



# FINAL REPORT ON THE REVIEW OF CANADA'S CRIMINAL JUSTICE SYSTEM



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## MINISTER'S MESSAGE

In 2015, as part of the mandate letter to the Minister of Justice and Attorney General of Canada, the Government of Canada undertook a broad review of Canada's criminal justice system to ensure that it is just, compassionate and fair, and that it promotes a safe, peaceful and prosperous Canadian society. While Canada's criminal justice system has many strengths, many challenges need to be addressed. Reconsidering how the system can be modernized to reflect the needs and expectations of Canadians is an issue of paramount importance to our country and the well-being of its citizens.

I am pleased to present the Final Report of the Government of Canada's Review of the Criminal Justice System. This report brings together the ideas and opinions of thousands of Canadians on how to improve the system.

Broad-scale engagement was fundamental to this process. Over the past three years, people across the country were able to provide their views and feedback through a variety of platforms.

Consultations began with a series of roundtable events held in each province and territory which brought together stakeholder experts, Crown prosecutors, defence lawyers, Indigenous leaders, academics, victim advocates, restorative justice proponents and representatives of front-line community support systems. These included representatives from areas such as mental health, housing and other social support systems. In March 2018, a report entitled, [\*What we heard - Transforming Canada's criminal justice system\*](#), was made public.

Engaging the Canadian public was another important aspect of this meaningful review. In late 2017, the Department of Justice launched its largest-ever public consultation on the criminal justice system. This included an online engagement and social media campaign. A [report](#) summarizing what was heard during the public consultation was published in April 2019.

Based on the first two phases of consultations, it became clear that meaningful and lasting change will require a multi-sectoral approach. As a result, the Department of Justice then collaborated with the Institute for Research on Public Policy (IRPP) to hold four stakeholder roundtables and produce a series of articles in their digital magazine *Policy Options*. Both the roundtables and the articles focused on how the criminal justice system could better complement and support other social systems to achieve better outcomes.

Overall, there was consensus that the system requires major change. Participants expressed that the system must be based on respect, fairness, collaboration, compassion, and inclusiveness. It should hold individuals accountable for their actions and work collaboratively with other sectors to prevent crime, rehabilitate offenders and repair the harm done by crime. Changes to sentencing, increasing the use of restorative justice, taking a more victim-centered and trauma-informed approach, increasing understanding of what is happening in the system and the ability to monitor progress and focusing on the root causes of crime were some of the suggested areas of focus in order to transform the system.

Thanks to the contributions of Canadians, much of the groundwork has been laid for continued criminal justice reform. I would like to thank the thousands of Canadians who took the time to reflect on these important matters. While the official review is now completed, I am confident that the dialogue on reform will continue and that this review provides a foundation for addressing some of the most challenging issues facing the criminal justice system.

*The Honourable David Lametti*  
Minister of Justice and Attorney General of Canada

## INTRODUCTION

Canada's criminal justice system is among the best in the world – a model for other countries, and a source of pride for Canadians. It has a strong foundation, but it faces a number of challenges. Change is needed.

Over the past many years, crime and the severity of crime have been declining. Canadians generally feel safe. But our criminal justice system has become inefficient and, at times, crippled by delays. Some have described the *Criminal Code* as a patchwork of provisions that is out of touch with modern times.

Meanwhile, certain challenges have become more apparent and more troubling – especially the overrepresentation in the system of Indigenous people and individuals from vulnerable and marginalized populations. The system we have today is sometimes ill-equipped to address the needs of those who enter it.

At the same time, many victims and survivors of crime emerge disillusioned with – and disappointed by – the criminal justice system. Despite some advancements in victims' rights, many victims continue to lack confidence in the system. Some even feel revictimized by their experience. We need to do more to treat victims and survivors of crime with courtesy, compassion and respect.

We also need to find new and better approaches to address emerging issues. Reform is required to ensure long-term safety and justice for all.

In response to these challenges, the Government of Canada made reviewing the criminal justice system a top priority in justice policy. The mandate letter presented to the Minister of Justice in 2015 stated that a review should be conducted to examine and explore a number of important questions, including the following:

- Are we making our communities safer through our criminal justice system?
- Are we getting good value for the money we spend as a country?
- Are we directing our resources to initiatives having the greatest positive impact on the lives of Canadians?
- Are we adequately addressing and resolving any gaps in the system?
- Are our current provisions aligned with the objectives of the criminal justice system?
- Are we seeing improvements resulting from criminal sentencing reforms in recent years?
- How can we modernize our system to ensure it is fairer, more effective and more efficient?

