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Your Member of Parliament in Saanich-Gulf Islands

January 2017 Newsletter

Introduction

As noted in recent householders and Town Halls, the Liberal government has launched a wide range of national consultations. The desire to consult Canadians has led to some criticism that the Justin Trudeau administration continually delays decision-making, using public consultations as a tactic. I tend to take a more charitable view. Consulting Canadians before making changes is certainly preferable to the alternative. As your Member of Parliament, I believe my job is to be as effective an advocate as possible for your issues and concerns. So, when asked by a minister of the Crown to assist in consultations, I do so.

Over the last few months, I have held Town Halls to respond to requests from various ministers. Many of you have participated in such Town Halls to provide the government with advice on climate, defence, trade and the TPP, democratic reform, issues of security policy (C-51), as well as my usual round of general interest Town Halls.

Recently, another round of consultations was announced by the Justice Minister, the Hon. Jody Wilson-Raybould. On November 1, 2016, Minister Wilson-Raybould announced a "broad review of the criminal justice system."

I have written "themed issue" newsletters to residents of Saanich-Gulf Islands on many topics over the last five years, including seniors' issues, food security, health care, pensions, climate, pipelines and tankers, democratic reform, LNG, and trade deals. But we have not focussed on criminal justice, so this issue is to share updates and views and ask for your opinions on criminal justice. I will relate your responses to the Minister of Justice.

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But first -- updating some good news

One of the first issues on my desk as a newly elected Member of Parliament in 2011 was the perennial problem of derelict vessels. Many constituents have been working on this issue for years. Levels of frustration are high. The previous government had cut funding to Transport Canada's Vancouver-based operations that handled derelict vessels.

At long last, I feel we are making progress. I was the first seconder on Motion 40, put forward by Bernadette Jordan, a newly elected Liberal MP from the south shore of Nova Scotia. Our motion passed unanimously on October 26, 2016:

That, in the opinion of the House, the government should, in collaboration with provincial, territorial, municipal and Indigenous organizations:

- (a) take meaningful steps to address the issue of abandoned and derelict vessels within six months of this motion being adopted by the House;
- (b) recognize the requirement for the prohibition against the abandonment of a vessel through potential amendments to any relevant legislation;
- (c) incorporate an educational component within the government's strategy to address the issue of abandoned vessels in order to inform vessel owners on the risks and consequences of vessel abandonment;
- (d) improve vessel owner identification by considering widening the scope of the Canadian Register of Vessels;
- (e) identify mechanisms for government to assist in the removal of an abandoned vessel where its presence creates an economic burden for a community; and,
- (f) consider measures to ensure owners are strictly liable for remediating abandoned vessels, such as acceding to the Nairobi International Convention for the Removal of Wrecks, 2007.

While motions are non-binding, the fact that we held a recorded vote meant that we had each Minister on the record as supporting this, increasing chances for action. On November 7, I was pleased to see the commitment from Transport Minister Marc Garneau and the Prime Minister to bring forward additional financing to deal with derelict vessels and to bring forward legislation in 2017 to strengthen action on derelict vessels, including holding vessel owners responsible for removing abandoned vessels.



Meeting the Duke and Duchess of Cambridge on September 24, 2016 at the Legislative Grounds in Victoria. I told him that his father, The Prince of Wales, and grandfather, the Duke of Edinburgh (both of whom I had met at the time) had been very helpful in the struggle to preserve the old growth forests of what is now Gwaii Haanas - where he and the Duchess were headed on this Royal Tour.

Changes in criminal justice, 2006—2015

Back in March 2012, a significant number of changes were made to Canadian criminal law under the general slogan of “getting tough on crime.” The 2012 legislation came in as an omnibus bill, C-10, or “Safe Streets and Communities Act,” that changed many different pieces of legislation. The major changes were in the area of sentencing.

The Conservatives embraced “mandatory minimums.” That means that for certain offences, regardless of the offender’s particular circumstance, judges have no flexibility. The sentences are firm. The mandatory minimum craze had swept a number of US states, but even as we debated C-10 in Parliament back in 2011 and 2012, Texas had learned from its mistakes and was moving away from mandatory minimums.

A US group comprised of more than two dozen current and former US judges, police officers, special agents, drug investigators calling themselves Law Enforcement Against Prohibition weighed in to warn Canada not to follow their failed policies:

“We are ... extremely concerned that Canada is implementing mandatory minimum sentencing legislation for minor marijuana-related offences similar to those that have been such costly failures in the United States... These policies have bankrupted state budgets as limited tax dollars pay to imprison non-violent drug offenders at record rates instead of programs that can actually improve community safety.”

