know, what is your choice? If those who run the prison system don't respect human rights, then the law is not going to save you….That's the other change with this government. The previous governments used to go to some lengths to make sure that what they were proposing would meet constitutional muster, and it was considered a real embarrassment to come up with something that the

> whole Department of Justice couldn't figure out violated the Charter for God's sakes. I mean, if they can't figure it out, how are they going to run the system? (Interview 6)

With these lines beginning to blur, many commentators have questioned the Harper government's "tough on crime" policies due to their violation of personal liberties as enshrined in the Charter of Rights and Freedoms. Canada's prison policies have also drawn international criticism. The United Nations Human Rights Committee (2013), for example, has called upon Canada to address a number of issues that have resulted from Canadian policies. With the increase in the span of legislative power, one worker pointed to the fact that the ways in which legislation is implemented may interfere with constitutionally protected rights.

> And no, you have to question the constitutionality of, like, I'm sure someone has, obviously people have approached it from this angle but just not successfully yet around the constitutionality of mandatory minimums and like that. I think there needs to be a real legal approach to it, too. (Interview 8)

When the Harper government came to power, the CSC mandate was significantly impacted, and the operations within the CSC have since suffered drastically with the implementation of DRAP. Though the expectation is that the CCRA and the Charter of Rights and Freedoms are in place to ensure the CSC operates within the principles set out in *The Mandate, Mission and Priorities of the Correctional Service of Canada* (2010), it has become incredibly difficult to do so with the implementation of DRAP. There have been detrimental cuts to the CSC, which now has to operate with significantly fewer resources available at the federal level.

The United Nations Standard Minimum Rules For the Treatment of Prisoners (SMRs) was created in 1975. This document is the most internationally known, accessible, and all-inclusive document regulating prison conditions and prisoner treatment around the world

(Correctional Service Canada 2015a). SMRs are considered an essential element of international and domestic human rights standards and have been adopted into Canadian policy. To this day, penitentiaries are to abide by the rules set out in this regarding prisoner treatment. However, not all elements of the document have been implemented. The issue of double-bunking and overcrowding in Canadian prisons has become a major issue that impacts on the rights of prisoners. According to CSC policy, double bunking is only to be used as a temporary measure and should not exceed 20 percent of the in-prison population (Correctional Service Canada 2015b). However, the Auditor General stated in a 2014 report that 26 percent of prisoners were being double-bunked in both Ontario and the Prairie regions in 2012/13, as well as in cells smaller than 5 metres, which goes against CSC policy (Office of the Auditor General 2014a). The issue of double-bunking is not going to get better, and in fact will only get worse in the long run due to the increase in prisoners and the lack of expansion plans in place to accommodate them.

This worker provides an example as to what the impact of double bunking can look like for the prisoners and how, in turn, it affects those on the frontlines:

> We've had an inmate that was in custody that flat out told us at the beginning, "Don't double bunk me. I will kill my partner," and he did. And it's things like that where we can't control how this is all going to play out. We have to do what we're told, and I think the biggest problem is that nobody looks at the ripple effects of their actions. (Interview 14)

In order to alleviate the issue of overcrowding, many of the prisoners in Ontario and the Prairie penitentiaries were transferred to prisons in the Atlantic and Prairie regions at an enormous cost. In the first three months alone it cost $3.4 million to transfer 908 prisoners (Office of the Auditor General 2014). It is expected that these transfers will continue even after the construction of facilities is complete.

Whereas Canada was formerly a leader in promoting international human rights compliance, Canada's prison overcrowding was one of the main reasons the Human Rights Committee of the United Nations called on Canada to change its policies and why the country has been receiving international criticism (United Nations Human Rights Committee 2013). Overcrowding and violence resulting from the Harper government's policies have caused what some are calling a "prison crisis" (Latimer 2015). Overcrowding in at least one Ontario jail has gotten so bad that in March 2016, it was reported that inmates were sleeping in shower cells. Lawyer Paolo Giancaterino, who represented a client who was forced to sleep in the shower due to spacing issues, stated, "they've always used the shower cells for overcrowding, and we've heard of instances of shower cells being used as punishment for misconduct within the institution" (Khandaker 2016).

Mental Health Impacts

The changes implemented by the Harper government have had a dramatic impact not only on the health and safety of prisoners, but also on those working on the frontlines.

The subject of workers' mental health—something that has been left out of the conversation almost altogether by policymakers—was brought up in many of the interviews. With the large-scale cutbacks, workers pointed to the fact that there are fewer and fewer resources available to help cope with the increasing stress. For example, Canada Health has taken over counselling services for correctional officers, when it previously contracted out to private organizations. As a result of the budget cuts, fewer counsellors are available for these officers.

> They have a lot of resources through employee assistance programs. They have changed that for cost to go to Health Canada, so they've cut the

> contract out. They've gone to Health Canada…. I believe it was, 14,000 counsellors that they had access to through their contractor across Canada. Health Canada has 6,000. (Interview 14)

The burnout for these workers has increased with the changes in legislation and less supports being available to utilize. With the workers having to do more with less with an increasing prison population, supports should be stronger; instead, they too have become victim to severe budget cuts. This has led to a great amount of frustration. As one community worker commented:

> And I have such sympathy for their situation actually. A happy guard makes for happy convicts. (Interview 7)

Awareness of certain mental health issues within Canadian prisons is increasingly drawing international attention as an area lacking inquiry. In reporting on the recent death of Soleiman Faqiri, a prisoner who died after a confrontation with correctional guards, *Maclean's Magazine* commented that there is a mental health crisis occurring in Canadian prisons (Solomon 2017). With the lack of resources available to both staff and prisoners in dealing with mental health issues, these cases have become increasingly frequent. The subject of mental health has also been a continued area of concern with the United Nations Human Rights Committee on Canadian prisons (2013). When speaking on the "prison crisis," Catherine Latimer, Executive Director of the John Howard Society of Canada, stated that mental illness is also a huge area of concern: "the failure to meet the essential mental and physical health needs of prisoners is of particular concern" (2015).

The frontline workers mentioned the mental health needs of the workers and the detrimental affect policies have on mental health issues. Due to budget cuts, attention to mental health issues has not been something that can be properly addressed.

> We got three of them [grants], three years in a row, from Public Safety to do these little conferences. We did one on offenders and mental health issues… They stopped funding those little grants, you know, so they, they disappeared, and it was really too bad because that was a way we were able to get conversations, discussions, communication going. (Interview 2)

> And, and to not, to look at mental illness, poverty—if you wish to like more help for people who are refugees or immigrants, so that they don't fall prey to gangs and all the rest. I mean, if you're going to do something about crime, how about going back to how, these backgrounds, these, these four and five guys that were victimized? (Interview 10)

When the origins of criminal behaviour are not looked into or addressed, and sentencing bodies do not have the ability to give a sentence to an individual that addresses or is suited to their mental health issues, having a mental illness is then something that becomes criminalized, and then warehoused.

> 'Cause you have some individuals, if they're developmentally delayed, or if they've got a major mental illness where their, their ability to even comply with these things is questionable. So, in some sense, their mental disorder or their mental health or cognitive challenges become somewhat criminalized, you know. So, you're impulsive, you know, because, you know, you've got brain damage, and you're going back to jail because you do something that's impulsive that breaches. It's not about risk. It's about something else. (Interview 13)

More individuals are being imprisoned with more and more cuts to their potential rehabilitation through any programming that may be able to help address their behaviours and root causes of crime.

Getting Out: Conditional Release

The Parole Board of Canada (PBC) under the authority listed in the Corrections and Conditional Release Act (CCRA) and corresponding provincial legislation, may grant, deny, or decide on a specific kind of parole for prisoners. The CSC then supervises the conditions of parole or

statutory release to ensure they are following the conditions set by the PBC (Correctional Service Canada 2014b).

Full parole allows an individual to serve a part of their prison sentence in the community. This allows the individual to reintegrate into society, under supervision and under certain conditions. This is granted only to those individuals who are not seen as a risk to the community. All prisoners (except Lifers) are eligible after one-third of their sentence, or seven years, to apply for full parole (Correctional Service Canada 2014b).

Statutory release allows prisoners to leave custody at the final third of their sentence. The prisoner serves the remaining part of the sentence in the community, and is to comply with the necessary conditions. Prisoners who are serving life sentences for first-degree murder may apply for full parole only after serving 25 years. Individuals who are serving life sentences for second-degree murder may apply between 10 and 25 years (Correctional Service Canada 2014b).

Temporary absences may be granted for a number of reasons; however, like parole, public safety is of utmost importance when considering a temporary absence. The reasons for temporary absences may include rehabilitation, community service, or family circumstances. The authority for temporary absences occurs in both provincial and federal legislation. An escorted temporary absence (ETA) is a type of temporary absence that may occur at any time during an individual's sentence. This type of absence allows the prisoner to leave the institution with either with a group or on their own with escorting officers for a set period of time. The duration of the ETA, unless a medical absence, is limited. An unescorted temporary absence (UTA) is only granted to those prisoners who are not classified as maximum security. A UTA is when an individual leaves the institution without any escorting officers for a limited period of time. This can only happen when prisoners have served a portion of their sentence before

being eligible tCoo apply for a UTA. The same prisoners who are eligible for UTAs are also eligible for work release. This is when an individual leaves the institution for work or community services for a limited time. This type of program is supervised by a staff member or other authorized person or organization.

The frontline workers indicated that temporary absences have been harder get in recent years. Despite the successful completion rate of 99 percent between 2005 and 2015, temporary absences have recently decreased (Office of the Auditor General 2015). In 2011, the now-closed QMI Agency reported that the year the Harper government came to power in 2006, 5,208 total escorted temporary absences were granted. This number fell to 4,210 in 2010 (Harris 2011). The CSC also states that unescorted outings fell from 574 to 399 in the same period. Though temporary absences did climb after 2011, more recently, the number of temporary absences once again dropped. Between 2013/14 and 2014/15 the number of prisoners receiving escorted temporary absences decreased by 7.7 percent (from 2,734 to 2,524), while the number of prisoners receiving unescorted temporary absences decreased by 9.6 percent (from 447 in 404) during this same time period (Correctional Service Canada, 2015c). As one worker commented:

> We have not seen a Lifer on an escorted absence in this office for three years, not since the Lifeline Program ended. So if somebody is taking those guys on ETAs, they're no longer bringing them here, and I don't know why because that was a box they needed to tick for their parole application. And I suspect … that what's happening is it's harder for Lifers to get parole because they can't get their ETAs and they can't get their UTAs because there's no one to do it anymore. (Interview 2)

Work releases have also decreased dramatically. Despite the average number of successful completion rates for work releases being 95 percent between 2005 and 2015, the number of prisoners receiving work releases decreased 28.6 percent, from 385 in 2013/14 to 275 in 2014/15 (Correctional Service Canada, 2015c).

Elimination of Accelerated Parole Reviews

In March 2011, Bill C-59, the *Abolition of Early Parole Act*, was passed. Bill C-59 abolished accelerated parole reviews for first-time, non-violent offenders. When speaking about the changes in the structure of the Parole Board and the changes to Accelerated Parole Reviews, this worker shares his/her experience with how things changed under the Conservative government.

