

## Lessons from Prison

*Anonymous*

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### INTRODUCTION

I recently spent more than a year in federal custody, the first three months in what is called an ‘assessment unit’ and then about a year in a minimum-security federal prison in Ontario before being paroled. Going through the criminal justice system and then spending time in a federal prison raised many questions for me about the way we handle law, crime and punishment in Canada. I saw the huge gaps between our rhetoric about criminal justice and the reality. I extended my experience by reading a large amount of research on criminal justice in Canada and elsewhere, most of which reinforced the impressions I had formed. None of the conclusions in this article are new, but they may have some additional credibility because they encompass both evidence and experience.

Although this paper is based primarily on personal experience, it is consistent in many ways with a considerable body of research on the prison system in Canada. In particular I have drawn on the past several annual reports of the Correctional Investigator (e.g. OCI, 2017, 2018), on testimony<sup>1</sup> and the interim report from the Senate Committee on Human Rights (Senate, 2019) that reviewed the rights of prisoners, as well as the annual performance reports of the National Parole Board (e.g. Parole Board of Canada, 2016) and reports by Statistics Canada on the criminal justice system (e.g. Statistics Canada, 2017, 2019). Prison is only one part of the criminal justice system, and its problems and limitations are best understood in the context of the larger system. For example, the issues around what actions are considered criminal, which crimes are most actively policed and prosecuted, or the impossibility for most people accused of a crime of being able to afford good legal services must be explored. That said, this article focuses on prisons and imprisonment as one of the least understood parts of the criminal justice system.

I was fortunate in that I did not experience any great personal trauma during my time in prison. However, my conversations with other men who have served time suggests that many people do. I am also not a member of a minority group that is most likely to end up in jail and who have worse outcomes even when in jail, notably Indigenous and Black men (e.g. Owusu-Bempah and Wortley, 2014; National Parole Board, 2016). Racism is endemic in the federal penitentiary system in my experience, as

is misogyny, both with few, if any checks on them. Even at its best, which is how some might describe my prison experience, incarceration provides very few positives and many negatives. If our goal as a society is to reduce crime and thus reduce suffering of victims of crime, jailing so many people cannot be an effective approach, a position with plenty of support from the academic community (e.g. McLeod, 2015; Roodman, 2017), as well as current and former prisoners, as expressed in this journal.

I believe Canada would get better results at a much lower cost, both in terms of public funds and private pain, if prison was utilized only as a measure of last resort and those we did imprison were incarcerated for much shorter periods of time. This would be better for everyone, including victims of crime where prevention is concerned. From present policy, however, one can only conclude that the desire to hurt, punish and seek revenge is a much stronger motivation for Canadian leaders (Mallea, 2017) – and presumably also for Canadian voters – than are human welfare, increased public safety or reducing wasteful public spending.

Here, it is important to explain the difference between minimum security and medium/maximum security institutions in Canada. About two-thirds of those in jail in Canada at any given time are held in provincial jails and prisons, while about a third or roughly 15,000 people with sentences of more than two years are in federal penitentiaries (Statistics Canada, 2019). About 20% of Canadian federal prisoners are held in minimum-security penitentiaries, 60% in medium, and 20% in maximum security (Public Safety Canada, 2016). In contrast, virtually all provincial jails, which also hold thousands of people who are only accused and have not been convicted, are maximum-security institutions (John Howard Society of Ontario, 2013).

Minimum-security institutions do not fit the image most people have of prison. In most cases, and in a couple of medium-security units, prisoners live in houses, rather than cells. They are not locked up much and have more freedom to move around the institution, which may not even have a fence around it. Prisoners often look after their own food, manage their own time, and organize their own recreation, almost none of which happens in higher security. There are also few of the ‘lock downs’ that happen in higher security institutions, when prisoners can be confined to their cells for days at a time. Inside the system, minimum institutions are often referred to as ‘going to camp’. As a consequence of the better conditions in minimum-security, many prisoners try hard to stay there, which results in lower levels

of violence (Ricciardelli and Sit, 2016), making these places even more desirable if you are a prisoner.

That being said, minimum-security is still a penitentiary. One is still subject to a huge number of rules regulating what you can and cannot do. You are still required to obey all the injunctions of anyone in authority whether or not they are fair or sensible. Every aspect of your life, from what you can wear, what you can eat, what you can say, what you can read, who you can associate with or even talk to on the phone, and what work you have to do, is regulated by the institution. So, while ‘camp’ is much better than being in a higher security level, nobody should think this is a pleasant way to live. I did meet a few prisoners who said that their lives in jail were better than their lives outside, but the vast majority want to be released even if they have nothing waiting for them outside: no family, friends, work or a place to live. Given that prisoners in minimum-security are considered very low risk, one must ask why these people are in a prison at all, instead of being in the community.