The criminal justice system has been the subject of intense political debate in Canada over the past few decades. Competing ideals related to rehabilitation and punishment have led to markedly different policy approaches and sharp disagreements about the best way forward. Yet, on the issue of reform, there is considerable consensus.

Many individuals who come in contact with the criminal justice system are vulnerable or marginalized. A significant number struggle with mental health and substance use issues. Some are homeless or living in poverty. In many cases, these individuals' issues are exacerbated by an over-reliance on incarceration. The system is not equipped to fully address the issues that contribute to criminal behaviour in these groups.

Governments must also take into consideration how the criminal justice system relates to other critical support systems in our society, such as housing, health care, education, employment, training and child protection. They must strive to better understand the root causes of crime – and ensure that Canada is not using instruments of criminal justice to address social problems.

At the same time, we must make changes to ensure the system does a better job of preventing crime and holding offenders accountable. Now and always, public safety must maintain a place of paramount importance. Those who have been convicted of serious offences must be held accountable for their actions. This is a foundational aspect of Canadian justice.

With these priorities in mind, the Government of Canada undertook a review to consult Canadians and stakeholders on how best to transform the criminal justice system. This comprehensive review – the first of its kind since 1982 – was intended to guide the Government in its efforts to ensure that Canada’s criminal justice system is just, compassionate and fair; that it promotes a safe, peaceful and prosperous society; and that it accurately reflects the values and principles of modern-day Canada.

## HOW WE ENGAGED

Any changes to our criminal justice system will have a far-reaching impact on current and future Canadians. This includes not only accused persons and offenders but also victims, their families and their communities.

It is therefore critical that any reforms serve the interests of Canadians and reflect the values and principles of the *Charter of Rights and Freedoms*.

A thorough and meaningful review of the criminal justice system demanded a comprehensive and deliberative consultation with diverse and non-mainstream people from across our country – experts, stakeholders and citizens at large.

Open dialogue was therefore a hallmark of the review. Many thousands of Canadians shared their views about – and their personal experiences with – the criminal justice system. In order to capture the interest and gain the perspectives of the broadest possible constituency of Canadians – including experts and front-line service providers – a variety of methods were used:

- 27 expert roundtable discussions
- one-on-one engagements with stakeholders
- a public engagement campaign anchored by a digital consultation website including a Twitter townhall and a Reddit conversation
- four national public opinion surveys
- 18 in-person focus groups
- a series of youth outreach and engagement campaigns
- a [series of 19 articles](#) in the online magazine *Policy Options* entitled “Widening the Lens on Criminal Justice Reform”

By achieving a wide reach, this review was able to provide an extensive and revealing understanding of what Canadians think about their criminal justice system and how they want it to evolve and change.

Crucially, at least one roundtable discussion was held in every province and territory. Provincial/territorial government officials, police, lawyers, judges, academics, Indigenous leaders, non-governmental organizations representing victims and offenders, mental health professionals, front-line community support workers and ordinary citizens, among others, attended these sessions. Innovators, thought leaders and ambassadors for reform were also part of these discussions.

These stakeholders provided invaluable insights into the strengths and shortcomings of the criminal justice system. They also advanced many ideas for how the system could be changed and improved.

Additionally, the Department of Justice supported a series of substantive articles in *Policy Options*, a digital magazine devoted to public policy debate. A diverse range of experts examined the criminal justice system from different perspectives with an eye to guiding Canada toward a more modern and comprehensive approach to criminality.

A major goal of the engagement was to hear from the Canadian public. To this end, traditional public opinion research served an important role. The review also sought to engage Canadians more deeply and go beyond top-of-mind opinions.

A paid advertising campaign promoted the consultation and its engagement website, which included educational information and [videos from Canadians about their own experiences](#) with the criminal justice system. It invited Canadians to provide their opinions on five key issues:

- Victims' experiences
- Indigenous overrepresentation
- Mental health and addictions
- Restorative justice
- Court delays

An interactive online tool was used to allow for email submissions and online discussions on these topics.