> So if you fell under the accelerated release and your crimes were not of a more serious nature that didn't have violence, you had more of an edge, right? You know, your first time in there, maybe you made a mistake, and you were trafficking, but there was no violence, you know – no weapons, no nothing. Well you would, you would get out sooner, right; you had that opportunity to get out. You know, it was after a third of your sentence you could get out. And so when they got rid of that, I think, I think the writing was a little bit on the wall in terms of, well, I started asking myself, "Well, what else is going to come?" (Interview 3)

Elimination of the Faint Hope Clause

The elimination of the "Faint hope clause," formerly under section 745.6 of the *Criminal Code*, has been significant on those serving life sentences. When there is no chance for eventual release, inmates are discouraged from displaying positive behaviour in hopes of it being used in their favour when presenting before the Parole Board.

There is a danger that comes as a consequence when implementing a strategy that takes away the hope of freedom. As one worker commented:

> They used to call the, that you could appeal a first-degree murder and try to get parole at 18 years rather than 23. That was called the Faint Hope Clause. They took that away. But the thing that, that is a concern … the very real risk is that the prisons themselves are going to get far more dangerous, and it's going to be a much more difficult and dangerous work environment for correctional officers and police, let's not forget. And a much more dangerous living environment for our clients, for the inmates, who are not sent to jail to be killed, murdered, or raped. That's not part of the deal. They've given up their liberty, but the government has an obligation to keep them safe. And if somebody thinks that they're never going to get out, then

> they've just taken away any kind of incentive to behave at all. And, and that's scary, frankly, and stupid. (Interview 2)

Before its elimination, the Justice Department commended the "Faint Hope" clause for accurately assessing the recidivism rates of faint hope prisoners, and stated that those who are released early on the "Faint Hope" clause do better in the community than other types prisoners (Beeby 2011). In a study that was never published, the Justice Department praised the "Faint Hope" clause, while the Harper government campaigned against, and eventually won, its elimination.

With elimination of the "Faint Hope" clause, coupled with the elimination of programming and other various supports for Lifers on the inside, the impact on these particular prisoners has been comprehensively negative. The workers expressed the difficulty in understanding policies that are so detrimental to all sides. The evidence of the implemented legislation, coupled with stories like these, and the dramatic increase in prison populations, all echo a shift that has taken place in Canadian corrections.

Impact on Aboriginal Prisoners

The impact of the Harper government's policies has been particularly harsh for the Aboriginal population. One of the outcomes of this legislation is that prisoners are being held in custody for longer periods of time, particularly Aboriginal people. Currently, Canada's prison population is not only the highest it has ever been, the number of visible minorities has also increased 75 percent in the past decade (Brosnahan 2013). Aboriginal adults are consistently overrepresented in admissions to both provincial/territorial jails and federal prisons.

Between the years 2005 and 2015 the federal inmate population grew by 10 percent. The Aboriginal inmate population has grown by more than 50 percent over this same period of

time. These numbers demonstrate a difference between groups, in that the Aboriginal inmate population in Canada is incredibly disproportionate compared to other groups. Though Aboriginal people only account for 4.3 percent of the population, they account for 25 percent of federal prisoners as of January 2016 (Office of the Correctional Investigator 2016). For women, this number rises to 35 percent. The Public Safety Ministry reports that 85 percent of Aboriginal inmates are held until federal authorities grant statutory release at two-thirds of the sentence. The report states that Aboriginal offenders have the lowest rate of successful completion of a statutory release. Federally, the number of incarcerated Aboriginal women has increased almost 80 percent over the past ten years (Brosnahan 2013). According to the Elizabeth Fry Society website, the majority (82 percent) of criminalized women in Canada have a history of physical or sexual abuse. For Aboriginal women, this number rises to 91 percent. Yet no part of the Harper government's "tough on crime" legislation addresses this issue, and in fact is making the statistics worse.

> Unfortunately, the number of Aboriginal people in the system, the percentage of, the disproportional representation of Aboriginal people in the justice system which, I mean, it just sounds so cold or clinical. We're locking up, most of the people we're locking up are, are Indians. And is there racism involved? I would say not deliberately, but it's just too coincidental. (Interview 2)

> So you're dealing with almost exclusively – if you were in the jail, you know – almost exclusively Aboriginal population. It's very oppressed here to begin with and then, you know, you spend – it's become normative behaviour to go from youth to adult and, you know, it, the system has trained them to be dependent. (Interview 1)

> The other piece that they failed to consider was there's a way in which legislation is drafted now in the States where there is a racial impact statement— no, sorry, racial impact assessment, which requires any state, including the federal government, to actually do an assessment of what will be the racial impact of any legislation with respect to criminal justice. That was suggested to them again…. but it went beyond racial. It, it looked at

> racial, LGBT, gender, youth, and HIV impact assessment. Again, we don't have a sensible government; therefore, it was not considered. (Interview 15)

The Parole Board of Canada

The PBC has become incredibly strict on granting statutory release, for various reasons. The frontline workers brought up the fact that the criminal justice system has been increasingly tied to political influences. In 2011, there were dozens of appointees to the National Parole Board that have donated to, or have close ties to, the Conservative Party (Mallea 2011: 25). None of the representatives on the Parole Board, despite the over-incarceration of Aboriginal people, are of an Aboriginal background.

> What the heck, like, *no* Parole Board members are Aboriginal. They fight so that they don't have to go to the Okimaw Ohci Healing Lodge to do Parole Board hearings. And when they did go do Parole Board hearings at Okimaw Ohci, we looked at the cases that were being supported for day parole, and they were all being denied because you had maybe a male, white, Parole Board member go to the hearings and not even ask anything about the cultural healing or learnings that that person, you know, developed or grew or learnt or whatever. (Interview 11)

Having those close to the Harper government on the Parole Board has changed the number of prisoners being granted parole. It is incredibly difficult to stand before the Parole Board as a changed person when many of the programs for rehabilitation are no longer being offered. As stated by this worker:

> Like, I may be able to say that they're a lower risk of reoffending, but how do you demonstrate to the Parole Board that they've addressed their risk factors? (Interview 4)

"Enhanced Offender Responsibility and Accountability" is addressed by the CSC (2012b) as a part of the *Safe Streets and Communities Act* (2012). In this section, it is stated that prisoners must wait longer to reapply for parole if they are denied by the Parole Board the first time. Also, the prisoner is expected to take responsibility for their imprisonment and participate in their own

correctional plans. One of the ways prisoners can demonstrate individual accountability is through completing programming and rehabilitation, which have been affected drastically through budget cuts. The penal attitude of the Harper government and its policies has been reflected by the PBC, which is granting fewer individuals parole due to the inability for prisoner to provide evidence of change. The workers expressed frustration with the Parole Board and the limited avenues available for prisoners to demonstrate change.

> One of the things I learnt with my project was that Correctional Service Canada and the Parole Board of Canada are very independent, right, and they have to be, I understand that, but when I tried to contact the Parole Board to learn what it is that they wanted to see more, so that we would get more successes, more women out on parole, because if I had my paperwork here and I showed them, statistics show these persons don't recommit offences ... so why do we have to keep them in and deny them? What is it that they're looking for? And it was always things like, well, you know, they wanted them to demonstrate that they had really learnt the skills through that programming. And because we had just finished the program last month they really hadn't a lot of time to demonstrate that they had learnt the skills. (Interview 11)

> If the prison staff or the Parole Board is allowed to make decisions—so they'll say, they'll use the severity of the crime to decide whether someone should be able to apply for parole, where someone is in their correctional plan. But that actually shouldn't be their role; like, they've already been sentenced. That should be the end of it, and then it should just be, well, "You do these programs that you've been asked to do, and you follow your correctional plan, the end, and then you should get parole." So they've just brought in the discretion of the prison and the Parole Board in a way that again makes it much more difficult to get out. (Interview 8)

Prisoners are left in a predicament in that many are not being recommended for parole because they cannot demonstrate a change in behaviour. The budget cuts have affected opportunities for programming, yet the Parole Board needs to have reasonable grounds to grant a conditional release through evidence such as programming. As previously mentioned, Office of the Auditor General states that about 65 percent of offenders had not completed their programs

before they were first eligible for release in the 2013-14 fiscal year. The prisoners who had completed their programs by their release date were still not recommended for early release. The report also states that despite identifying risks to reoffend, many low-risk offenders were not referred to correctional programs while in custody (Office of the Auditor General 2015).

> The percentage of people being parolled is, you know, is dropping like a stone. And so when people go to their stat release date that basically doubles the amount of time they're incarcerated or at least, I mean, from their parole eligibility rate, they're, they could be getting out as early as one-third. They're almost all staying two-thirds. So to me that sounds like they're staying twice as long in many cases as, as they need to.
>
> There are some people that would not get parole, and there's some people that don't even get statutory release. But there are a lot of people that are just staying to statutory release, and I talk to them just because it's just too darn hard to get parole because they can't take the programs they need in a timely fashion in order to go in front of a Parole Board and be released. And they can't get the programs because the government is taking the money. When you lock up more people for longer, it costs more money. (Interview 2)

The budget cuts have also transformed how the PBC conducts hearings. Many parole hearings are actually conducted through videoconferencing as opposed to being in-person, face-to-face with the offender. The workers expressed how important in-person parole hearings are, in that the gravity of the decisions should render a face-to-face interaction.

> It's not the same. Like those Parole Board hearings, like, they, you felt the weight of them. Those decisions that were being made and I, you know, a lot of times that was a really important event for an inmate or an offender to experience was the power of the parole hearing. And that's been really watered down through videoconferencing. It's not the same. (Interview 4)

Critics have cited increased parole hearings as one of the many reasons why the omnibus crime bill would be more costly, as a single review by the Parole Board of Canada costs an estimated $4,289 (CBC News 2012c). However, because fewer prisoners are being recommended for release by the CSC, fewer parole hearings are taking place. This is another one

of the ways in which the Harper government's "tough on crime" policies have contributed to an increasing prison population, even though there has been a reduction in crime nationwide.

Transitioning to the Community

The process of transitioning back into the community is incredibly important in order to reduce the chances of recidivism. Since the 1990s the CSC has provided a vast range of correctional programs that target criminal behaviour in order to prepare the prisoner to transition. These programs include general crime prevention programs, violence prevention programs, family violence prevention programs, and sex offender programs. CSC studies have shown them to be effective in reducing rates of reoffending. However, the conclusion of the Office of the Auditor General (2015) report stated that although the CSC provided correctional interventions to individuals in custody to support their rehabilitation and safe reintegration into the community, they did not ensure that these interventions were provided in a timely manner. Most prisoners had not completed their programs by the time they were first eligible for release.

Even before the prisoner is given a security classification and a correctional plan is developed, it has been found that the CSC has not been able to obtain key documents describing the individual's criminal history (Office of the Auditor General 2015). Without these official documents, the correctional plan may not necessarily address the reasons behind criminal activity.

