

# Justice

## Introduction

The most effective and lasting routes to public safety must be guided by a principle of solidarity with those who are being criminalized. This runs counter to many people’s common-sense understandings of a clear division between “criminals” (who should be punished) and “victims” (who should be supported). In reality, many (if not most) people who are criminalized (surveilled, arrested, charged, or convicted of a crime) have also been victims of crime.<sup>1</sup> This is because many of the conditions that lead to criminalization are the same conditions that lead to victimization — lack of access to housing, employment, transportation, or adequate community and health services. This is the case for Aboriginal women, who are the fastest growing jail population in Manitoba.<sup>2</sup> Since the early 2000s, the number of women in jail has increased 450 per cent,<sup>3</sup> and the proportion of those women who are Aboriginal was 82 per cent at last count.<sup>4</sup> One of the central assertions of *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* is that Indigenous women are made vulnerable to violence by a range of systems that limit their choices and undermine their ability

to keep themselves safe in ways of their choosing.<sup>5</sup> The criminal justice system is a major instigator of violence and insecurity in the lives of the most vulnerable Manitobans. This is why it does not make sense to imagine that the solutions to crime and violence are different from the solutions to social and economic exclusion.

Many criminal justice strategies and social policies that claim to respond to “safety” concerns in fact interfere with vulnerable people’s efforts to keep themselves safe. For example, in the face of lack of access to stable homes, quality employment, and adequate medical care, people may sleep in public, sell drugs, trade sex, or gather in warm public and semi-public spaces like skywalks, food courts, parkades, and libraries. In Manitoba, we have seen increasing surveillance, hostility, and harassment of poor people through a widening net of police, cadets, biz patrols, and private security; and a shrinking of access to public spaces and public services. Public safety policy should focus on enhancing people’s efforts to keep themselves safe, not intensifying the criminalization of those efforts.

The expertise collected in *Reclaiming Power and Place* also reminds us that social service and rehabilitative responses to violence and harm

are not necessarily the opposite of criminal justice responses. They both often rely on the idea that the person being targeted for intervention doesn't know what is best for them. In contrast, the most effective public investments will furnish people with the resources and capacities to pursue safety in ways that work in the varied and unique contexts of their lives. This means formal commitments to Indigenous self-determination over Indigenous land and livelihoods, as well as investment in foundational social supports for everyone — like food, housing, health, and transportation — rather than new forms of control and intervention by social service agencies and police.

To this end, an alternative budget must be informed by the evidence-based principle that divestment from criminal justice and investment in social support is the most realistic, comprehensive approach to improving people's lives and achieving justice.<sup>6</sup>

## Context

While the federal government is responsible for making and amending criminal laws and running federal prisons, provincial governments are responsible for the “administration of justice” which means provinces make decisions about the operation and funding of provincial courts, jails, and police services. Despite adhering to the same criminal code, there is significant variation between provinces in the rates and conditions under which people are policed, held on remand, granted bail, charged, prosecuted, sentenced, jailed, released, and tracked under criminal justice supervision in their communities. The vast majority of people serving time across Canada are under Provincial supervision.<sup>7</sup>

Since 2000/2001, the provincial justice budget has almost doubled, from \$304.2 million in 2000/2001 to \$602.9 million in 2016/2017 (adjusted for inflation).<sup>8</sup> While crime and violence are significant concerns for Manitobans, this

unprecedented increase in funding for criminal justice has not led to decreased crime rates.<sup>9</sup> This is because the range of harms that are grouped into the category of “crime” — including domestic violence, problematic substance use, impaired driving, theft, property damage, and illegalized forms of work like sex work and drug selling — are behaviours that require vastly different forms of attention and are not resolved through policing and imprisonment.

Increased criminal justice spending does, however, increase the harms associated with criminalization. Criminalization entrenches class, racial, and gendered hierarchies. Even a short stay in jail can have a deeply destabilizing impact on someone's life by restricting their access to health care, compromising their housing and employment, and making them more vulnerable to harm and further criminalization.<sup>10</sup> Indigenous people are significantly more likely to be criminalized than non-Indigenous people in Manitoba.<sup>11</sup> This is especially true of Indigenous women and Indigenous youth. Indigenous people are also more likely to be victims of crime and violence.<sup>12</sup>

Among all Canadian provinces, Manitoba holds the shameful designation of having the highest adult incarceration and probation rates,<sup>13</sup> the highest youth<sup>14</sup> incarceration rate, the highest proportion of Indigenous female prisoners, and the second-highest proportion of Indigenous male prisoners.<sup>15</sup> From 2007/2008–2017/2018, there was a 60 per cent increase in the rate of Indigenous male admissions to custody, and a 139 per cent increase in the rate of Indigenous female admissions to custody.<sup>16</sup> Broadly speaking, this is due to an over-emphasis on justice spending combined with an under-emphasis on social spending, which has led to an accumulation of stress and surveillance in the lives of the poorest Manitobans over the past two decades.