The Harper administration ignored these and other warnings and put into place sixty mandatory minimums for everything from drug and gun offences to wearing a mask in a riot. It was not a move based on evidence. Nor was it a response to a rise in crime. In fact, according to Statistics Canada, the crime rate in Canada has been falling for several decades.

Still, largely thanks to the mandatory minimum sentences we have been spending more to house those on the wrong side of the law. In 2006, federal prisons had 12,671 inmates. Ten years later, by April 1, 2016, the federal prison population had grown to 14,865. As well, many of those serving longer sentences are in provincial jails, increasing costs at that level of government as well.

The Supreme Court of Canada has already struck down two of the mandatory minimum sentences established under our former prime minister that reached our highest court. But it is clearly inefficient and costly to have to take one piece of the previous government’s agenda to court to eliminate provisions that violate the Charter.

I introduced Bill C-269 on May 5, 2016 to repair the damage done over the last ten years and undo the perverse mandatory minimum sentences. One of the difficult things about omnibus bills is that even though omnibus bills can be forced through as a single bill, it is harder to get rid of them than a single purpose bill. While Bill C-10 passed as one bill, there is no C-10 remaining to simply repeal. It took a lot of work to track all the mandatory minimum sentences in the many places they were inserted. So my eleven page bill is a long listing of where we find those regressive changes to criminal justice to replace them with what had been there before.

Now, Minister Wilson-Raybould has opened up the process with a promise of federal legislation next year.

Other Approaches – Restorative Justice

There are other approaches to justice than incarceration. Right here in Saanich-Gulf Islands there are an amazing number of organizations offering those convicted of offences and their victims the choice of another way. All of these groups - Peninsula Crossroads Community Justice Program, Saanich Community Justice Initiatives, South Island Wellness Society, Pender Island Restorative Justice Program, and Restorative Justice Salt Spring Island – are committed to the following principle: “Justice requires that we work to restore those who have been injured.”

It attempts to repair the damage and the harm by addressing the victims’ needs, to hold the offender accountable and engage the community in the justice process.

This kind of approach will not be appropriate in all circumstances. Clearly, a person who committed serious violent crimes with a risk of re-offending are not good candidates for restorative justice.

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Other Approaches – Restorative Justice continued

Restorative justice is generally seen as appropriate for less serious crimes.

Local restorative justice volunteers report that they have a positive working relationship with our local RCMP. In fact, it is often the RCMP who identify a case where both the victim and the offender may be suitable candidates for restorative justice.

The South Island Wellness Society has an impressive reach, with a board including nine local First Nations chiefs. When I met recently with Vanessa Ramsdale, the Restorative Justice Coordinator for the society, I was so impressed (as well as concerned this group could use a lot more funding!)

In British Columbia, the Ministry of Public Safety and Solicitor General supports a large number of restorative justice programs. In fact there are over 90 restorative justice programs and 32 programs specifically designed for Indigenous Peoples.

To find out if there is a restorative justice program available in your community call 1-604-660-5199 and ask to speak to the restorative justice coordinator, or email CrimePrevention@gov.bc.ca.

A new Supreme Court of Canada judge with strong background in restorative justice

On October 25, 2016, I had the great privilege of being part of a parliamentary panel putting questions to the latest appointment to the Supreme Court of Canada. Justice Malcolm Rowe is the first member of the country’s highest court from the province of Newfoundland and Labrador. He has a wide breadth of experience, including having written the decision which has put in place an accepted test for when a sentencing circle is appropriate.

The 2004 case, *R. v. JJ*, dealt with a crime in Labrador involving an Innu couple where the male partner had a very worrying history of spousal violence. Both the victim and the offender struggled with alcohol abuse. The case was challenging on its facts as Justice Rowe found that the lower court’s decision to allow a sentencing circle had been a mistake in law, but he denied the appeal which would have jailed the offender. Rowe found that the offender had made huge progress since the sentencing circle, was maintaining sobriety and was being a good husband and father.

In response to my questions, Mr. Justice Rowe commented on changes to criminal justice. “There has been a very significant change over the past few decades to deal with the forgotten party in crime and that is the victim,” said Rowe.

Justice Rowe established a four part test:

- 1) Establishing willingness and suitability of the convicted person;
- 2) Willingness of the victim (which must be freely given, without unfair pressure);
- 3) Willingness of the community to participate; and
- 4) Whether the offence requires a term of imprisonment.