The CSC research has indicated that improvements to a prisoner's education and employability skills can improve chances of success upon release. However the Office of the Auditor General (2015) reports that the CSC's employment programs were not targeted to those

with the greatest need to improve their skills. Many are simply unprepared for release, and are provided with inadequate resources on the outside to help them once they are released.

> The biggest change that has really, really given us a big challenge is that guys more often now don't get parole, and they get out on a stat release. And instead of having a halfway house for temporary, temporary shelter and time to try to get a job or whatever, they sometimes leave the prison with no money and no place to stay. And their one alternative we know about is Salvation Army, and I give Salvation Army real kudos for, you know, in the middle of winter giving people a roof over their head. (Interview 10)

The frontline workers state that the cuts to programs and the implementation of stricter policies have negatively impacted the welfare of offenders and those around them, as well as made the opportunity to reoffend more likely.

> We know that recidivism rates drop drastically when there are transitional supports in place, which makes the community safer. And then of course lowering recidivism rates greatly benefits the person who's caught up in the criminal justice system as well. (Interview 5)

> But what was happening is the federal government has simply shifted; it doesn't fund employment support programs for the long-term unemployed… This particular government doesn't care about getting people back to work that have been out of the workforce or maybe never been in the workforce. (Interview 2)

Supporting this worker's claims about the difficulty surrounding offender reintegration, the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR) provides one of the few research reports that document the complexities involved in offender reintegration and the role of the criminal justice system. This report concluded that the criminal justice system itself is over-relied upon to provide supervision, and more responsibility should be given to the communities themselves in terms of reintegrating the offender (Griffiths, Dandurand and Murdoch 2007). The chances of successful reintegration are lowered when the communities are not able to participate in the transition process in a beneficial way.

Many individuals do not understand or are unable to navigate through the criminal justice system on their own; many do not have the resources to assist them with their release. Because of this, the criminal justice system has become a cycle that can be difficult to exit. The reasons for imprisonment can vary from protection to survival and everything in between. In the case of women prisoners, one worker explained:

> So when they get out it's also about a plan to get out. Where are you going to live? What are you going to do? We try and set up EIA appointments, so that they'll get, maybe the day after they're released, 'cause if not, in this province you have to wait two weeks from when you're released in custody to get an appointment to get EIA. So what happens – and this is why there's so many people in jail (chuckle) – you will end up either being involved in the sex trade or involved in some other criminal activity because there's a structural barrier of a two-week wait list upon release from custody, so … since I've been here it's gotten worse, not better. (Interview 1)

> And so wherever we can, we just do a lot of linkages. You know, we do a lot of work with lawyers a lot, so that – a lot of women don't understand what's going on when they're arrested, so we will get the information from the lawyer…And so we do a lot of that because when you're doing time and you don't know, you can't get a hold of your lawyer 'cause it's better with email, blah, blah, blah. You know, so that helps them do time better. (Interview 1)

The most successful offender re-entry programs are the ones that offer up a balance between surveillance and control, on the one hand, and support and assistance, on the other. The programs need to be designed to deal with the inter-related challenges released prisoners face. When an individual is released back into the community with supports in place, great successes can occur.

> We know transitional supports are so much more effective, so much more cost-effective. I mean at this point, there's just, there's no excuse for bad policy. (Interview 5)

The implementation of DRAP has also changed how the CSC is able to help those who are released. The CSC has now decreased the number of times a Parole Officer must meet with

an individual each month, from what was formerly eight times per month for higher risk offenders, to only four. For those who are lower risk, this number has decreased from four times per month, to only two times. As with the other changes, concerns were expressed by Parole Officers who realized that this would translate into less time in the community for those offenders who must be accompanied (Sapers 2014).

When prisoners are released back into the community, there is often difficulty with reintegration due to a number of challenges they face, such as housing, substance abuse issues and unemployment. There lie many complexities with the individuals themselves, as well as with the circumstances surrounding their reintegration. These complexities reinforce the importance of resources aiding in positive reintegration.

> People are—like with the less focus on conditional discharges and that sort of thing—people are, when they're released from their warrant, from their stay in prison, it's like it just sort of, it gets caught right off. There isn't like a gradual transition back into society. So I think we're having to, sort of, in the non-profit sector kind of fill that, that void where services used to be more and more. (Interview 5)

Setting the Community up for Danger

At some point the individuals who are currently in prison are going to be released back into the general public, and while inside, if the cause and reasoning behind the crime is not properly addressed, these actions and behaviours will continue. Three main categories have been determined to be connected to the causes of crime: economic factors/poverty, social environment, and family structures (Waterloo Region Crime Prevention Council 1996). There are then the additional factors of mental illness, intergenerational trauma, and addiction (Smith 2015). All of these issues were brought up in some way by the frontline workers. Upon release, these needs are still an issue, and streets and communities are not made any safer by these

policies if the individuals are unchanged upon release. As expressed by one worker, the previous and oftentimes dangerous lives of the prisoners are waiting for them when they get out:

> The other thing is when you're released at that time, for men and women, you're released at Unicity; if you're gang involved, they're going to pick you up. So if you're hoping to get out of the gangs, that's done… And then the other thing is because our families are super fragmented here, is that you're going to go to Siloam or Salvation Army, well you better hope you can get a place at that time of night. If not, you're going to be working the street or you're going to—for women they're going to make themselves vulnerable and go to maybe a gang house. (Interview 1)

If the supports are not in place, the life they left when they entered the correctional system can lead individuals down the same path of criminal activity.

> But they all return to society, and they all spend a lot more—I mean, you only got, what federal, like 11,000 guys in jail right now, and there's over three million people with criminal records. Obviously keeping them out of the streets is not the priority. It's just ridiculous. But it's so politically driven. (Interview 7).

The Canadian Punitive Turn

Some scholars believe it is too early to tell what Harper's tactics and legislation have meant for Canada and whether or not the "tough on crime" strategy has translated into a punitive turn (Webster and Doob 2015). Researchers such as Moore and Hannah-Moffat (2005) have suggested that Canada has not necessarily launched a punitive turn, but what is happening is an increase of individualized responsibility, which is an outcome of neoliberalism. Nevertheless, drawing on the insights and experiences of those who have on-the-ground knowledge of the impact of the Harper government policies, the conclusion reached is that a punitive turn has in fact occurred, and the impact has been severe.

Though part of the explanation for the developments that have occurred may in fact be due to neoliberalism, the accounts from frontline workers have demonstrated more than just an

increase in individualized responsibility and offender accountability, as suggested by Moore and Hannah-Moffat (2005). Canada has moved from prioritizing the rehabilitation of offenders to warehousing them in prisons. Much like Meyer and O'Malley (2005) predicted could be the case with the introduction of a new conservative government, the era of punitiveness has arrived in Canada, suggesting that the 'cultural lag' thesis holds some merit.

In nearly all of the interviews, the frontline workers maintained that the changes in legislation and budget cuts have detrimentally impacted the prison population, and those who serve time along with them. Eventually, most of these prisoners will be released, and the impact of these changes means that a positive transition back into the community is becoming more and more difficult. The frontline workrs also say that this legislation has not made our streets or communities any safer and, in fact, has had the opposite effect. The Harper government and its implementation of the "tough on crime" measures have left behind a legacy that the current Liberal government must figure out how to move forward from.

CONCLUSION

Though some theorists have challenged the idea that the punitive turn thesis could be applicable to Canada, this study has demonstrated that the country is now in a punitive era as a result of the Harper government's "tough on crime" strategies. Questions arise as to how the country moves forward from this legacy. Many are hopeful that Canada is headed in a more positive direction with a Liberal government now in power. But how does this government go about changing the punitive landscape? Moving away from a system of warehousing prisoners toward one that offers support and rehabilitation is not a simple task.

Identifying the Punitive Turn

Not all commentators have viewed the punitive turn thesis as relevant to the Canadian context. Dawn Moore and Kelly Hannah-Moffat (2005) offered an alternative explanation to account for the change in Canadian penality, suggesting that a punitive era cannot exist in Canada at the same time as one that also focuses on offender accountability. Because steps had been taken to responsibilize prisoners, it was believed that programs and targeted interventions could not simultaneously exist in an era that also expressed harsh penality. Instead, according to Moore and Hannah-Moffat (2005), what we were seeing was a "liberal veil." More attention was being placed on rehabilitative measures rather than punitive ones, yet lying behind the veil was an extremely punitive system. Moore and Hannah-Moffat use the example of Correctional Service Canada, which implemented a number of changes and embraced a therapeutic stance towards punishment in the 1990s. Focus at this time was indeed on the prisoner's rehabilitation, and more funds were allocated to do so. However, Moore and Hannah-Moffat were writing before the Harper "tough on crime" legislation and the DRAP cuts came into effect. Under these conditions,

the CSC could no longer operate from a rehabilitative position due to the lack of resources and support to do so. The cuts to various programs and rehabilitation measures and the lack of programming available for prisoners were something that Moore and Hannah-Moffat did not foresee. They did, however, predict that a change in government may alter the landscape, which is exactly what happened.

Roger Matthews (2005), another critic of the punitive turn thesis, stated that what many view as punitiveness may in fact be a result of structural changes and shifting attitudes towards crime. "Punitiveness is generally viewed as an overreaction to a crime resulting in an increased range or intensity of interventions" (p. 179). From this viewpoint, harsher measures reflect society's changing attitudes towards certain behaviours that are no longer acceptable. The data collected in this study, however, support the view that "tough on crime" legislation is in fact overly harsh; punitiveness in this case is not due to a change in society's attitudes, but a change in state governance strategies. As one of the frontline workers commented,

> And that's been one of my learnings over the years, is that it's not just policy driven. It's ideological, and it's, you know, power driven, and if you put people in power that don't feel committed to those kinds of principles then, then they'll just decay. (Interview 6)

In that regard, the state form makes a difference in criminal justice policies and practices, and who is in power can affect the criminal justice system. As mentioned by Loïc Wacquant, the new punitiveness is indeed "indicative of the rise of a new and exceptional state form" (cited in Pratt et al. 2005: xxii).

According to David Garland (1990: 292), "The infliction of punishment by a state upon its citizens bears the character of a civil war in miniature—it depicts a society engaged in a struggle with itself. And though this may sometimes be necessary, it is never anything other than a necessary evil." The belief that "tough on crime" strategies are essential for the safety of the

general public helped in leading Canada to the punitive turn. The intersectionality of neoliberalism and neoconservativism created a paradox; when combined into the New Right, however, they created an environment for the "tough on crime" legislation to exist. The sovereign state, as described by Garland (1996), can only exist in limited capacity. What has happened is an increase in state intervention with the expansion of neoliberal ideology (Bosworth 2009: 239), and the combination of the two created the perfect storm for a punitive turn in Canada.