In 2018, the current government announced a *Criminal Justice Modernization Strategy*<sup>17</sup> geared toward increasing ‘efficiencies’ in the criminal

justice process, in large part by aiming to reduce the number of people who end up in court and in jail. They have overseen an 11 per cent reduction in the jail population and they recently announced that they will be closing the provincial jail in Dauphin, which has a 61 person capacity. While the closure of jail beds is a positive step away from ineffective<sup>18</sup> responses to crime, it is part of an austerity agenda that does nothing to provide stabilizing services like housing or health care to vulnerable people. Reducing the harms of criminalization by reducing incarceration rates is an important short-term goal. However, the goal of finding overall cost savings by making cuts to criminal justice without re-allocating funding to alternative responses to violence and harm will leave many important community needs unmet.

Despite an overall austerity agenda, the current government has expressed a commitment to increased policing. They have indicated that they plan to invest \$10M in a downtown Winnipeg safety strategy which centers on increased policing of poor people through targeted evictions and cracking down on panhandling.<sup>19</sup> They have also invested \$1.9M in rural policing, while failing to address rural municipalities' demands for funding for basic infrastructure.<sup>20</sup>

### Principles for Justice Reforms

In provincial consultations for the APB, Manitobans expressed concern about a range of injustices within the justice system: the lack of access to publicly funded legal services, overcrowding in provincial jails, the privatization of phone services in jails, high rates of prisoners being held in remanded custody, little to no access to social support after finishing a sentence, and racism at all levels of the justice system across Manitoba — an issue which cross-cuts all of these issues.

An evidence-based approach to building safe communities for all requires pursuing the following three goals together:

- divestment from policing and imprisonment in order to reduce the harms of criminalization;
- investment in the foundational social supports that make health and safety possible like food, housing, and economic security (see APB chapters on Food Security, Housing and Economic Development and Training);
- investment in a range of resources that individuals, families, and communities can access to respond to violence, mental illness, addictions, and trauma in ways that are tailored to their needs, and not connected to the threat of criminalization. (See the APB chapter on Health Care).

### Spending

#### ***Total divestment from Manitoba Justice in 2020–2021: \$65M***

The proposed divestment from Manitoba's criminal justice system will target current spending on adult custodial corrections (ie. jails). It will be achieved through decarceration and shifting correctional workers into other public sector work. Every dollar divested from criminal justice will be reinvested in social spending on good union jobs in other sectors. No jobs will be lost in this shift in spending, however workers currently employed in corrections will need to transition to other public sectors and in some cases re-train.

Custodial corrections is the most appropriate target for immediate divestment for a number of reasons:

- **The most significant increases in justice spending over the past twenty years have been in custody corrections.** Even though 75 per cent of people serving time in Manitoba are serving it in the community (on probation, not in jail), 11 per cent of the operating expenditures for Provincial corrections go to community supervision

services, while 87 per cent of operating expenditures go to custodial services. From 03/04 to 17/18, spending on custodial services increased 231 per cent.<sup>21</sup>

- **Jailing does more harm than good.** Imprisonment does not reduce or prevent crime; it significantly disrupts people's lives and makes them more vulnerable to criminalization and victimization; and it eats up valuable public money that could be used for meaningful community supports. A primary goal of corrections reform should be to eliminate the use of imprisonment so that people's basic needs and needs for healing can be met in the context of communities that support and love them.
- **Most people could be let out of jail tomorrow without risk of harm to their communities.** Seventy per cent of people who are currently jailed in Manitoba are waiting for trial and are legally innocent.<sup>22</sup> Decisions about who will be jailed while they wait for trial, and who will be let out of bail have been called "unnecessarily risk-averse" by the Canadian Civil Liberties Association, who have also noted that this decision making "disproportionately penalizes — and frequently criminalizes — poverty, addiction, and mental illness."<sup>23</sup> In Manitoba, there has been a 78 per cent increase in the remand population (from 03/04 to 17/18)<sup>24</sup> — within that population, there has been a 117 per cent increase in Aboriginal people being held in remanded custody, and only a 15 per cent increase in non-Aboriginal people being held in remanded custody.<sup>25</sup> There is ample evidence that the pre-trial detention system is racist, classist, and ableist.

Reducing spending on all forms of corrections must be met with investment in the spaces and institutions that sustain strong communities. In

the short term, releasing people from remanded custody into their communities will free up resources for reinvestment in social and community supports. In the longer term, this shift in social spending will increase community capacity to house, support, and problem-solve in order to continue to reduce the number of people under correctional supervision into the future.

To this end, the APB recommends shifting \$131M of funding out of Manitoba justice into evidence-based community health and safety strategies overseen by other branches of government. Most of this operating funding is salary spending, therefore a significant portion of redirection of funds will go toward job creation in other sectors across the province so former correctional workers will be able to continue to live in and contribute to their home communities.