The four-way test was not met in the case of *R. v. JJ* because the judge at the lower court failed to give due consideration as to whether jail term was required and because the victim was actually unfairly pressured by her children. It was heart-wrenching that it was a child’s threat of suicide if their dad was jailed that led to the victim to agree to the Sentencing Circle. In his decision, Rowe offered comments as “obiter” (observations not directly relevant to the rationale of the decision.)

“When I read the transcript of Sentencing Circle,” wrote Mr. Justice Rowe, “I was impressed by the seriousness with which it was undertaken and by the respect shown by all participants to the Trial Judge, the Circle Keeper and to each other. The interventions were all thoughtful, some eloquent. They bore witness to the participants’ deep concern and commitment to breaking the destructive cycle of substance abuse and violence.”

Restorative justice should be considered in any situation that meets Mr. Justice Rowe’s test. It has been used successfully in our community for offences from theft to vandalism to causing a disturbance to fraud. The experience proves it can have much better levels of satisfaction for both the victim and the accused.

Is "justice" unequal?

One of the issues facing Minister Wilson-Raybould is the disturbing reality that our prisons reflect societal inequality. We incarcerate Indigenous people at a disproportionate rate. The disproportionality of the prison population is most severe in the case of Indigenous women. A recent Department of Justice study found that the number of Indigenous women in federal prisons has increased by 97% from 2002 to 2012.

Overall, while First Nations, Métis and Inuit make up a total of 4.3% of Canada's total population, they comprise 25% of those held in our jails.

One of the champions of incarcerated women is Kim Pate, Executive Director of the Elizabeth Fry Society. We went to law school together and I could not be more pleased that she was among those appointed to the Canadian Senate on October 31, 2016. Recently she held a press conference in Ottawa with a young woman who served 44 months in prison – 8 of them in solitary confinement. From Chilliwack BC, 31 year old Alia Pierini was jailed for drug and assault charges. She now works as a regional advocate for justice for women in our criminal justice system. Kim Pate, in what may be her last press conference before she becomes Senator, called for an end to mandatory minimum sentences.

Meanwhile, for those awaiting trial on Vancouver Island, women have a much tougher time than men. They are invariably separated from their family and any support system. For Vancouver Island women, arrested and awaiting trials, they either must wait in tiny jail cells in Victoria or be held in a remand centre on the lower mainland. Back in spring 2013, Judge Josiah Wood commented in a bail hearing that "I think it's shameful that [the] province doesn't have a holding centre, a remand centre, for women on Vancouver Island."

Solitary Confinement

The use of solitary confinement, or as the former Public Safety Minister Steven Blaney described it in the House in March 2015, "administrative segregation," has been gaining notorious attention in recent years.

Cases where those in custody have died while in solitary, from Gwich'in First Nations prisoner Edward Snowshoe in 2014, to Ashley Smith, the young woman with mental health issues who died in solitary in 2007, the use of solitary confinement has horrified many Canadians.

Ashley Smith's death, which occurred while under supervision, was finally ruled a homicide by a Coroner's jury in 2013. During her eleven months in custody, Ashley was transferred a total of 17 times between eight jails, from Nova Scotia, to Saskatchewan, to New Brunswick, Quebec, and Ontario. She ultimately died in Kitchener, Ontario's Grand Valley Institution for Women. Among the jury's 104 recommendations was that

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Solitary Confinement continued

the use of indefinite solitary confinement be banned.

This is a recommendation supported by Amnesty International. Amnesty's Executive Director Alex Neve recently told a Victoria BC audience that Canada's use of solitary confinement exceeds that found in other modern democracies. "We use it more frequently and for longer periods of time," said Neve. "Solitary confinement isn't just a prison management tool; it very often constitutes torture... U.N. human rights experts have made it clear that solitary confinement should never be used for more than 15 days at a time."

It is almost impossible to imagine the impact on young Adam Capay. A 24 year old Ojibway man, he has been awaiting trial in solitary in a provincial Ontario jail. Charged with murder of another inmate in the Thunder Bay jail in 2012, he has spent four years in solitary. The lights in his cell were left on 24 hours a day. When the case was reported this fall in the Globe and Mail for the first time in four years Capay was moved out of solitary. Since then Premier Kathleen Wynne has said that she finds Capay's treatment "disturbing." In a civilized country like Canada, it is difficult to imagine how this could have happened.

Underpinning many of the most tragic cases in prison is the reality that the people behind bars are often those who have fallen between the cracks of our failure to provide adequate mental health supports, addiction and alcohol counselling and to recognize the impacts of poverty and marginalization.