The punitive era of the Harper government has meant that despite research and strong opposition, Canadian corrections underwent a shift from rehabilitation to warehousing. Those who challenged these policies were often removed from positions of power. A total of 87 people were either forced out, publicly slandered, or fired in the first five years that Harper took office, including the Deputy Minister for Statistics Canada, the Ombudsman for the Department of National Defence and the Canadian Forces, the Parliamentary Budget Officer, and the President of the International Centre for Human Rights & Democratic Development (Gruending 2011). In the Harper Government's second term, many scientists and researchers were also fired (Stuart 2015) and, in one of the more publicized moves, the term of the Correctional Investigator, Howard Sapers, was not renewed (Memarpour, 2015).

The punitive turn also meant taking on a position that vilifies the offender rather than encourages individuals towards change and rehabilitation. The frontline workers spoke of the demonizing position that the Harper government embraced towards criminalized individuals.

> We don't stop being good Canadians and being part of the community just because we, we have a record. So part of the dialogue or part of what we're trying to say is to get people to, to—what the Harper government is doing is dehumanize, totally taking away this, this, "They're not inmates, they're, they're violent offenders that deserve everything they should get, they're violent criminals that are only getting the punishment they deserve." So,

> what we're trying to say is remind people that, that they're men and they're women and, and they have responsibilities and it's still our interest as a community that they continue to look after those responsibilities when they get out. (Interview 2)

The Harper government actively disseminated as well as enforced a retributive form of justice towards offenders throughout its tenure. As has been found in the interviews, this retributive stance is something that needs to be challenged in order to move forward. In that regard, lessons can be learned from the U.S. experience, where efforts have been made to move away from "tough on crime" policies that are costly, damaging, and ineffective.

Lessons from the U.S.

When speaking on the "tough on crime" legislation, conservative politicians from the U.S. offered some advice as well as critiques for the Harper government and its penal reform. Politicians tried to warn Canada of what could happen when taking this drastic position towards punitiveness. "You will spend billions and billions and billions on locking people up, and there will come a point in time where the public says, 'Enough!' And you'll wind up letting them out," stated Representative Jerry Madden. Judge John Creuzot of the Dallas County Court, a conservative Republican who heads the Texas House Committee on Corrections, supported this statement by commenting, "It's a very expensive thing to build new prisons and, if you build 'em, I guarantee you they will come. They'll be filled, OK? Because people will send them there, but, if you don't build 'em, they will come up with very creative things to do that keep the community safe and yet still do the incarceration necessary" (cited in Melewski 2011). This viewpoint was also supported by the workers who saw Canada's transition towards more punitive measures despite warnings from the U.S.

> Well I, I think (chuckle) unfortunately, I have to say I was extremely shocked and appalled because I spent ten years in the States saying, you know, Canada is sensible, a lot more sensible about criminal justice policies. It's not perfect, but it's more sensible than the U.S. because they have the tough on crime bills—three strikes, you're out, dah, dah, dah, on and on, mandatory minimums, all that. So, so, yeah, I guess, for me it was shocking that I came back to the Harper government pushing, pushing—more than pushing, really, ploughing through with this Omnibus Crime Bill and had many, many, many of my colleagues from the States come and testify that this is not going to work because we already know that it's a failure, and we are now moving to decarceration. That was very evident by the list of people that came to testify from the U.S. (Interview 15)

Serving as an example of how a nation can unite on penal policy from both sides are liberal Eric Holder and conservative Rick Perry. Though the two politicians do not agree on many political issues, they both were in agreement that too many Americans were being sent to prison, and they both enacted reforms to reduce the number of individuals sent to federal as well as state prisons (*The Economist* 2013). Rick Perry began the wave of reform in Texas, where the state's prison population has been steadily declining. In 2003 Perry passed a law sending people convicted of possessing less than a gram of drugs to probation rather than prison. In 2007 Texas allocated $241 million to drug-treatment and alternatives to prison for non-violent offenders. Between the years of 2003 and 2011, violent crime in the state of Texas dropped by 14.2 percent. Eric Holder held similar sentiments, and has introduced federal prison reform targeted at reducing the number of individuals given mandatory minimum sentences, and help with reintegration in hopes to reduce recidivism (*The Economist* 2013).

Many states have changed "war on drug"-related policy, and have reformed legislation from the days of mass incarceration. Over the past decade, at least 29 states have scaled back on the severity of their mandatory sentencing policies (Cornell & Porter 2016). Justice Reinvestment initiatives are growing in popularity over "three strikes"-focused policies, and have become supported by policymakers. These initiatives include establishing treatment courts,

reducing parole revocations, and developing alternatives to incarceration. Speaking specifically on the state of Delaware, Kirstin Cornnell and Nicole D. Porter (2016) state, "it is tempting to believe mandatory minimum sentencing and 'three strikes' laws will make Delaware safer. But in reality, there is little proof to show that such laws accomplish that. To the contrary, studies suggest that recidivism may actually increase with longer sentences."

As another symbol of a changing nation, former President of the United States Barack Obama granted more clemency than any other U.S. President since Harry Truman in 1953 (Gramlich & Bialik 2017); 98 percent of these offenders had been imprisoned for drug-related offences under the "war on drugs" legislation. Many were low-level drug dealers who were often charged with much more serious crimes. Sentences were also reduced for federal inmates who were convicted in all 50 states, making Obama's number of commutations unlike any other U.S. President.

Where do we go from here?

The way in which the U.S. has tried to move in the opposite direction, from warehousing to rehabilitation, is something that Canada can learn from in the difficult road ahead. Prime Minister Justin Trudeau is now left with the harsh policies of the Harper era. The Liberal government has the task of repealing the legislation that they campaigned to get rid of (Harris 2015). A criticism of the former Liberal government under Jean Chrétien was that Liberals were seen as being "soft on crime" (Mallea 2011: 57); harsher sentencing, in particular mandatory minimum sentences, was promoted as necessary in order to combat the "crime problem." During the 2006 election campaign Harper stated that prisons have turned into a Liberal "revolving door" (Progressive Conservative Party of Canada 2006: 24). The Conservative Party used this

rhetoric to promote their stance on "serious time for serious crime," and claimed that the current punishment for crimes deemed as more serious was not proportionate to the crime. This promise transformed into punitive regulations through a mass amount of bills calling for an increase in time served for various infractions. Anthony Doob described these crime bills as a "favourite toy" of the Conservative government to appeal to a certain group of Canadians (Cited in Harris 2015). So how does one find a balance?

Howard Sapers has mentioned what many of the frontline workers witnessed firsthand as the result of the Harper government policies, and he has been straightforward in addressing the need for change in his annual reports. In his 11 years as Correctional Investigator Sapers reported on the expanding prison population and the increase in Aboriginal prisoners, as well as the inadequacy of prisons to deal with the mentally ill. His recommendations serve as way in which Canada may be able to move forward post-Harper, and many of these suggestions are similar to the ways in which the U.S. changed their policy. In his 2014-15 report, Sapers (2015) discussed the reduction of parole options and the releasing of prisoners who were unprepared for reintegration. His recommendations also focused on the overall health of inmates, including their mental health, the prevalence of FASD, the issue of chronic self-harm of inmates, and the need to respond to the health needs of geriatric prisoners, releasing them back into the community when possible.

The demonization of offenders is a part of the punitive era. How Canada sees offenders has allowed for policy to be created out of emotions, rather than realities. Moving forward, Canada must change how it looks at individuals who have been criminalized. As one frontline worker remarked,

> An enormous amount of authority can be used against us, with the understanding that that authority be used with great respect and caution.

> That seems like a pretty reasonable thing to me. I mean, that's, you know, just so clearly and obviously thrown out the window for the sensational. You know, "sex offenders shouldn't be getting away with this"—statements like this, which we've heard at the Senate. Then you realize we've gone from a principle-based, rational approach to a very complex subject and to one-liners that are just, just trying to appeal to peoples' frustration or anger. (Interview 6)

An open letter from former as well as currently incarcerated individuals echoed many of the concerns raised by frontline workers and called for the newly formed Liberal government to lead the country out of a system of warehousing towards one of rehabilitation. The letter demanded that all bills passed by the Harper government concerning prisoners be overturned (Demand Prisons Change 2015). The elimination of the Faint Hope clause, as mentioned in the frontline workers' interviews, was devastating to prisoners. Its reinstatement would be positive for both workers and those to whom it applies.

Changes in the decision making power of the Parole Board were also recommended. The frontline workers stated that it is unfair to have prisoners sent back to prison for minor infractions, such as missing a curfew. The open letter made the point that the Parole Board is not a panel of judges, and therefore it is unfair to have them act as such by assigning lengthy jail sentences when the process for doing so is not representative of a trial (Demand Prisons Change 2015). Reversing policies such as these can alter the discourse of punitiveness and penality.

The workers suggested that progress requires evidence-based policy, and proof that the policies they are implementing actually work.

> I think that the criminal justice system, it should be practical. It should be results based, not just ideology based, and I think that's what's happening more and more. (Interview 3)
>
> Follow evidence, like follow evidence about crime, follow evidence about recidivism, follow evidence about harm reduction, mandatory minimums,

> like, just follow evidence. Like, evidence-based policy would make such a huge difference overall. (Interview 9)

Where the Harper government has gone wrong, according to the workers, is where the money has been allocated in reference to crime reduction. In order to "get tough on crime" the funds must be directed towards areas that focus on areas such as prevention. As stated by this respondent:

> That's funding. So they're, they're talking about "Oh, how we're going to be tough on crime," but at the same time, they're not funding in specific areas that have impact on risk, risk assessment. (Interview 4)

The workers stressed that in order to have true success for the rehabilitation of offenders, supports for proper reintegration need to be in place.

> When people just suddenly finish incarceration and are expected to land back on their feet in society, I mean, it's just such a, a sudden abrupt change. It's just like a complete shock. In many instances, these people have lost their, their housing; in fact, unless it was a very short stay, they've almost always lost their housing. And going along with that, they've often lost all of their possessions, too. Like they can't pay their rent, so the landlord after a certain amount of time has the right to just clear out all their belongings, throw it out. Very often they've lost all their, basically, their social network. So they're released from prison. They have no possessions, no job, no housing. Basically their option is just to stay on the street, and, I mean, before you know it they're back with the people that they used to, you know, hang out with, doing the things that ended them up in, in prison in the first place. So it turns into what's called like a revolving door situation. (Interview 3)

This position was also reiterated by the prisoners who sent a letter to Justin Trudeau, which stated that community-based treatment programs and restorative justice ideals would be considerably more beneficial than traditional prisons. Because of DRAP and lack of funding to the CSC, proper reintegration is not being actualized. Also, parole violations result in being sent back to jail rather than serving time in the community, which delays reintegration and makes it even more difficult for prisoners to be successful once they are eventually released.

The workers mentioned that comprehensive approaches that take into account the interrelated challenges prisoners face once released are the way to help fight recidivism. If there are no supports in place, chances of reoffending increase. Thorough, integrated, multi-agency programs need to coordinate with one another in order to address the lack of resources or assistance available to those leaving prison. The absence of supports and the lack of coordination between agencies in the criminal justice and social service systems have meant that many individuals are leaving prison or jail without any connection to support services and assistance from government agencies and community organizations.