In what follows I will discuss five conclusions which I have drawn about prison based upon (a) my experience, (b) my interactions with many other prisoners, and (c) engagement with academic literature on the subject: 1) the almost exclusive focus on what one has done wrong; 2) the difficulty in using time constructively; 3) the large number of arbitrary rules; 4) the poor quality of virtually all services; and 5) the serious problems with the parole system.

## **IN PRISON, YOU ARE YOUR CRIME AND NOTHING MORE**

People are sent to the prison system for some action they have taken, but once incarcerated, this action – even if it is only a small part of your life – is the only thing that the institution knows or cares about you. The fact that you may have many positive accomplishments in your life is of no value. In fact, your positive accomplishments can be held against you to show how especially depraved you were to have done something wrong. We know that people tend to do better when encouraged to live up to their strengths and positive attributes (Maruna, 2001), but in prison this approach is entirely missing.

Many institutional practices confirm this focus on wrongdoing. Staff have access only to some parts of prisoner records, but one part they will all

know is the crime for which you were sentenced. I have met prisoners with a wide variety of skills in the prison, but saw no attempts made to make use of those skills. In my observation, all prisoners, even those with no history of drug problems, are subject to random drug tests. In my own case, despite my many years of experience in the field of education, the institution made it difficult for me to get a job working in the prison school. This only happened through the intervention of one of the teachers. A prisoner who was a skilled mechanic was put to work in the ‘truck shop’, dismantling vehicles, but even there he was given tasks that did not use his skills. In another case, one of my fellow prisoners, a certified electrician, was forbidden from fixing any electrical equipment for other prisoners out of fears he might do so for purpose of personal gain or that the institution might be sued if something went wrong. In fact, any kind of exchange economy within the penitentiary, in which people with skills would help those without, even if for no material benefit, was prohibited.

Another area where the focus on the negative is very strong is in the institutional parole officer (IPO) system. IPOs are concerned entirely with what you did wrong or might do wrong in future. Discussions about how you might actually improve your life or do something useful either prior to or after release are rare, if they happen at all. The prison that I was in did little or nothing to provide external work or volunteer experiences, or to authorize temporary absences for various purposes, even though such opportunities are part of official CSC policy and are known to be related to better long-term outcomes for prisoners.

### **IT IS VERY DIFFICULT TO USE YOUR TIME IN PRISON PRODUCTIVELY**

Many prisoners, especially first timers, enter prison with the idea that their sentence might be an opportunity to improve themselves (see Moody, this issue; Whistleblower, this issue). After all, prisoners who have pled guilty recognize that they have done something wrong (Cowper, 2012). Whether their personal challenges involve anger, addiction, hanging around with the wrong people or other poor choices, I have observed that many prisoners start out hoping they can use this experience to better themselves. We as a society should want prisoners to do so, since this would reduce future crime. However, it turns out to be very difficult to use prison time – even

in minimum-security – in a constructive manner. Instead, penitentiaries are ruled by two concerns that have nothing to do with self-improvement and actually make it more difficult: security and punishment (Foucault, 1977).

The prison system starts with the idea that it is in charge of bad people, rather than working with people who have committed a criminalized act. It assumes that prisoners want to and will, if given any chance, keep violating the law. Moreover, it typically assumes a worst-case scenario as the basis for rules. More and more rules are promulgated to prevent prisoners from being able to do something wrong. For example, prisoners are not allowed to receive books and magazines sent from family members in case these might be infused with drugs even though there is no evidence that this is or could be a significant source of drugs in prison.

Prison is also dominated by the idea of punishment, so that anything that could help a prisoner is at risk of being criticized as ‘soft’. In theory, being in prison – the deprivation of liberty – is itself the punishment. To borrow the words of former federal correctional investigator Howard Sapers, “the law says that people are sent to jail as punishment not for punishment” (IROC, 2017). That said, in practice, many people who work in the system feel that part of their job is to make prisoners’ lives harder. These tendencies are reinforced by regular stories in some media about how easy prison conditions are. As an example, at one point the prison school where I worked was told not to have coffee machines in the classrooms as this had been seen by some visitors as a luxury that prisoners should not have. Although you could buy meat in the grocery store in the prison where I was held, there was never anything that was called ‘steak’. Staff portions of the prison were air-conditioned, but prisoner areas were not, even though this required two separate systems in some buildings. And although the prison system is relatively free from external scrutiny, which is itself a problem (Senate, 2019), it also wants to avoid criticism when something really bad happens to a prisoner, such as a murder or a suicide.