Over a two-month period in late 2017/early 2018, social media posts about the review were viewed more than 4.4 million times. Canadians from across the country were engaged, including family members of victims, academics and researchers, frontline staff from community-based agencies, individuals convicted of a criminal offence, Indigenous people living on and off reserve and interested Canadians.

To further broaden the campaign's reach and increase the meaningful engagement of Canadians, a popular online discussion forum (Reddit) was used to promote the consultation process to a community of young adults. The Department of Justice's first Reddit initiative garnered more than 400 responses.

A Twitter Town Hall – hosted by former Parliamentary Secretary Marco Mendicino – provided an additional opportunity for Canadians to engage with an elected official in real time and to share their views, their concerns and their ideas.

The one-hour event attracted 560 tweets posted by 161 users.

The broad scope and the transparent and inclusive nature of the consultation process were instrumental to its reach and success. Canadians and experts from across professional disciplines were encouraged to think differently and deeply about the criminal justice system. By employing innovative methods of consultation, the review achieved a more comprehensive perspective on criminal justice reform.

In all, more than 11,000 Canadians actively participated in the public consultation on the possibility of transforming our criminal justice system. They shared their views and perspectives on a number of criminal justice-related issues, including the following:

- sentencing (including mandatory minimum penalties and the use of alternative sentencing measures)
- administration of justice offences
- the rights of victims of crime
- the need for more integrated and complete data/information on the criminal justice system
- the system's impact on vulnerable populations
- public safety
- restorative justice
- ensuring that Canada is not using instruments of criminal justice to address social problems
- overall confidence in the Canadian criminal justice system

The Department of Justice would later win the International Association for Public Participation's awards for "Canadian Project of the Year" and "Extending the Practice through Creativity, Contribution, and Innovation in the Field."

The stakeholder and public consultation process also resulted in the publication of a number of important public documents that chronicle in detail the perspectives and priorities of Canadians on the topic of criminal justice reform:

- [National Justice Survey 2017: Issues in Canada's Criminal Justice System](#)
- [National Justice Survey 2016: Canada's Criminal Justice System](#)
- [Consultation with Canadians Report: Criminal Justice System](#)
- [Rethinking Criminal Justice in Canada](#)
- [Widening the Lens on Criminal Justice Reform](#)
- [A Report on Provincial and Territorial Stakeholder Consultations](#)
- [A Justice System We Want: Youth Engagement on the Criminal Justice System](#)



## WHAT WE HEARD: THE CHALLENGES

By its very nature, the consultation process attracted an array of views. The broad nature of the review nonetheless allowed ample opportunity for consensus to emerge on some key issues. While emphasizing the need for the criminal justice system to hold offenders accountable and to promote public safety, participants pointed to a number of systemic problems:

- The system is archaic and has not kept pace with social change. Some of its values and principles are outdated, including relying too heavily on punishment and incarceration and not enough on rehabilitation and community-based sentencing.
- There is inadequate use of restorative justice and other alternatives as meaningful ways of holding individuals to account.
- The system disproportionately targets individuals from specific demographic groups – especially Black and Indigenous Canadians – and is particularly ill-suited to deal with the realities of vulnerable and marginalized groups, including people with mental illness or substance use issues.
- The system is often left to address problems that are fundamentally social in nature, including poverty and homelessness. In many cases, vulnerable individuals enter the system largely because of their circumstances and lack of options. These individuals often end up returning to the system.
- People face issues that often involve other social systems to which the criminal justice system is not linked. Information is not adequately shared or integrated across the different systems.
- Current laws, particularly mandatory minimum penalties, unnecessarily limit judicial discretion.
- The system often results in long delays before a case is brought to trial, which has negative impacts on the accused and on the victim of the crime, both of whom are forced to wait for justice. Case completion time in adult courts continues to rise, even as the overall number of cases declines.
- The system is too occupied with relatively minor administration of justice offences, such as failure to appear in court. The number of these offences has grown markedly in past years and they contribute to significant court delays.
- There is a serious lack of data and information on what is going on in the criminal justice system, including who is in it and why, as well as what approaches are working well.