This cut to justice spending represents a return to 2003/2004 levels of operating spending on custodial services (\$56M in current dollars).<sup>26</sup> In that year, the average number of adults in custody was 1231. To return to those levels would require an 874-person reduction in custodial population from its current levels, which would mean releasing 40 per cent of the current custodial population.

Returning to 03/04 levels of correctional staffing would require shifting 617 employees<sup>27</sup> out of corrections into other sectors which will require retraining, to be funded through reallocation of funds detailed below. This budget accounts for a six-month paid retraining period, which means that after the first 6 months there will be the equivalent of \$65M in labour capacity to redistribute to other sectors.

### Retraining

Retraining of correctional service workers will be funded by cutting the annual operating funding of the Winnipeg Police Service helicopter, which currently costs the Province \$1.9M per year<sup>28</sup> and has no impact on crime rates or levels of violence.

It will cost approximately \$1.3M to retrain 617 employees over a six-month period at a rate of \$2200/employee (average 1.2 year tuition at the University of Manitoba). The remaining \$0.5M will be redistributed to employees who are required to temporarily relocate in order to retrain.

#### Where Will the \$65M Go?

*Investments in alternative routes to justice: \$47M*  
(See chapters on Municipal Relations, Indigenous and Northern Affairs and Health Care)

*Investments in foundational social supports: \$18M*

#### **Investments to Reducing our Reliance on the Criminal Justice System**

##### **Legal aid: \$10M**

In order to clear people from remanded custody, access to legal aid needs to be significantly expanded. Lack of access to legal aid funding keeps people in jail. It is currently severely limited by accessibility requirements, a shortage of legal aid staff, and inadequate compensation for private lawyers who take on legal aid cases.

*Current spending: \$31M<sup>29</sup>*

*Proposed spending: \$10M*

##### **24-hour safe spaces across the province: \$5M**

Based on the West End 24-hour safe space model, it costs approximately \$150K/year to run and staff a 24-hour safe space where community members can sleep, eat, and connect.<sup>30</sup> These safe spaces save lives. This budget proposes to establish 25 new 24-hour safe spaces across the province, distributed according to population needs (at \$200K/year in order to account for higher costs of delivering programming in remote areas).

*Proposed spending: \$5M*

##### **Harm reduction: \$12M**

Using models provided by the Manitoba Harm Reduction Network (MHRN) and Street Connections, this budget proposes a \$12M investment in

harm reduction initiatives across the province. These initiatives reduce the harms associated with use of criminalized substances, and provide public education and advocacy led by drug user peer advisory teams. This investment would be broken down as follows:

- \$5M to expand the reach of MHRN (currently operating in Winnipeg, Brandon, Eriksdale-Ashern, Flin Flon, Portage la Prairie, Powerview-Pinefalls-Sagkeeng, Selkirk, Swan River, Thompson)
- \$5M to establish and operate Street Connections in cities across the Province, according to need (currently delivered by the WRHA at a cost of \$500K/yr)<sup>31</sup>
- \$2M to research and establish a model for the delivery of a safe supply of criminalized substances and safe consumption sites and to establish Manitoba's first safe consumption site.

##### **Indigenous-led self-determined restorative justice programming: \$20M**

A transfer of funds from Manitoba Justice, distributed across the Province toward the development of Indigenous-led restorative justice programming as defined by the communities in charge of it, as per the recommendations of the report of the inquiry into MMIWG.

**Total: \$47M**

#### **Investments in Foundational Social Supports**

Investments in Health, housing, transit, and EIA, are all safety and security investments. For example:

- Stable housing is a more reliable and sustainable investment in safety than jail beds. Access to affordable, stable housing reduces problems associated with using criminalized substances, and it offers people options when trying to reduce their risk in violent relationships or otherwise violent living situations. (See section on Housing).

- Community-based mental health services and supports for people with mental health can reduce the risk of criminalization associated with mental illness.
- Increased EIA rates and elimination of punitive sanctions for breaches of draconian EIA protocols will reduce the vulnerability to victimization and criminalization of Manitoba's poorest community members (see APB section on EIA).
- Access to affordable inter- and intra-city transit is a significant safety issue, particularly for Indigenous women and young people who need to travel between remote areas. Intra-city transit increases autonomy, flexibility, and access to employment which significantly increases safety. (See APB section on Municipal Relations)

## Conclusion

Different kinds of problems require different kinds of solutions. Policing and jailing are not the solution to any of them. There is not a one-to-one alternative to police or jailing for the same reasons that police and jailing aren't effective — they are blunt and damaging instruments that do not attend to the contexts that give rise to harm, and often cause more harm themselves. Safety is produced by social stability, not punishment and social exclusion. This is why skyrocketing investments in criminal justice have not resulted in safe and healthy communities. If we are to see a return on our investments, we must invest in people's capacities to survive and thrive in ways of their choosing, and divest from systems that routinely and perpetually control, destabilize, and harm communities.

### **Total Divestment**

(\$65M less \$10M to Legal Aid): \$-55M

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