As a result of these forces, the system has strong incentives to subject a large number of people to all kinds of controls to prevent a very small number of undesired events. By the logic of risk management it is better to keep thousands of people in prison longer than necessary to avoid someone on parole committing a crime; better to subject thousands of people to many unnecessary rules to avoid any untoward incidents; better to tie anyone

expressing suicidal thoughts to their beds, remove all their possessions and prohibit visitors than it is to have an unexplained suicide; and better to have many people in solitary confinement for weeks or months than to have a single incident of violence, or a prisoner talking to the media.

This kind of thinking is not unique to the prison system, it is characteristic of large bureaucratic organizations everywhere (Wilson, 1989). Nevertheless, the effects of bureaucracy are exacerbated in prison because prisoners have few, if any advocates, and there is so little external scrutiny of what happens in penitentiaries.

One unwitting effect of the way prisons operate is that prisoners may start to see themselves as victims, which can work against making positive changes. Prisoners are also largely prevented from doing anything to make amends for the harm we have caused. They are isolated from anyone they may have hurt, from their families and from the broader community, so they can do very little in the way of restitution. Instead, all that can be done is to wait for time to pass, which is why being in jail is called 'doing time'. This is surely the opposite of what a society should want to accomplish.

### **PRISONERS ARE SUBJECT TO A VERY LARGE NUMBER OF RULES**

Many prison rules are void of any obvious rationale. For the reasons just given, the first effort of the prison system is not to help anyone improve themselves, but to prevent prisoners from doing things the prison does not want them to do, ranging from obvious things such as violence or fomenting crime (in or out of custody) to drug use, self-harm, any kind of sexual activity or any violation of any rule, no matter how unnecessary or arbitrary the rule is. Moreover, people focused on security will always find new risks that have to be mitigated, leading to more and stricter security measures. Plus, in general people with authority like to make rules for those subject to their authority, even if the rules do not have much merit. However, all these rules make it harder for prisoners or staff working with them to do anything positive.

Consider some examples of rules in the prison I was in that did not make much sense to prisoners, though presumably some staff member would have been able to give a reason:

- There was an outdoor trail leading down to a river. If you had a fishing license you could go all the way down to the river, but if you did not have a license then you could only go part way. And it was very hard to get a fishing license from inside the prison.
- Near the start of my stay, prisoners were suddenly required to wear only clothes issued by the institution between 8:00am and 4:00pm on weekdays. Prior to that, for many years, prisoners had worn their own clothes at all times.
- The list of possessions allowed to prisoners were quite arbitrary. For example, you could have a prayer mat, but not a yoga mat; you could not have a shirt with a collar; you could not have shorts with extra pockets; and so on.
- You were not allowed to share anything, whether food or other possessions, with other prisoners. For example, lending someone a CD was a violation of the rules, though it happened frequently nonetheless.
- The only food you could bring into the visiting area when you had visitors was snack items purchased from the prisoner canteen, not any food you had purchased from the grocery store.
- You could buy (with your own funds) magazine subscriptions, but only to those magazines provided by the system's approved vendor.
- You could not be sent magazines from outside, but if visitors brought them and left them for you that was okay.
- There was no Kleenex or other facial tissue in the prison, only toilet paper, which was what was given to visitors for things like parole hearings.
- You could not have headphones with a cord longer than 6 feet. Because of the way some of the rooms were structured, this made it impossible to watch TV with headphones without moving your TV off its stand and onto your bed, a major problem for the many prisoners in shared spaces.
- When prisoners were counted in the evening, you had to stand up when the guards came through, but not for any of the several other daily counts.
- The financial procedures for prisoners to use their own money were ridiculously complicated, often resulting in prisoners not having money for various purposes such as telephone calls or purchasing canteen items.

- Although phones were a lifeline for many prisoners, including me, there were not enough phones to meet demand, phone calls were very expensive, phones often went out of service, and you could wait for many weeks to get approval to add a phone number to the list of people you were allowed to call.
- One of my roommates was forced to take down a shelf he had put up near his bed for his clock.