> It would be amazing if we could come up with some way to sort of have some sort of a substitute for the missing transitional services. (Interview 5)

Signs of Change

One promising sign that a shift in the penal landscape is possible is the reluctance of the courts to implement the Harper "tough on crime" agenda. Several recent court decisions have declared elements of the strategy to be unconstitutional. In April 2014, the Supreme Court, in a unanimous decision, ruled that the credit given for time served in pre-trial custody should normally be 1.5-to-1—not the 1-to-1 that was imposed in the *Truth in Sentencing Act* (Fine cited in Comack, Fabre, and Burgher 2015: 32). In April 2015, the Court struck down the mandatory minimum sentences of three years for illegal gun possession and five years for possession by people with repeat weapons offences, saying that they amount to cruel and unusual punishment (Fine cited in Comack, Fabre, and Burgher 2015: 32). That same month, the Court ruled that a mandatory one-year minimum sentence for a drug crime when the offender has a similar charge on their record also constituted cruel and unusual punishment, and a violation of section 12 of the Charter of Rights and Freedoms (*R. v. Lloyd* 2016). Lower court judges have been declaring

other mandatory minimum sentences to be unconstitutional. In January 2014, a B.C. judge ruled mandatory minimum sentences for repeat drug offenders violate their Charter rights (Meuse cited in Comack, Fabre, and Burgher 2015: 32).

Similarly, a B.C. court judge recently ruled against another one of the Harper government's amendments. In 2010, Parliament changed the Criminal Records Act to amend the waiting period of people convicted of indictable offences applying for a criminal record suspension from five years to 10. This amendment was also retroactively applied for those who applied for pardons before this change in legislation had taken place. The workers spoke of how this change has only contributed to the warehousing offenders while at the same time neglecting their rehabilitation needs.

> Every person applying for a pardon has waited a minimum of five years, and now it has to be ten without offending at all…They are no longer that person. And, frankly, we want to encourage them not to be that person anymore… And the government, it's, it's just, basically, they've introduced this idea "once a thug, always a thug; once a crook, always a crook." And so, how does that help? And, of course taking money away for rehabilitation inside the correctional centres. (Interview 2)

B.C. Supreme Court Justice Heather MacNaughton shared these same sentiments, stating that, "I am not satisfied that the Crown has established a rational connection between the increased ineligibility periods and additional criteria and the enhancement of public safety or support for the sustained rehabilitation of individuals with criminal records" *(Chu v. Canada (Attorney General)* 2017*).* In April 2017, MacNaughton ruled that this change was unconstitutional, and that the changes to retroactively lengthen the waiting time for prisoners to apply for pardons violated offenders' rights to not have their punishment increased after they've been sentenced *(Chu v. Canada (Attorney General)* 2017*).* This change has also encouraged the

B.C. court to look at other areas of legislation, including changes to the record suspension process.

Undoing the Harper government's legacy has been a stated priority of the new Liberal government. Immediately after the federal election, newly sworn-in Justice Minister Jody Wilson-Raybould spoke on the subject of mandatory minimum sentences: "I recognize the need to empower judges and to uphold the discretion that judges have in particular circumstances, and [will be] looking more fundamentally or broadly at the criminal justice system in terms of restorative justice and rehabilitation" (cited in Heuser 2015). The workers agreed with this sentiment in relation to the issue of mandatory minimum sentences.

> And so a safety valve basically gives back a certain level of discretion to judges… Creating [a] safety valve as a way for judges to restore their discretion. I think that the best thing to do. (Interview 15)

Data accessed by the *Globe and Mail* also provide cause for optimism that change is possible with the new government. During its first twelve months in power, prisoner suicides declined by 69.2 percent, attempted suicides by 54.4 percent, double-bunking by 24 percent, serious bodily injuries by 12.6 percent, and internal complaints by 27.6 percent (White 2017). Also significant, more prisoners are now being released on parole. "A 27.6-per-cent dip in rates of full parole during the Harper regime turned into a 12.4-per-cent rise under Mr. Trudeau" (White 2017).

Concluding Remarks

The frontline workers interviewed for this study have provided a voice that has been missing in the discussion of whether Canada has undergone a punitive turn. Learning from these workers

about the impact of the Harper Government's "tough on crime" strategy has provided support for the claim that a punitive turn has occurred in Canada. As summarized by this worker:

> And it really comes down to, like, the punitive approach, which is not very explicitly stated but explicitly lived out. (Interview 12)

The contributions of the workers have allowed a look into the lives of criminalized individuals who are often times overlooked and forgotten. Ultimately, Canada's prisons are places of retribution, but prisoners can be given the opportunities for change while they are inside.

> When you're in prison, you can either—it's a great, it's a great place, it's a great place of opportunity, and I find that prison doesn't leave you the way it took you. You're either better or you're worse. You can be more hardened. You have some new strategies for crime, or you can be really desirous of turning things around. And often programming within the prison helps that. (Interview 10)

The workers also provided insights as to how this punitive turn could be amended moving forward. Lessons from Canada's neighbour to the south as well as recognition of the economic and social costs of these policies give weight to the standpoint of the workers. Harsh penal policies have been an expensive lesson for the U.S., and one that Canada has repeated. Whether the Liberal government will succeed in altering the path that has been set down by the Harper legacy is yet to be seen, as there exists little documentation so far on changes to legislation and policy; however, the movements made so far are encouraging and demonstrate that the turn to punitiveness can be rectified.

References Cited

Akin, D. (2015). For the record: Text of PM rally speech in Orleans. *On the Hill*. Retrieved from http://blogs.canoe.com/davidakin/politics/for-the-record-text-of-pm-rally-speech-in-orleans/

Alexander, M. (2013). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press.

Basen, I. (2009). Conditional sentencing in Canada. *CBC News*. Retrieved from http://www.cbc.ca/news/canada/conditional-sentencing-in-canada-1.789988

BBC News (2016).| *In depth world prison populations*. Retrieved from http://news.bbc.co.uk/2/shared/spl/hi/uk/06/prisons/html/nn2page1.stm

[BCCLA] British Columbia Civil Liberties Association. n.d. "By the Numbers: Facts about the Costs of Tough on Crime Measures." Retrieved from https://bccla.org/wp-content/uploads/2014/09/Mandatory-Minimums-By-the-Numbers.pdf

Beckett, K. (1997). *Making crime pay*. New York: Oxford University Press.

Beeby, D. (2011). Ottawa study praising 'faint hope' clause for murderers never released. (May 8). *The Globe and Mail*. Retrieved from http://www.theglobeandmail.com/news/politics/ottawa-study-praising-faint-hope-clause-for-murderers-never-released/article1322268/

Beeby, D. & Barton, R. (2015). Mounties spend far less than budgeted to fight online child porn. *Cbc.ca*. Retrieved from http://www.cbc.ca/news/politics/child-porn-policing-program-suffers-from-rcmp-underspending-1.2963885

Boyce, J. (2015). *Police-reported crime statistics in Canada, 2014*. Ottawa: Statistics Canada. Retrieved from http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14211-eng.htm

Brewster, M. (2015). Brain drain, staff cuts, red tape blamed for dysfunctional DND purchasing. *Cbc.ca*. Retrieved from http://www.cbc.ca/beta/news/politics/defence-procurement-delays-cost-overruns-caused-by-staffing-cuts-1.2900150

Brosnahan, M. (2013). Canada's prison population at all-time high. *CBC News*. Retrieved from http://www.cbc.ca/news/canada-s-prison-population-at-all-time-high-1.2440039

Canadian Bar Association. (2007). *Bill C-2 Tackling Violent Crime Act*. Ottawa: National Criminal Justice Section.

Cannabisfacts.ca. (2015). *Cannabis Facts for Canadians > Omnibus Crime Bill C-10: mandatory minimum sentences for "organized" drug crimes*. Retrieved from http://www.cannabisfacts.ca/mandatoryminimums.html

CBC News. (2012a). Feds on collision course with courts over omnibus crime law. (September 23). Retrieved from http://www.cbc.ca/news/politics/feds-on-collision-course-with-courts-over-omnibus-crime-law-1.1245486

_____. (2012b). Prison rehab program axed due to budget cuts. (April 16). Retrieved from http://www.cbc.ca/news/canada/prison-rehab-program-axed-due-to-budget-cuts-1.1179484

_____. (2012c). What worries critics about omnibus crime bill. (March 4). Retrieved from http://www.cbc.ca/news/canada/what-worries-critics-about-omnibus-crime-bill-1.1244907

CCPA-MB & The John Howard Society of Manitoba. (2012). *The Truth About Consequences*. Retrieved from https://www.policyalternatives.ca/publications/reports/bill-c-10-truth-about-consequences

Clancy, N. (2015). Prison food cutbacks have inmates complaining of sickness, malnutrition. (March 11). *CBC News*. Web. http://www.cbc.ca/news/canada/british-columbia/prison-food-after-cutbacks-called-disgusting-and-inadequate-by-b-c-inmates-1.2989657

Cohen, Stanley (1979). The Punitive City: Notes On The Dispersal Of Social Control. *Contemporary Crises* 3(4): 339-363.Comack, E. (ed.). (2014). *Locating Law: Race/class/gender/sexuality connections* (3rd ed.). Halifax & Winnipeg: Fernwood Publishing.

Congress.gov. (2010). *S.714 - 111th Congress (2009-2010): National Criminal Justice Commission Act of 2010 | Congress.gov | Library of Congress*. Retrieved from https://www.congress.gov/bill/111th-congress/senate-bill/714

Cook, A. & Roesch, R. (2012). "Tough on crime" reforms: What psychology has to say about the recent and proposed justice policy in Canada. *Canadian Psychology/Psychologie Canadienne* 53(3): 217-225. http://dx.doi.org/10.1037/a0025045

[CSC] Correctional Service Canada (2003) *Estimates Part 3 - Report on Plans and Priorities*. Retrieved from http://publications.gc.ca/collections/collection_2015/scc-csc/PS81-11-2003-eng.pdf

_____. 2010. Section 2: *The Mandate, Mission and Priorities of the Correctional Service of Canada*. Speakers Binder. http://www. csc-scc.gc.ca/text/pblct/sb-go/pdf/2-eng.pdf

_____. (2012a). *CCRA Guiding Principles*. Ottawa. Retrieved from http://www.csc-scc.gc.ca/acts-and-regulations/005006-1003-eng.shtml

_____. (2012b). *Enhancing Offender Responsibility and Accountability*. Ottawa. Retrieved from http://www.csc-scc.gc.ca/acts-and-regulations/005006-1005-eng.shtml

_____. (2013). *Annual Report of the Access to Information Act 2012-2013*. Ottawa. Retrieved from http://www.csc-scc.gc.ca/007/006/007006-1009-eng.shtml

_____. (2014a). *Correctional Programs.* Ottawa. Retrieved from http://www.csc-scc.gc.ca/correctional-process/002001-2001-eng.shtml

_____. (2014b). *CSC Commissioner's Directive 705-7. Security Classification and Penitentiary Placement*. Ottawa. Retrieved from http://www.csc-scc.gc.ca/acts-and-regulations/705-7-cd-eng.shtml#s8

