



The John Howard Society of Canada, in collaboration with the Canadian Association of Elizabeth Fry Societies, the Canadian Bar Association, the Canadian Civil Liberties Association, the Centre for Global Challenges, the Criminal Lawyers' Association, and the National Associations Active in Criminal Justice

Presents

A one-day Symposium on Prison Crowding and its Implications for Human Rights

Objective: To conduct an evidence-based examination of prison crowding in Canada and measure the current conditions against appropriate legal standards.

When: Saturday August 25, 2012

Where: Room 203, Montpetit Hall, 125 University, University of Ottawa

What: This will be accomplished through reviewing the evolution of protections and international standards, examining current conditions in Canadian correctional institutions, comparing current conditions with existing legal standards and exploring remedies for violations of these standards. The final panel of the day will highlight and discuss some of the special challenges involved in representing prisoners.

The Symposium has received continuing professional development (**CPD**) accreditation from the Law Society of Upper Canada (LSUC), The Law Society of British Columbia, The Law Society of Saskatchewan, and Barreau du Québec. (details on page 4)

Price: \$200.00

For further **details** contact:

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To **register** for the Symposium go to www.johnhoward.ca or contact:
Mary Lou Howarth, (613) 384-6272, mhowarth@johnhoward.ca.

Program

8:30 – 9:00: Introductions and Opening Remarks

Catherine Latimer, Executive Director, John Howard Society of Canada, and
Alex Himelfarb, Director, Centre for Global Challenges

Panel Discussions:

1) 9:00 to 10:15: Evolution of Protections and International Standards

- a) Why the only just imprisonment is humane imprisonment*
- b) International protections – UN standards and other international human rights instruments*
- c) Commentary on US Supreme Court decision in *Brown v. Plata* (prison crowding and 8th amendment protections against cruel and unusual punishment)*

Moderator: George Thomson, Senior Director, National Judicial Institute

Panelists: Dwight Barnaby, Law, University of Ottawa
Adelina Iftene, Ph.D. Student, Faculty of Law, Queen's University
David Fathi, Director, ACLU National Prison Project

***** *10:15 to 10:30 Refreshments* *****

2) 10:30 to 11:45: Current Conditions in Canadian Correctional Institutions

Examine the evidence pertaining to conditions present in provincial and federal custody and remand facilities, including access to essential services and rehabilitative programs, and the potential disproportionate impacts for certain types of offenders (women, aboriginal prisoners, newly-arrived offenders, the aged, those suffering from mental health or addiction, those in segregation, gang-involved prisoners):

- a) Federal facilities*
- b) Provincial facilities*
- c) Remand facilities*
- d) Challenges for certain inmate groups*

Moderator: Kim Pate, Executive Director, CAEFS

Panelists: Howard Sapers, Correctional Investigator
Neil Boyd, School of Criminology, Simon Fraser University
Justin Piché, Department of Criminology, University of Ottawa

***** 11:45 – 13:00 Lunch Break (lunch served) *****

Keynote Speaker: Alan Borovoy
General Counsel, Emeritus, CCLA

3) 13:00 – 14:15: **Current Canadian Legal Standards**

Against the backdrop of the current conditions as highlighted in panel 2, examine relevant Canadian legal standards and measure them against the evidentiary base:

- a) Correctional law protections/administrative law – CCRA, provincial statutes, occupational health and safety, public health, etc.*
- b) Charter protections*
- c) Section 1 – is overcrowding justified on the basis of public protection?*

Moderator: Ed McIsaac, former Executive Director, Office of the Correctional Investigator

Panelists: Michael Jackson, Faculty of Law, University of British Columbia
 Allan Manson, Faculty of Law, Queen's University
 Tony Doob, Centre for Criminology and Sociolegal Studies, U of T

4) 14:15 – 15:30: **Remedies for Overcrowding**

Explore some of the remedies relevant to overcrowding:

- a) Remand centres – alternatives to pre-trial detention*
- b) Sentencing alternatives – alternatives to custody*
- c) Corrections remedies – release, parole board involvement, risk assessment, etc.*
- d) Constitutional remedies – 5.24, Charter of Rights*

Moderator: Graham Stewart, (Retired) Executive Director, JHS Canada

Panelists: Dick Barnhorst, Former Federal Dept. of Justice Senior Counsel
 John Conroy, Q.C., Criminal Defence Counsel, B.C.
 Michael Mandelcorn, Lawyer, Director, Criminal Lawyers Association, Kingston Region

***** 15:30 to 15:45 Refreshments *****

5) 15:45 – 17:00: **Representing the Prisoner as Client**

An interactive workshop to explore professionalism issues: (e.g.)