I could extend this list indefinitely. It is not that any of these rules are especially harsh, but it is their overall effect. A prisoner could be sanctioned for violating any of these or the many other rules. This frequently reminds prisoners that we were entirely subject to the discretion of the staff in determining which rules to enforce, to what extent and for which prisoners. We had no say in anything, and nobody felt any need to justify the institutions rules and procedures to us. As one example, one part of the prison grounds had a sign saying “out of bounds”, but without any indication of what was out of bounds (since it was also very near areas used regularly by prisoners). Although I walked by this sign many times with no problems, on one occasion another prisoner and I were yelled at by a guard for doing so. We did not feel we could ask the guard for more information as to why we were out of bounds given how angry he was.

### **VIRTUALLY ALL SERVICES IN PRISON PERFORM BADLY**

Major prison services such as work, education, health care and therapy, as well as libraries, entertainment or visiting are generally poorly run, creating a major source of strain for prisoners and contributing to the overall toxic nature of the environment. In fact, the quality of most of these services as provided in Canadian prisons would be completely unacceptable in the general community (Senate, 2019; OCI, 2017, 2018). Consider some examples:

- Frequent long waits for health care; limited kinds of care available (such as virtually no preventive care); and lack of access to some drugs combined with vast overuse of other kinds of drugs. For example, it took me eight months to get glucosamine (not a prescription drug), which I use to counteract arthritis, although I



was instantly given strong painkillers in lieu of the glucosamine.

- Education programs limited to completion of grade 12 (which is often forced on people who do not want it, such as people in their 70s and 80s, or prisoners who are in any case going to be deported at the end of their sentence); no access to higher education (Anonymous, 2018) and very little in the way of informal or adult education; schools that are closed for one reason or another up to 40% of the time; teachers who are unable to bring into the prison suitable materials; no special education programs despite a high incidence of learning disabilities; a lack of any meaningful vocational education; and very little training of any kind provided and virtually none linked to credentials that have any currency in the real labour market.
- Prisoners are required to have jobs, but the available jobs, largely for so-called security reasons, are mostly menial (cleaning, caretaking, grounds care), with no skill development, and little or no opportunity to improve or advance. Jobs are also generally unrelated to skills and backgrounds that prisoners may already have or skills they may want to acquire.
- Very few therapeutic programs are available and there are long wait times for such program leading to delays in parole (Auditor General, 2015). Most prisoners cannot access these programs even if they want to, prison psychologists are not allowed to provide ongoing therapy to prisoners, programs are unrealistic because they take place in the prison instead of in the community where prisoners will eventually have to live, and the programs that are available are rigid in delivery and, again for so-called security reasons, do not really engage with the deeper forces and issues in prisoners' lives. Self-help or other structured groups that could help prisoners with many issues are not allowed with the exception of AA and NA.

One major reason that these programs are so bad is that Canadian prisons spend very little of their budget on programs (Auditor General, 2015) and 70% of all the staff are assigned to security (Public Safety Canada, 2016). However, even security is not done well. Although everything in the institution revolves around security, or more accurately someone's perception of security, Canadian prisons are neither safe nor secure (OCI,

2017). There is no difficulty getting most drugs inside a penitentiary and other forms of contraband are also not uncommon. In higher security levels, fights and other forms of violence are common (Riciardelli, 2016). Although prisons are non-smoking, it is widely known by staff and prisoners that many prisoners are acquiring tobacco and smoking. As regularly pointed out by Canada's Correctional Investigator, Canadian prisons have worrying rates of use-of-force, violent incidents, suicides and other negatives (OCI, 2017). Whatever these security measures are intended to do, they do not seem to be providing much security.

The focus on security and imbalanced spending priorities are not the only reasons services are poor. Even routine functions in prisons run badly, usually due to lack of care. Most people who work there, with some notable exceptions, just do not seem to care about whether their tasks are accomplished well or at all. For example, the camp I was in released prisoners every day, yet I knew of many releases, including my own, that did not work well at all due to mistakes in procedure. One prisoner I know had to be given cash instead of a bus ticket when the release office closed early without looking after him. Another was not even informed of his release until that day. In another case, the prison discovered that someone had been held a few days too long and rushed to push him out that same day. In my own case, my release time was delayed at the last minute because the staff person in charge did not arrive at work that day. Mandatory dates for various kinds of paperwork for prisoners were routinely missed. As mentioned earlier, during my work in the school it only operated fully about 60% of the time. The canteen through which prisoners can buy snacks and other things often ran out of certain items because the staff person responsible refused to order more. The library technician rarely came to work and when she left her job it was unfilled for five months during which time the library was run entirely by prisoners with no access to many of the services the library is supposed to provide. Again, I could list many more examples.