_____. (2015a). *United Nations Standard Minimum Rules for the Treatment of Prisoners* 1975. Ottawa. Retrieved from http://www.csc-scc.gc.ca/text/pblct/rht-drt/07-eng.shtml

_____. (2015b). *Inmate Accommodation*. Ottawa. Retrieved from http://www.csc-scc.gc.ca/acts-and-regulations/550-cd-eng.shtml

_____. (2015c). *2015 Corrections and Conditional Release Statistical Overview*. Ottawa. Retrieved from https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/ccrso-2015/index-en.aspx

Correctional Services Program. (2015). *Adult correctional statistics in Canada, 2013/2014*. Ottawa. Retrieved from http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14163-eng.htm

The Daily Beast. (2013). Bringing back the chain gang and other crazy legislative proposals. Retrieved from http://www.thedailybeast.com/articles/2013/03/24/bringing-back-the-chain-gang-and-other-crazy-legislative-proposals.html

Demand Prisons Change. (2015). *Dear Liberal governnment: A letter from prisoners* Retrieved from https://demandprisonschange.wordpress.com/

Death Penalty Information Center (2016). *Facts about the Death Penalty*. Retrieved from http://www.deathpenaltyinfo.org/documents/FactSheet.pdf

De Blonde, K. (2010). *Youth Voices: Harper's Crime Strategy*. Ottawa: Canadian Centre for Policy Alternatives. Retrieved from https://www.policyalternatives.ca/publications/commentary/youth-voices-harper%E2%80%99s-crime-strategy

Delacourt, S. (2015). How will history remember Stephen Harper? *The Toronto Star*. (September 6). Retrieved from http://www.thestar.com/news/insight/2013/09/06/how_will_history_remember_stephen_harper.html

Elizabeth Fry Society of Manitoba. (n.d.). *Advocacy, Support and Resources for Women in the Provincial and Federal Justice System.* Winnipeg. http://www.efsmanitoba.org/womeninprison.page

Ernst, T. (2011). 10 reasons to oppose Bill C-10. *Toronto Star*. (November 14). Retrieved from https://www.thestar.com/opinion/editorialopinion/2011/11/14/10_reasons_to_oppose_bill_c10.html

Fitzpatrick, M. (2012a). Inmates to pay more for room and board. *CBC News*. (May 9). Retrieved from http://www.cbc.ca/news/politics/inmates-to-pay-more-for-room-and-board-1.1156979

_____. (2012b). Federal prison closures blasted by union. *CBC News*. (April 19). Retrieved from http://www.cbc.ca/news/politics/federal-prison-closures-blasted-by-union-1.1130116

_____. (2012c) Tories' crime bill clears Parliament. *CBC News*. (March 12). Retrieved from http://www.cbc.ca/news/politics/tories-crime-bill-clears-parliament-1.1166274

Flanagan, T. (2007). *Harper's Team*. Montreal: McGill University Press.

Foucault, M. (1995). *Discipline and punish*. New York: Vintage Books.

Foucault, M. & Rabinow, P. (2010). *The Foucault reader*. New York: Vintage Books.

Fournier-Ruggles, L. (2011). The cost of getting tough on crime: Isn't prevention the policy answer? *Journal of Public Policy, Administration and Law* 2: 19-28.

Gamble, A. (1988). *The free economy and the strong state*. Durham: Duke University Press.

Garland, D. (1990). *Punishment and modern society*. Chicago: The University of Chicago Press.

_____. (1996). The limits of the sovereign state: Strategies of crime control in contemporary society. *British Journal of Criminology* 36(4): 445-471.

_____. (2000). The Culture of High Crime Societies. *British Journal of Criminology, 40*(3), 347-375.

_____. (2001). *The culture of control*. Chicago: University of Chicago Press.

_____. (2003). The rise of risk. In R. Erickson & A. Doyle, *Risk and Morality* (pp. 48-87). Toronto: University of Toronto Press. Retrieved from http://www.antoniocasella.eu/nume/garland_risk_2003.pdf

Garland, D. & Young, P. (1983). *The power to punish*. London: Heinemann Educational Books.

Gibbons, J. & Katzenbach, N. (2006). Confronting confinement: A report of the Commission on Safety and Abuse in America's prisons. *Washington University Journal of Law & Policy* 24(1).

Goode, E. (1989). *Drugs in American society*. New York: Knopf.

Government of Canada. (1982). *Criminal law in Canadian society*. Ottawa: Government of Canada.

Gramlich, J., & Bialik, K. (2017). Obama used clemency power more often than any president since Truman. Washington, D.C.: Pew Research Center. Retrieved from http://www.pewresearch.org/fact-tank/2017/01/20/obama-used-more-clemency-power/

Greenspan, E., & Doob, A. (2012). Marketing mindset shapes Stephen Harper's anti-crime agenda. *Toronto Star*. (August 26). Retrieved from http://www.thestar.com/opinion/editorialopinion/2012/08/26/marketing_mindset_shapes_stephen_harpers_anticrime_agenda.html

Greenspan, E., & Doob, A. (2017, September 12). The Harper Doctrine: Once a Criminal, Always a Criminal. *The Walrus*. Retrieved from https://thewalrus.ca/the-harper-doctrine/

Griffiths, C., Dandurand, Y., & Murdoch, D. (2007). *The Social Reintegration of Offenders and Crime Prevention*. Ottawa: National Crime Prevention Centre (NCPC) Public Safety Canada. Retrieved from https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/scl-rntgrtn/scl-rntgrtn-eng.pdf

Gruending, D. (2015). Stephen Harper's firing range: A list of 87 organizations and people attacked in five years. *Rabble.ca*. Retrieved from http://rabble.ca/news/2011/04/stephen-harpers-firing-range-list-87-organizations-and-people-attacked-five-years

H.R.663 - 104th Congress (1995-1996): No Frills Prison Act. (2016). *Congress.gov*. Retrieved from https://www.congress.gov/bill/104th-congress/house-bill/663

Hall, S. (2001). Foucault: Power, knowledge, and discourse. In M. Wetherell, S. Taylor & S. J. Yates (eds.), *Discourse, theory and practice: A reader* (pp. 72-81). London: Sage Publications Ltd.

Harris, K. (2011). Fewer inmates getting temporary absence passes. *Toronto Sun*. (February 11). Retrieved from http://www.torontosun.com/news/canada/2011/02/11/17243306.html

_____. (2015). Liberal justice: Experts expect less punitive, more principled approach to crime. *CBC News*. (October 29). Retrieved from http://www.cbc.ca/news/politics/canada-trudeau-liberal-justice-crime-marijuana-1.3292965

Hawdon, J. (2001). The role of Presidential rhetoric in the creation of a moral panic: Reagan, Bush, and the War on Drugs. *Deviant behavior* 22(5), 419-445. http://dx.doi.org/10.1080/01639620152472813

Henning, K. (2009). What's wrong with victims' rights in juvenile court? Retributive v. rehabilitative systems of justice. *California Law Review* 97: 1107-1170.

Heuser, L. (2015). Liberals are starting to dismantle the Conservatives' legal legacy in Canada. *VICE News*. Retrieved from https://news.vice.com/article/liberals-are-starting-to-dismantle-the-conservatives-legal-legacy-in-canada

Home Office Development and Practice Report. (2004). *Defining and measuring anti-social behaviour*. London: Communication Development Unit.

Hunt, A. (1992). Foucault's expulsion of law: Toward a retrieval. *Law & Social Inquiry* 17(1), 1. http://dx.doi.org/10.1086/492363

International Association of Machinists and Aerospace Workers. (2016). Keep these Jobs in Canada – Stop Bill C-10. Retrieved from http://www.marketwired.com/press-release/iamaw-keep-these-jobs-in-canada-stop-bill-c-10-2114998.htm

Jackson, M. & Stewart, G. (2009). *A Flawed Compass: A Human Rights Analysis of the Roadmap to Strengthening Public Safety*. Retrieved from http://www.justicebehindthewalls.net/resources/news/flawed_Compass.pdf

Johnson, K. (2013). What legislation will 'die' when Harper prorogues Parliament? *The Hook, A Tyee blog. The Tyee*. Retrieved from http://thetyee.ca/Blogs/TheHook/2013/08/19/Prorogued-Legislation/

Kaschor, K. (2016). High phone bills ahead For Manitoba jail inmates, families under new rates. *CBC News*. (October 17). Retrieved from http://www.cbc.ca/news/canada/manitoba/manitoba-corrections-phones-inmates-1.3806686

Khandaker, T. (2016). A Canadian Jail is So Overcrowded That Inmates Have Been Sleeping in Showers. *VICE News.* Retrieved from https://news.vice.com/article/a-canadian-jail-is-so-overcrowded-that-inmates-have-been-sleeping-in-showers

Kong, R. & Peters, V. (2008). Remand in adult corrections and sentencing patterns. *Juristat*. Canada. Retrieved from http://www.statcan.gc.ca/pub/85-002-x/2008009/article/10706-eng.htm

Korten, David. (2001). *When Corporations Rule the World.* West Hartford: Kumarian Press.

La Prairie, C. *Conditional Sentencing: Final Report*. Ottawa: Department of Justice Canada, 1999.

Latimer, C. (2015). How we created a Canadian prison crisis. *Toronto Star.* (October 4). Retrieved from https://www.thestar.com/opinion/com.mentary/2015/10/04/how-we-created-a-canadian-prison-crisis.html

Larner, W. (2000). Neo-liberalism: Policy, ideology, governmentality. *Studies in Political Economy* 63: 5-25.

LoBianco, T. (2016). Report: Aide says Nixon's war on drugs targeted blacks, hippies. *CNN*. Retrieved from http://www.cnn.com/2016/03/23/politics/john-ehrlichman-richard-nixon-drug-war-blacks-hippie/

Lopez, Ian. 2010. Post-racial racism: Racial stratification and mass incarceration in the age of Obama." *California Law Review* 98 (3): 1030.

MacCharles, T. (2007). Correctional Service of Canada Criticizes Tory Tough On Crime Policies. *Prison Justice*. Retrieved from http://www.prisonjustice.ca/starkravenarticles/csc_toughoncrime_0107.html

_____. (2014). Supreme Court restores credit for pre-trial jail time. *Toronto Star*. Retrieved from https://www.thestar.com/news/canada/2014/04/11/supreme_court_restores_credit_for_pretrial_jail_time.html

Mackay, R. (2010). *Ending Conditional Sentences for Property and Other Serious Crimes Act*. *Legislative Summary*. Retrieved from http://www.lop.parl.gc.ca/content/lop/researchpublications/prb0544-e.htm

McKay, R. (2005). *Conditional Sentences (PRB 05-44E)*. (December 21). Ottawa: Library of Parliament. Retrieved from http://www.lop.parl.gc.ca/content/lop/researchpublications/prb0544-e.htm

McVay, D.A. (ed.) (2016). Mandatory Minimums & the Federal Sentencing Guidelines. *Drug War Facts*. Retrieved from http://www.drugwarfacts.org/cms/Mandatory_Minimum_Sentencing#sthash.uEM2lMSk.dpbs

Madondo, O. (2014). Harper's inhumane mandatory minimums don't reduce crime. *The Canadian Progressive*. Retrieved from http://www.canadianprogressiveworld.com/2014/09/09/harpers-inhumane-mandatory-minimums-dont-reduce-crime/

Maher, S. (2015). Maher: Stephen Harper's 'tough-on-crime' policies are doomed to fail. *canada.com*. (January 2). Retrieved from http://o.canada.com/news/national/maher-stephen-harpers-tough-on-crime-policies-are-doomed-to-fail

Mallea, P. (2011). *Fearmonger*. Toronto: James Lorimer & Company Ltd.Matthews, R. (2005). The myth of punitiveness. *Theoretical Criminology*, 9(2), 175-201. http://dx.doi.org/10.1177/1362480605051639

Mauer, M. & Huling, T. (1995). *Young Black Americans and the Criminal Justice System: Five Years Later*. Washington: The Sentencing Project.