There continue to be barriers to justice for victims and survivors of crime, who often feel isolated, frustrated and voiceless. Foremost among these barriers are the following:

- **Underreporting.** Victims (especially victims of sexual assault) often choose not to report crimes to the police for fear of repercussions against them, or apprehension that their cases will not be taken seriously. They lack faith in the integrity of the criminal justice system.
- **Trial delays.** Often, cases go to trial only after a long delay. When a case is eventually heard, the delay has already taken a serious toll on the victim. Due to the time it takes some cases to go to trial, there are currently more people in provincial jails awaiting trial or sentencing than actually serving sentences.

- **Treatment within the system.** Despite some advances, victims continue to report that the criminal justice system does not always treat them with compassion and respect. They often feel excluded from – and sometimes further traumatized by – the system.
- **Lack of timely, affordable supports.** Victims are particularly concerned about the lack of supports available to them during the criminal justice process and after their case concludes.

In summary, the review found widespread recognition that our criminal justice system needs comprehensive reform, including greater flexibility to respond to criminality – and those affected by it – in new and different ways.

In particular, consultation participants were strongly of the view that the criminal justice system should not continue to be used to solve social problems. The issues that lead some people to commit crime would be better addressed through a collaborative, multi-sectoral approach. The most important transformation will ultimately lie in providing the appropriate supports to individuals who don't belong in the criminal justice system in the first place. Most individuals in the criminal justice system as we know it today need other social supports.

At the same time, we heard very clearly that public safety must maintain a place of paramount importance in the system and offenders must be held accountable for their actions.

## WHAT WE HEARD: POTENTIAL SOLUTIONS

People engaged not only around criminal justice system problems but also around solutions. The consultations generated a range of views and suggestions. Across the many types of consultative forums, there was a degree of consensus on a number of topics, including the need to:

- recast the foundations of the criminal justice system to put less priority on the “punishing” of offenders and focus instead on prevention, diversion, and rehabilitation – all while making sure to hold offenders to account for their actions
- incorporate restorative justice and other alternative approaches into the mainstream criminal justice system
- apply a wider lens to examine how our criminal justice system intersects with other social systems including housing, health, child care and income support, and how some individuals wind up falling through the cracks and into contact with the system. Changes to the criminal justice system have important implications for these systems and the individuals in them
- better consider and, in cooperation with various agencies, better address the root causes of crime, including limited educational and employment opportunities and limited social services. The interdependence of criminal justice and other social systems requires collaboration not just among those who work in the system, but also among governments
- adopt a problem-solving approach to criminality. This approach could include the use of specialized courts, including drug treatments courts, mental health courts, domestic violence courts, Indigenous courts and more. Ideally, this would result in more effective methods of justice based on a more detailed understanding of specific issues and challenges

- abolish or limit mandatory minimum sentences, so judges can better consider an offender's individual circumstances and ensure that any punishment truly fits the crime and holds the offender to account
- increase accountability, transparency and oversight around the use of administrative segregation across the criminal justice system
- adopt a whole-of-government approach to make pardons more accessible, to ensure that certain offenders have the opportunity to move on without a criminal record impeding their attempts to focus on the future
- decrease court delays
- work to address the disproportionate number of individuals from certain demographic groups in the criminal justice system – and introduce measures to better serve the needs of those with mental illness or substance use issues
- increase the collaboration between the federal government and the provinces and territories to determine and implement key reform priorities
- increase understanding among justice system officials through education on matters such as sexual assault trauma and traditional forms of Indigenous justice
- amend the *Canadian Victims Bill of Rights* so that victims automatically receive information instead of having to request it
- provide more funding and resources to organizations that serve victims
- build the capacity of victim services and justice professionals to respond to the needs of vulnerable and marginalized groups of victims
- improve cross-sectoral collaboration – between health and justice sectors, for example – to help ensure that victims have better access to longer-term health care supports such as counselling
- develop and enhance victim-focused approaches throughout the criminal process to improve victims' confidence in the system and rates of reporting
- ensure that restorative justice opportunities – particularly those that are grounded in victim-focused and trauma-informed practice – are offered to all victims of crime
- increase data linkages and integrate information system connections between the criminal justice system and other social systems proactively

It was also frequently suggested during the review that permanent mechanisms should be formalized so that the criminal justice system can learn from its own experiences, its own successes and its own shortcomings. This would help it to better adapt to changing circumstances.