## **THE PAROLE SYSTEM PERFORMS VERY BADLY**

Both the Correctional Investigator (2017) and Canada's Auditor General (2015) have drawn the public's attention to the problems of the federal parole system. Even after the Harper government made parole more difficult to get

and more limited (Mallea, 2017), the system still failed to work as designed. In theory, a prisoner is eligible for day parole at one sixth of their sentence, and for full parole at one-third of their sentence. In fact, as reported by the Parole Board of Canada (2016), the average proportion of sentence served prior to full parole is 46% and only about 2% of prisoners are given full parole at the start, whereas nearly 60% are not paroled at all. This is the case even though parole board data indicate that those released on parole have far better outcomes than those given statutory release, and that the number of people on parole who reoffend is very, very small. In my own case, I was only given day parole even though I had already served well over a third of my sentence and met all the conditions for full parole.

The result is that thousands of people are being held in penitentiaries for many extra months, if not years. A year in federal prison costs an average of more than \$120,000 per prisoner (Public Safety Canada, 2016), double the cost of getting an Executive MBA at a Canadian university, whereas the annual cost of community supervision is about \$18,000 (Parliamentary Budget Officer, 2018). Hundreds of millions of dollars in extra and entirely unnecessary costs are being incurred, not to mention families kept away from their loved ones, while facing sharply reduced incomes and other stresses (Mallea, 2017).

There are several reasons why the parole system operates so badly. First, the Conservatives filled the Parole Board with former police officers and others who shared their hardline view on crime and criminalized people (Naumetz, 2008). The same attitude permeated the parole officers who work in prison, and in many cases seemed to see it as their mission to prevent prisoners from applying for or getting parole. I read the *Corrections and Conditional Release Act* and *Regulations*, but very few prisoners do that, and many, given their education, would not be able to make out its meaning if they did try to read it. This makes prisoners very vulnerable to whatever their parole officers tell them, however inaccurate or one-sided. Many new prisoners are advised by staff to waive their right to a timely parole hearing, which reduces any control they might have over the process. I heard many cases in which institutional parole officers told prisoners that they needed to spend more time in prison before applying, even though they had reached their one-sixth point.

Another cause of delay in parole is lack of access to programs (Auditor General, 2015). Where prisoners have been deemed by CSC, for whatever

reason it chooses, to be required to take a therapeutic program, the wait time for getting into such programs can be many months and even years. Yet you cannot be paroled until you have completed any required programs. In my program group in the prison, half of us had our parole hearings delayed by an average of 5 months because the program was not available in a timely way.

Parole is a particularly important issue for lifers, people with life sentences, who, even when released, will be on supervised parole until they die. About 20% of the prisoners in the prison I was in were lifers. Meeting so many people who had killed someone and realizing how much most of them were just like anyone else, was a very powerful experience for me. All these men had been in jail for many years, from 15 to 35 years, because it takes many years as a lifer to get to a minimum-security prison. Most of them seemed to me – and I got to know some of them fairly well – to be long beyond the point at which they were a danger to anyone. Some of them were now quite physically infirm (Iftene, 2019). The Parole Board (2016) reports that the reoffending rate (for any crime) for lifers on parole is less than 1%, and that those released are very low risk. Yet only 20% of lifers are given parole on their first application (Parole Board of Canada, 2016), which can only be from 10 to 25 (or more) years after they were sentenced. People who have been in jail for so long have a huge adjustment to make when released. We would do well to release many of them much earlier and use the massive financial savings to help them make their way in the world.

## CONCLUSION

Canadians are neither safer nor better off as a result of having so many people in prison. While there are some people who are dangerous and cannot live in the community this is at most a small minority of those we currently lock up. According to the *Criminal Code*, incarceration is supposed to be a punishment of last resort, but is actually used routinely in all kinds of cases where it is unnecessary, including many crimes that are termed ‘violent’. As the saying goes, we build penitentiaries for people we are afraid of, then we fill them with people we disapprove of. Being in jail does not help people become better, if anything it has the reverse effect (Roodman, 2017). Other approaches to managing crime, such as more use of fines, more therapeutic interventions, and, especially, restorative approaches are badly under-utilized. Canada can and should do better.

## ENDNOTES

- <sup>1</sup> Testimony available at <https://sencanada.ca/en/committees/ridr/studiesandbills/42-1>

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## **ABOUT THE AUTHOR**

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