Mauer, M. (1999). *Race to incarcerate*. New York: New Press.

Memarpour, P. (2015). Correctional Investigator, Howard Sapers, fired after 11 years as Prison Watchdog. *Pardon Applications of Canada*. (June 2). Retrieved from https://www.pardonapplications.ca/articles/correctional-investigator-howard-sapers-fired-11-years-prison-watchdog/

Meyer, J. & O'Malley, P. (2005). Missing the punitive turn? Canadian criminal justice, 'balance' and penal modernism. In J. Pratt, D. Brown, M. Brown, S. Hallsworth & W. Morrison (eds.), *The New Punitiveness - Trends, theories, perspectives* (1st ed., pp. 201-217). Portland: Willan Publishing.

Milewski, T. (2011). Texas conservatives reject Harper's crime plan. *CBC News*. (October 17). Retrieved from http://www.cbc.ca/news/politics/texas-conservatives-reject-harper-s-crime-plan-1.1021017

Moore, D. & Hannah-Moffat, K. (2005). The liberal veil: revisiting Canadian penality. In J. Pratt, D. Brown, M. Brown, S. Hallsworth & W. Morrison (eds.), *The New Punitiveness - Trends, theories, perspectives* (1st ed., pp. 201-217). Portland: Willan Publishing.

National Institute of Justice. (n.d.). *Adult Boot Camps*. *Crime Solutions*. Retrieved from https://www.crimesolutions.gov/PracticeDetails.aspx?ID=5

NEWS 1130. (2012). Deadly Toronto shooting deja vu for tough-on-crime Harper Conservatives. *NEWS 1130*. (June 4). Retrieved from http://www.news1130.com/2012/06/04/deadly-toronto-shooting-deja-vu-for-tough-on-crime-harper-conservatives/

Nunn, K. (2002). Race, crime, and the pool of surplus criminality: Or why the "war on drugs" was a "war on Blacks." *The Journal of Gender, Race & Justice*, *6*.

O'Connor, B. (2004). *A political history of the American welfare system*. Lanham, Md.: Rowman & Littlefield.

Office of the Auditor General of Canada. (2014a). *Chapter 4—Expanding the Capacity of Penitentiaries—Correctional Service Canada*. Retrieved from http://www.oag-bvg.gc.ca/internet/English/parl_oag_201405_04_e_39335.html

_____. (2014b). *2014 Spring Report of the Auditor General of Canada*. Ottawa. Retrieved from http://www.oag-bvg.gc.ca/internet/English/parl_oag_201405_04_e_39335.html

_____ (2015). *Report 6—Preparing Male Offenders for Release—Correctional Service Canada*. Ottawa: Office of the Auditor General. Retrieved from http://www.oag-bvg.gc.ca/internet/docs/parl_oag_201504_06_e.pdf

Office of the Correctional Investigator. (2015). *Annual Report of the Office of the Correctional Investigator 2013-2014*. Ottawa. Retrieved from http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20142015-eng.pdf

Office of the Information Commissioner of Canada. (2016). *Deficit Reduction Action Plan*. Ottawa. Retrieved from http://www.oic-ci.gc.ca/eng/abu-ans_cor-inf-inf-cor_drap-pard.aspx

Office of the Parliamentary Budget Officer. (2010). *Bill C-16 An Act to amend the Criminal Code (Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act)*. Retrieved from http://www.pbo-dpb.gc.ca/files/files/Research%20Resources/Bill_C-16_en.pdf

Olsen, G. (2011). *Power & inequality*. Toronto: OUP Canada.

O'Malley, P. (2010). *Crime and risk*. Los Angeles: SAGE.

_____. (1999). Volatile and Contradictory Punishment. *Theoretical Criminology*, *3*(2), 175-196.

Parl.gc.ca. (2010). *Legislative Summary of Bill S-10: An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts*. Retrieved from http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?Language=E&ls=s10&Parl=40&Ses=3&source=library_prb

_____. (2012). *House Government Bill - C-10, Royal Assent (41-1)*. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5465759

_____. (2015). *LEGISinfo - House Government Bill C-51 (41-2)*. Retrieved from http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&Bill=C51&Parl=41&Ses=2

_____. (2009). *Legislative Summary of Bill C-36: An Act to amend the Criminal Code (Serious Time for the Most Serious Crime Act)*. Retrieved from http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?lang=E&ls=c36&Parl=40&Ses=2&source=library_prb

_____. (2010). *Legislative Summary of Bill C-4: An Act to amend the Youth Criminal Justice Act and to make consequential and related amendments to other Acts*. Retrieved from http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?Language=E&ls=c4&Parl=40&Ses=3&source=library_prb

Pavlich, G. (2011). *Law & society redefined*. Don Mills, Ont.: Oxford University Press.

Pratt, J., Brown, D., Brown, M., Hallsworth, S., & Morrison, W. (eds.). (2005). *The new punitiveness: Trends, theories, perspectives* (1st ed.). Cullompton, Devon: Willan Publishing.

Pew Research Center for the People and the Press. (2014). *America's New Drug Policy Landscape*. Retrieved from http://www.people-press.org/2014/04/02/americas-new-drug-policy-landscape/

Peyton, L. (2012). 5 things to know about public service job cuts. *CBC News.* (April 5). Retrieved from http://www.cbc.ca/news/politics/5-things-to-know-about-public-service-job-cuts-1.1266312

Porter, N., & Cornnell, K. (2016). Delaware can lead the way on sentencing reform. *delawareonline*. Retrieved from http://www.delawareonline.com/story/opinion/contributors/2016/03/23/delaware-can-lead-way-sentencing-reform/82166064/

Postmedia News. (2012). *Tories use majority to pass omnibus crime bill*. *National Post*. Retrieved from http://news.nationalpost.com/news/canada/contentious-tory-crime-bill-passes-as-countrys-biggest-provinces-voice-concerns-over-costs

Pratt, J. (2002). *Punishment and civilization*. London: SAGE.

_____. (2005). *The new punitiveness*. Cullompton, Devon: Willan Publishing.

Press, J. (2016, April 15). *SCC says two tough-on-crime laws are unconstitutional*. *CTVNews*. Retrieved from http://www.ctvnews.ca/canada/scc-says-two-tough-on-crime-laws-are-unconstitutional-1.2860487

Privy Council Office. (2003). *Guide to Making Federal Acts and Regulations: Part 1 - Law-making Framework - 1.2 Legal Considerations*. Retrieved from http://www.pco-bcp.gc.ca/index.asp?lang=eng&page=information&sub=publications&doc=legislation/chap1.2-eng.htm

Public Safety Canada. (2007). *The Social Reintegration of Offenders and Crime Prevention*. Ottawa. Retrieved from https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/scl-rntgrtn/index-en.aspx#s24

Rehm, J., Ballunas, D., Brochu, S., Fischer, B., Gnam, W., & Patra, J. et al. (2006). *The Costs of Substance Abuse in Canada 2002*. Ottawa: CCSA. Retrieved from http://www.ccsa.ca/Resource%20Library/ccsa-011332-2006.pdf

Rose, N., O'Malley, P., & Valverde, M. (2006). Governmentality. *Annual Review of Law and Social Science, 2*(1), 83-104.

Ross, J. & Wacquant, L. (2013). *The globalization of supermax prisons*. New Brunswick: Rutgers University Press.

Simpson, J. (2015). Americans get tough on 'tough on crime' policy. *The Globe and Mail*. (May 9). Retrieved from http://www.theglobeandmail.com/globe-debate/americans-get-tough-on-tough-on-crime-policy/article24330216/

Smith, A. (2015). Mandatory minimum sentences are bad for communities. *Pivot Legal Society*. (January 26). Retrieved from http://www.pivotlegal.org/mandatory_minimum_sentences_are_bad_for_communities

Statistics Canada. (2006). *Outcomes of probation and conditional sentence supervision.* Retrieved from http://www.statcan.gc.ca/daily-quotidien/061215/dq061215b-eng.htm

_____. (2015). *Canada's crime rate: Two decades of decline*. Retrieved from http://www.statcan.gc.ca/pub/11-630-x/11-630-x2015001-eng.htm

_____. (2016). *Adult correctional statistics in Canada, 2014/2015*. Ottawa. Retrieved from http://www.statcan.gc.ca/pub/85-002-x/2016001/article/14318-eng.htm

Stuart, J. (2015). *Another federal scientist fired in Harper's ongoing war on science*. *National Observer*. Retrieved from http://www.nationalobserver.com/2015/07/20/opinion/another-federal-scientist-fired-harpers-ongoing-war-science

Tackling Violent Crime Act. (2016). *Laws-lois.justice.gc.ca*. Retrieved from http://lawslois.justice.gc.ca/eng/annualstatutes/2008_6/page-1.html

The Economist. (2013). An unlikely alliance of left and right. (August 17). Retrieved from http://www.economist.com/news/united-states/21583701-america-waking-up-cost-mass-incarceration-unlikely-alliance-left-and

The Registration and Community Notification of Adult Sexual Offenders | ATSA. (2010). *Atsa.com*. Retrieved from http://www.atsa.com/registration-and-community-notification-adult-sexual-offenders

Tonry, M. (1996). *Sentencing matters*. New York: Oxford University Press.

US Legal.com (2016). *Truth in Sentencing Law & Legal Definition*. Retrieved from http://definitions.uslegal.com/t/truth-in-sentencing/

United Nations Human Rights Committee. (2013). *Sixth Periodic report of Canada*. New York: United Nations. Retrieved from http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskswUHe1nBHTSwwEsgdxQHJWkYZjIUDFTA%2fqrtth9m%2fjDiefrZIBF03corNAQ%2fcKmvb%2ffS6R%2fGuzU7gON2EpblHIIs%2bfikxXelM40DS4M1aB

United States Department of Justice. (2014). Attorney General Holder Urges Changes in Federal Sentencing Guidelines to Reserve Harshest Penalties for Most Serious Drug Traffickers. (March 14). Retrieved from https://www.justice.gov/opa/pr/attorney-general-holder-urges-changes-federal-sentencing-guidelines-reserve-harshest

Valverde, M. (2010). Specters of Foucault in Law and Society Scholarship. *Annual Review Of Law And Social Science*, *6*(1), 45-59.