Canada's criminal justice system should help to promote a safe, peaceful and prosperous Canada. To achieve that goal, it must be fair and objective. It must also be flexible enough to account for disproportionate impacts on certain segments of Canadian society.

## WHAT WE ARE ALREADY DOING

The federal government has already taken concrete steps to begin to improve the effectiveness of our criminal justice system. It has also begun to reflect some of the perspectives presented during the consultations from Canadians about how the system should change.

Below are some program changes in development:

- The Government of Canada has developed an improved approach to administration of justice offences
- The Department of Justice is developing a performance monitoring framework to identify and address data gaps and enhance the availability and accessibility of information on the performance of the criminal justice system
- Federal/provincial/territorial ministers responsible for justice have endorsed the increased use of restorative justice and approved key principles to govern its application in criminal matters
- Federal funding for criminal legal aid has been increased to support more legal aid services for economically disadvantaged Canadians
- Federal support for the Indigenous Justice Program and the Indigenous Courtwork Program has been increased to help address gaps in services to Indigenous people throughout the criminal justice system
- In collaboration with the provinces and territories, development of a Pan-Canadian strategy to reduce the overrepresentation of Indigenous persons within the criminal justice system

The Government of Canada has advanced a number of legislative initiatives to make the criminal law fairer, clearer, more relevant and more accessible, while also strengthening public safety.

Parliament enacted the following bills:

- Bill C-16 amended the *Criminal Code* to provide greater protection against hate speech for trans and gender diverse Canadians
- Bill C-45 enacted a new regime to legalize, strictly regulate and restrict access to cannabis
- Bill C-46 amended the *Criminal Code* to modernize Canada's impaired-driving laws and to restructure and modernize the entire *Criminal Code* transportation regime
- Bill C-51 amended the *Criminal Code* to (1) codify and clarify certain aspects of sexual assault law to prevent incorrect applications of the law and to make the criminal justice system more compassionate towards complainants in sexual assault matters; (2) remove provisions that have been found unconstitutional, while also proposing other *Charter*-related reforms; and, (3) remove a number of obsolete or redundant provisions
- Bill C-51 also amended the *Department of Justice Act* to create a new duty for the Minister of Justice to table *Charter* statements for all government bills, which would outline a bill's potential effects on the rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms*

Legislation (former Bill C-75) to modernize the criminal justice system and reduce delays received Royal Assent on June 21, 2019. These comprehensive legislative changes mark an important milestone in strengthening, transforming and modernizing our criminal justice system. Together, these comprehensive changes will help bring about a much needed culture shift in the way our criminal justice system operates. These measures will also help reduce the overrepresentation of Indigenous people and vulnerable populations in the criminal justice system, including people with addictions and mental illness. This legislation will:

- limit the use of preliminary inquiries to more serious offences to help criminal cases proceed efficiently to trial
- strengthen responses to intimate partner violence
- streamline bail processes to ensure swifter access to justice
- provide judges with more robust tools they need to manage the cases before them
- improve the jury selection process to ensure that juries are more representative of the Canadian population
- provide more discretion on administration of justice offences
- reclassify offences to allow courts to deal more efficiently with less serious matters, freeing up limited resources for more serious offences
- improve the victim surcharge regime by providing discretion to judges
- facilitate the investigation and prosecution of human trafficking offences
- remove laws that the Supreme Court of Canada has found unconstitutional

The Government of Canada has also modernized the judicial appointments process to build a more diverse bench.

Together, these program and legislative reforms represent initial but important steps towards updating and improving Canada's criminal justice system. They also support a number of initiatives in the provinces and territories to address criminal justice system delays.

## KEY MESSAGES FROM CANADIANS

The input received from participants and stakeholders who engaged over the course of this review identified four areas around which any future reform of the criminal justice system might focus. While these are sometimes broad and far-reaching directions, they leave much room for future choices around design and implementation.