All of these issues have been referenced in recent statements from Canada's justice minister, herself a First Nations woman, originally from Vancouver Island. The mandate letter from the Prime Minister to Minister Wilson-Raybould specifically requests that she work to implement "the recommendations from the inquest into the death of Ashley Smith regarding the restriction of the use of solitary confinement and the treatment of those with mental illness."

Over the past two years, the numbers of inmates held in solitary in federal prisons has dropped in half. In the last decade an average of 700-800 inmates have been held in solitary at any given time. That level of solitary confinement was decried by federal prison Ombudsman Howard Sapers as "out of control."

In August, 2016, the situation had improved with a daily average of 370 prisoners out of a total national prison population of 15,000.

On November 8, Ontario Correctional Services Minister David Oraziotti announced he was establishing a review of the use of solitary confinement. An encouraging step is that he named federal ombudsman Howard Sapers to head the inquiry. Let's hope we can move across Canada to more severely restrict solitary and end its use for indefinite terms before we experience any more tragedies like Ashley Smith and Edward Snowshoe.

Your opinion matters!

What matters to you is important to me, and I want to know your priorities!

Please take a moment to answer the questions on the right, cut along the dotted line, and mail your opinion back to me postage free. You can also go to my MP website www.elizabethmaymp.ca and complete the survey online.

If you have more than one person in your home, feel free to contact my constituency office in Sidney at 250-657-2000 to get additional copies of the survey mailed to you.

Thank you!

Do you support the use of mandatory minimums?

Yes No Not Sure

Do you agree that we should end use of indefinite terms of solitary confinement?

Yes No Not Sure

Do you support increased support for mental health services?

Yes No Not Sure

What other steps would you like to see in reforming criminal justice?

Canada Revenue Agency Phone Scams

Occasionally my constituency office receives calls from people who have had a call from someone who claims to be from Revenue Canada, but is not. These telephone scams involve threatening taxpayers or using aggressive and forceful language to scare them into paying fictitious debt to the CRA. Victims receive a phone call from a person claiming to work for the CRA and saying that taxes are owed. The caller requests immediate payment by credit card or convinces the victims to purchase a prepaid credit card and to call back immediately with the information. The taxpayer is often threatened with court charges, jail or deportation.

If you get such a call, hang up and report it to the Canadian Anti-Fraud Centre: 1-888-495-8501.

These types of communication are not from the CRA. When the CRA calls you, it has established procedures in place to make sure your personal information is protected. If you want to confirm the authenticity of a CRA telephone number, call the CRA by using the numbers on its telephone numbers page. The number for business-related calls is 1-800-959-5525. The number for calls about individual concerns is 1-800-959-8281.

To help you identify possible scams, use the following guidelines:

The CRA:

- never requests prepaid credit cards;
- never asks for information about your passport, health card, or driver's licence;
- never shares your taxpayer information with another person, unless you have provided the appropriate authorization; and
- never leaves personal information on your answering machine or asks you to leave a message containing your personal information on an answering machine.

When in doubt, ask yourself the following:

- Is there a reason that the CRA may be calling? Do I have a tax balance outstanding?
- Is the requester asking for information I would not include with my tax return?
- Is the requester asking for information I know the CRA already has on file for me?
- How did the requester get my email address or telephone number?
- Am I confident I know who is asking for the information?

For more information about the security of taxpayer information and other examples of fraudulent communications, go to www.cra.gc.ca/security.

January Town Halls

Saturna Island

Monday, January 16

6:30—8:00pm

Saturna Island Community Hall
109 East Point Road

Sidney

Thursday, January 19

7:00—8:30pm

Mary Winspear Centre
2243 Beacon Avenue

Salt Spring Island

Monday, January 23

6:30—8:00pm

Multi-Purpose Room, Gulf Island
Secondary School
232 Rainbow Road

Saanich

Tuesday, January 17

7:00—8:30pm

Lochside Elementary School
1145 Royal Oak Drive

Galiano Island

Friday, January 20

6:00—7:30pm

Galiano Community Hall
141 Sturdies Bay Road

Saanich

Wednesday, January 25

7:00—8:30pm

Bob Wright Centre, Room B150
University of Victoria

Mayne Island

Wednesday, January 18

6:30—8:00pm

Mayne Island Community Centre
493 Felix Jack Road

Central Saanich

Saturday, January 21

3:00—4:30pm

Brentwood Bay Community Club
7082 Wallace Drive
Brentwood Bay

Pender Island

Friday, January 27

6:00—7:30pm

Pender Island Community Hall
4418 Bedwell Harbour Road

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