Wacquant, L. (2009). *Prisons of poverty*. Minneapolis: University of Minnesota Press.
_____. (2009). *Punishing the poor*. Durham [NC]: Duke University Press.

Waller, I. & Kempa, M. (2015). Stephen Harper's empty promises to victims of crime. *Toronto Star*. (August 3). Retrieved from https://www.thestar.com/opinion/commentary/2015/08/03/stephen-harpers-empty-promises-to-victims-of-crime.html

Waterloo Region Crime Prevention Council. (1996). *The root causes of crime*. Retrieved from http://preventingcrime.ca/wp-content/uploads/2014/08/Causes_of_Crime.pdf

Webster, C. & Doob, A. (2006). Countering punitiveness: Understanding stability in Canada's imprisonment rate. *Law & Society Review* 40 (2), 325-368. http://dx.doi.org/10.1111/j.1540-5893.2006.00266.x

_____. (2015). US punitiveness 'Canadian style'? Cultural values and Canadian punishment policy. *Punishment & Society* 17(3), 299-321. http://dx.doi.org/10.1177/1462474515590893

Wright, E. O. 2002. The shadow of exploitation in Weber's class analysis. *American Sociological Review* 67 (6): 832.

Yourlaws.ca. (n.d.). *718.2. Other sentencing principles. Criminal Code of Canada*. Retrieved from http://www.yourlaws.ca/criminal-code-canada/7182-other-sentencing-principles

Case Law and Legislation Cited

Bill C–2: Tackling Violent Crime Act (An Act to amend the Criminal Code and to Make Consequential Amendments to other Acts), Second Session, 39th Parliament, 2007–2008 (Royal Assent 28 February 2008), S.C. 2008, c.6.

Bill C–10: Safe Streets and Communities Act (An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts), First Session, 41st Parliament, 2011–12 (Royal Assent 13 March 2012), S.C. 2012, c.1.

Bill C-16: Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act (An Act to amend the Criminal Code). Third Session 40th Parliament, 2010.

Bill C-23A: *Limiting Pardons for Serious Crime Act*, (An Act to Amend the Criminal Records Act) Third Session, 40th Parliament, 2010 (Royal Assent 29 June 2010).

Bill C-23B: *Eliminating Pardon for Serious Crimes Act* (An Act to Amend the Criminal Records Act and to make consequential amendments to other Acts) Third Session, 40th Parliament, 2010.

Bill C–25: Truth in Sentencing Act (An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody). Second Session, 40th Parliament, 2009 (Royal Assent 22 October 2009), S.C. 2009, c.29.

Bill C–59: Abolition of Early Parole Act (An Act to amend the Corrections and Conditional Release Act (accelerated parole review) and to make consequential amendments to other Acts). Third Session 40th Parliament, 2010–11 (Royal Assent 23 March 2011), S.C. 2011, c.11, s. 10(1).

Bill S–6: Faint Hope Clause (An Act to amend the Criminal Code and another act). Third Session, 40th Parliament, 2010–11 (Royal Assent 23 March 2011), S.C. 2011, c. 2.

Bill S-10: Penalties for Organized Drug Crime Act (An Act to Amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts). Third Session 40th Parliament, 2010.

R. v. Lloyd. (2016). SCC 13. S.C.R. 130. Retrieved from https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/15859/index.do

Appendix A

UNIVERSITY OF MANITOBA

"Hearing from Front-Line Workers:
Assessing the Impact of Criminal Justice Policies"

Principal Investigator:	Dr. Elizabeth Comack, Department of Sociology, University of Manitoba and member of the Manitoba Research Alliance Phone: 204 474-9673 Email: Elizabeth.Comack@umanitoba.ca
Co-Researchers:	Dr. Cara Fabre, Post-Doctoral Research Fellow, Department of Sociology, University of Manitoba Email: fabrec@umanitoba.ca
	Ms. Shanise Burgher, MA student, Department of Sociology, University of Manitoba. Email: burghers@myumanitoba.ca

Sponsor: Manitoba Research Alliance through a grant from the Social Sciences and Humanities Research Council (SSHRC)

This consent form, a copy of which will be left with you for your records and reference, is only part of the process of informed consent. It should give you the basic idea of what the research is about and what your participation will involve. If you would like more detail about something mentioned here, or information not included here, you should feel free to ask. Please take the time to read this carefully and to understand any accompanying information. Regardless of whether you accept or decline to participate in this study, confidentiality will be maintained.

Project Description: Despite the fact that Canada reports the lowest crime rate in 40 years—a decline that began in the early 1990s—the Harper government has, since coming to power in 2006, implemented numerous reforms designed to further a "tough on crime" agenda, including passing more crime control legislation than any other previous government and introducing a blueprint for the expansion of prison construction. While several writers have commented on the implications of the "tough on crime" agenda for overloading the criminal justice system and exacerbating inequalities, we don't know what the specific consequences involve for those affected by these reforms. One source of this information is individuals working inside and outside of the criminal justice system with this population. The purpose of this study, therefore, is to draw from the knowledge of these front-line workers to assess the "on the ground" impact of the government's criminal justice policy reforms.

Your participation in this project is welcomed. As one of these front-line workers, you are being asked to participate in an interview (of approximately one hour in duration). During the interview you will be asked what you consider to be the key issues of concern relating to the individuals with whom you work; whether the criminal justice policy reforms have impacted your work (and if so, in what ways); and what strategies you utilize in your work to minimize the potential negative impacts of these reforms. Please note that you will not be asked to speak on behalf of your employer, but rather as someone who has a working knowledge of what the "on the ground" impact of the government's policy reforms have been.

Confidentiality: With your permission, our conversation will be audio recorded (otherwise we will take notes). What is said will be held in strictest confidence. Only the researchers (Elizabeth Comack, Cara Fabre, and Shanise Burgher) and the woman who transcribes the interview will have access to what you say (we have all signed a confidentiality agreement confirming that we will respect your confidentiality). Confidentiality will also be maintained in the treatment of the documents of this study. The audio recordings will be transcribed, and any personal identifiers will be removed during the transcription process; each interview will be assigned a number and the contents will be stored on a password-protected computer in Prof. Comack's research office and home office. You will not be named or identifiable in any reports of this study. If any statement you make during the interview is used in a research report it will be attributed to an anonymous source. Information containing personal identifiers (e.g. this consent form) will be stored in a locked cabinet in Prof. Comack's research office and home office and destroyed as soon as it is no longer necessary for scientific purposes, approximately June 2016. Interview transcripts will be deleted and/or destroyed by shredding once the project reaches its conclusion, approximately June 2016.

Risks and Benefits: There is no likelihood of psychological or emotional risk to you because of the nature of the questions being posed in this study. However, there is the potential for some risk if you are concerned about your employer's response to your participation in the study. To alleviate that potential risk, the interviews will take place at a location of your choice (i.e. outside of work) and confidentiality will be maintained in the reporting of findings. The potential benefits of the study include the opportunity for you to share your knowledge of the impact of government policy on the work you do. There may be a benefit to participants if the study findings assist in producing policy changes.

Consent: Please be aware that your participation in this study is voluntary. You are free to decline to participate or to answer any question posed to you. You have the right to withdraw your consent to participate in this study (including once an interview is underway), without prejudice or consequence.

Compensation: To compensate you for your time and travel, you will be provided with an honorarium of $25 for each interview.

Results: A summary of the results of the study will be made available to participants (approximately October, 2015).

Please initial here if you would like to receive a copy of the summary _____

If so, please provide an address where the summary can be sent:

_____

_____

Dissemination: Results will be disseminated in the form of a Manitoba Research Alliance research report (which will be made available on its website); journal articles and book chapters may also be produced. Presentations may also be made at academic conferences and to interested community groups. Shanise Burgher will also be using the information obtained from the interviews for her Master's thesis.

Your signature on this form indicates that you have understood to your satisfaction the information regarding participation in the research project and agree to participate as a subject. In no way does this waive your legal rights nor release the researchers, sponsors, or involved institutions from their legal and professional responsibilities. Your continued participation should be as informed as your initial consent, so you should feel free to ask for clarification or new information throughout your participation.

The University of Manitoba may look at your research records to see that the research is being done in a safe and proper way.

_____

Participant's Signature Date

_____

Researcher's Signature Date

This research has been approved by the Psychology/Sociology Ethics Review Board at the University of Manitoba. If you have any concerns or complaints about this project you may contact the above-named persons or the Human Ethics Coordinator at 474-7122 or e-mail margaret.bowman@ad.umanitoba.ca. A copy of this consent form has been given to you to keep for your records and reference.

Appendix B

"Hearing from Front-Line Workers"

Interview Schedule

As mentioned in the Consent Form, since coming to power in 2006, the Harper government has implemented a number of reforms designed to further a "tough on crime" agenda, including passing more crime control legislation than any other previous government and introducing a blueprint for the expansion of prison construction. While several writers have commented on the implications of the "tough on crime" agenda for overloading the criminal justice system and exacerbating inequalities, we don't know what the specific consequences involve for those made subject to these reforms. The purpose of this study therefore is to draw from your knowledge as a front-line worker to assess the "on the ground" impact of the government's recent criminal justice policy reforms.

Nature of Work:

Perhaps we could start by your telling me a bit about the kind of work you do in relation to the criminal justice system.

- Where do you work?
- What kind of work do you do?
- How long have you been doing this work?

In your view, what have been the major changes that have occurred in the past few years in terms of:

- Number of clients you work with
- Resources and facilities available for doing your work
- Organizational structure of your work

Clientele:

Can you tell me a bit about the clients you deal with in your work?

- What are their social characteristics?
- What is the nature of their troubles?
- How would you describe a "typical client"?

Criminal justice policies and reforms

The federal government has passed a number of pieces of legislation and implemented a series of policy changes in the past few years that have a bearing on individuals who come into contact with the criminal justice system.

- Are you aware of any of these changes?
- Have they had an impact on the work you do? If so, in what ways?
- Without breaching confidentiality, can you tell me a story relating to one of the clients with whom you work that illustrates the impact of these changes?
- Have you adopted any strategies to ameliorate the impact of these reforms for your clients? If so, what has been the outcome of these strategies?

Are there any other issues relating to criminal justice policy changes that have had a bearing on the individuals with whom you work?

- Can you elaborate on these issues?
- Without breaching confidentiality, can you tell me a story that explains how they impact on the clients with whom your work?

Thank you for your time and participation in this study.

SSHRC file no.:

Project No.: 710 .

Project Name: Hearing from Front-Line Workers

Project Head: Elizabeth Comack .

Receipt of Honourarium

I, _____,
(print name)
Hereby acknowledge receipt of $ 25.00 , being a honourarium for my participation in a research project for the Manitoba Research Alliance.

_____.
Signature of interviewee

_____.
Name of interviewer

_____.
Name of person to be reimbursed for payment of honourarium

_____.
Address cheque should be mailed to