- 1. Restorative justice principles could play a more prominent role.** Review contributors felt the criminal justice system, at times, focuses too much on the offence rather than the offender. It aims to punish rather than rehabilitate the individual. Stakeholders and partners suggested that more emphasis could be placed on addressing an individual's surroundings and circumstances, on rehabilitation and crime prevention and on repairing the harm done to victims of crime. Restorative justice sees crime as a violation of people and relationships, not just a violation against the state. It seeks to provide opportunities for more lasting resolutions to crime. It can increase access to justice and improve outcomes for victims and communities. It can help to reduce incarceration rates – both in general and among specific, marginalized demographic groups.

Numerous examples of how restorative justice is well suited to deal with certain forms of criminality, while still holding offenders to account were identified over the course of the review. These examples demonstrated how restorative justice seeks to address the harms crime causes by promoting restoration, reparation and reintegration.

**2. More concrete and specific steps could be taken to reduce the overrepresentation in the system of vulnerable populations and specific demographic groups.** It is well documented that Indigenous people in Canada are grossly overrepresented in the criminal justice system. Black Canadians are also overrepresented, as are those who are vulnerable or marginalized in other ways, for example, those with mental illness and substance use disorders. Review participants frequently emphasized the importance of data collection and improvements to justice information systems in this area. Simply put, many felt that the true scale of the problem is not well understood. It is widely accepted that the solutions to this issue do not lie squarely within the criminal justice system.

**3. Further sentencing reform.** Most participants believe that the best approach for determining fair and appropriate sentences for offenders involves giving judges at least some degree of discretion. Few believed that applying the same sentence to all offenders is fair and appropriate. Many supported the idea of a sentencing commission to help ensure that sentences are fair, consistent and reflective of our modern-day society.

The consultation process made clear that most Canadians want judges to consider an offender's characteristics (such as mental health, cognitive difficulties and addiction or poverty issues) before deciding on a sentence. Participants supported less severe sentences for low-level, non-violent crime and longer sentences for the most severe violent offences.

**4. Data and performance gaps could be improved.** Review participants noted how longstanding data and information gaps seriously limit our ability to understand the criminal justice system and identify problems, assess performance and progress, and support evidence-based policy, programming, or legislative changes. At issue is not simply the lack of data pertaining to pathways through the criminal justice system, but rather the inability to track trajectories of individuals from one system to another and the inability to understand what circumstances bring individuals into contact with the system.

Canada's criminal justice system interacts with myriad other social systems such as health, income support, child welfare and housing in complex ways. We heard clearly that any reform should take into account and limit the potential for unintended and harmful consequences, for offenders, victims, their families and communities.

This review has demonstrated the way we respond to criminality reflects our values and principles as a country. Evidence-based reforms hold the potential to promote a safer and more just society – and a more efficient and effective criminal justice system.

## CONCLUSION

This comprehensive review has helped to start and advance a national conversation about the criminal justice system in Canada, its role, its structure, its goals and its ability to deliver on the priorities of Canadians. The Government of Canada has already implemented some reforms through legislation during its current mandate. The expansive consultations and engagement process around the criminal justice system review have highlighted the possibilities of real and lasting change.

Canadians deserve and expect a well-functioning system that effectively meets the needs of victims, keeps offenders accountable, keeps our communities safe and protects the vulnerable.

Our justice system is complex with federal, provincial, territorial and municipal agencies and organizations all playing a role. Even as review participants acknowledged the need for change, they also recognized the imperative to move forward with a measured approach that responds to the complexity of the system. There is a need for careful consideration of the impacts and alignment of each potential reform in the different levels of government and institutions involved.

It was widely acknowledged over the course of this review that changes to our criminal justice system – whether implemented through legislation, policy or program – will have a far-reaching impact. Their effect will be felt for decades. Changes will have implications for the individuals who come into contact with the system, as well as for the victims of crime and Canadian society as a whole.

The role of the criminal justice system is to preserve public safety, promote respect for the law and address crime in a just, fair, efficient and compassionate manner. This period of significant change presents us with great opportunity, but also considerable challenges. The key messages from Canadians that have emerged from this review seek to make both the victim and the offender active participants in the journey for justice. Participants, stakeholders, and the many Canadians who engaged in the review process clearly emphasized the importance of repairing relationships, ensuring victims have a powerful voice in this process and allowing them to heal as key. At the same time, they emphasized encouraging the offenders to take responsibility for their actions. This work is hard but must continue in a thoughtful, coherent and comprehensive way to reflect the kind of country we are, and the kind of country we want to become.