- a) Recognizing and being sensitive to prisoners' circumstances (including the special circumstances of incarceration), special needs, intellectual capacity, multi-cultural, including aboriginal background, language, gender, socioeconomic status, addiction, mental health, gang-involvement, demeanor, etc.*
- b) Communicating with the prisoner as client: barriers, solicitor-client privileged and confidentiality*
- c) Conducting effective client interviews and meetings in the prison context*
- d) Availability of legal services for prisoners*
- e) Acting on instructions: conflict between the roles of client and counsel*

Moderator: Allan Manson, Faculty of Law, Queen's University

Panelists: Fergus J. (Chip) O'Connor, Lawyer, Kingston, Ontario

Kim Pate, Executive Director, CAEFS

Christa Big Canoe, Legal Advocacy Director, Toronto Aboriginal Legal Services

17:00 to 17:30: **Wrap-up and Closing Remarks**

Catherine Latimer, Executive Director, John Howard Society of Canada, and
Alex Himelfarb, Director, Centre for Global Challenges

Program Notes

The Symposium features content of relevance to both the substantive law and “professionalism” continuing professional development responsibilities of lawyers and paralegals in Canada. The five panel discussions will include real time interaction with legal practitioners and experts in the field. Specifically, the Symposium will include live lecture, discussion, and question and answer opportunities on topics related to professionalism in a legal context to enhance lawyer and paralegal competence, and also topics related to substantive law, procedure and skills related content.

The Symposium has received continuing professional development (**CPD**) accreditation as follows:

- The Law Society of Upper Canada (LSUC) for 1.75 Professionalism Hours, and is also eligible for up to 6.0 Substantive Hours.
- Barreau du Québec: *The Quebec Bar has responded that so long as the activity is recognized as professional training by Ontario, it is recognized by Quebec.*
- The Law Society of British Columbia for 5 CPD hours.
- The Law Society of Saskatchewan for 8 CPD hours (2.0 hours will qualify for ethics)

More specifically, panels will include content on (some or all of) the following:

Professionalism Content¹ (1.25 hrs. for panel 5; .5 hr. for panel 2)

1. Relationship to Clients (panels 5 and 2):

- Recognizing and being sensitive to prisoners’ circumstances (including the special circumstances of incarceration), special needs, intellectual capacity, multi-cultural, including aboriginal background, language, gender, socioeconomic status, addiction, mental health, gang-involvement, demeanor, etc.
- Understanding the current conditions (double bunking, crowding, etc.) affecting prisoners and impacting their legal representation (see panel 2)
- Communicating with the prisoner as client: barriers, solicitor-client privileged and confidentiality
- Drafting reporting letters, legal opinions and legal memos in plain language.
- Conducting effective client interviews and client meetings in the prison context

2. Practice Management (panel 5):

- Availability of legal services for prisoners
- Legal Aid Ontario provisions and procedures
- Discovery and cross-examination on affidavits

¹ See the LSUC, ACCREDITATION CRITERIA FOR PROFESSIONALISM HOURS

- Respecting multi-cultural issues
- 3. Ethical Advocacy (panel 5):
 - Practicing with civility
 - Marshalling evidence and communicating with witnesses
 - Acting on instructions: conflict between the role of client and the role of counsel

Substantive Content (panels 1 (1.25 hrs.), 2 (.75 hr.), 3 (1.25 hrs.), 4 (1.25 hrs.):

- The history of protections for prisoners (panel 1)
- International legal standards on custody and overcrowding (panel 1)
- Evidence about current conditions in custodial facilities (panel 2)
- Statutory standards applicable to current conditions (panel 3)
- Constitutional standards (panel 3)
- Legal remedies and procedure (panel 4)