



***RNAO's Response to Bill 6: Correctional
Services Transformation Act, 2018***

Submission to Standing Committee on Justice
Policy

April 19, 2018



Summary of RNAO Recommendations

Recommendation 1. RNAO recommends that the 41st Parliament of Ontario pass the *Correctional Services Transformation Act, 2018*.

Recommendation 2. RNAO recommends that government of Ontario implement the transformation of the correctional services system, by the end of 2022, enabled and sustained by financial and human resources equal to the task of transformation.

Recommendation 3. RNAO recommends that in part II, administration, that the following clause be added under section 4 (3) regarding exceptions: Despite subsections (1) and (2), the Minister and employees of the Ministry shall not enter into a contract or agreement with the Crown in right of Canada to detain individuals on administrative immigration grounds.

Recommendation 4. RNAO recommends continuing the process of the transfer of responsibility for health care services from the Ministry of Community Safety and Correctional Services to the Ministry of Health and Long-Term Care, with full implementation by the end of 2019.

Introduction

The Registered Nurses' Association of Ontario (RNAO) is the professional association representing registered nurses (RN), nurse practitioners (NP), and nursing students in all settings and roles across Ontario. Since 1925, RNAO has advocated for healthy public policy, promoted excellence in nursing practice, increased nurses' contributions to shaping the health system, and influenced decisions that affect nurses and the public they serve.

RNAO welcomes the opportunity to provide feedback to the Standing Committee on Justice Policy on Bill 6, *An Act to enact the Ministry of Community Safety and Correctional Services Act 2018 and the Correctional Services and Reintegration Act, 2018, to make related amendments to other Acts, to repeal an Act and to revoke a regulation*. For this submission, RNAO will use the short title of Bill 6, *Correctional Services Transformation Act, 2018*.

Despite the hard work and dedication of many correctional staff members, the evidence is clear that Ontario's correctional system is in crisis. Correctional nurses know this from their own experience as do others who work in corrections. Families, friends, and many who have been incarcerated could speak to the effects of a correctional system in crisis on health and well being. Others who have been incarcerated cannot speak to this crisis because they did not survive the experience. Inquests,¹ legal challenges,^{2 3} and reports from the Ontario Ombudsman,^{4 5} Ontario Human Rights Commission,^{6 7} and the Independent Review of Ontario Corrections^{8 9} provide overwhelming documentation of why Ontario's correctional system needs to be transformed.

Correctional Services Transformation Act, 2018 must be passed, implemented, and sustained

Recommendation 1. RNAO recommends that the 41st Parliament of Ontario pass the *Correctional Services Transformation Act, 2018*.

Recommendation 2. RNAO recommends that the government of Ontario implement the transformation of the correctional services system, by the end of 2022, enabled and sustained by financial and human resources equal to the task of transformation.

Thanks to the Independent Review of Ontario Corrections (IROC), lead by Howard Sapers, the province not only has evidence of the failures of the current system but also has a clear roadmap to guide essential transformation. The first recommendation of IROC's initial report on segregation in Ontario advised the government to "table a modernized *Ministry of Correctional Services Act* in the current legislative session."¹⁰ In addition to the 63 recommendations to address harms caused by segregation, the next IROC report, *Corrections in Ontario: Directions for Reform*, provides guidance in the form of 62 additional recommendations covering a range of issues.¹¹ The premise driving both reports is that "corrections is a human rights enterprise that must be evidence-based, principle driving, and embrace oversight and accountability; operational decisions must be infused with the values of respect, dignity, and legality."¹²

The *Correctional Services Transformation Act, 2018* is a systematic response to key IROC recommendations. It is consistent with RNAO's ongoing advocacy to improve health outcomes, health equity, and health care services within the provincial correctional system.^{13 14 15} It is also congruent with guidance provided by two coalitions that RNAO is proud to be a member of: the Coalition on Reforming Segregation in Ontario's Correctional Institutions¹⁶ and the Correctional Health Care Coalition.¹⁷

In order to implement the *Correctional Services Transformation Act, 2018*, act on all of IROC's recommendations, and facilitate the tremendous cultural shift that will be required, the provincial government must devote sufficient financial and human resources to initiate and sustain change. This is an investment that will benefit the most marginalized Ontarians, those who work within the correctional system, and the broader community as "prison health is public health."¹⁸

End the incarceration of immigration detainees in provincial prisons

Recommendation 3. RNAO recommends that in part II, administration, the following clause be added under section 4 (3) regarding exceptions: Despite subsections (1) and (2), the Minister and employees of the Ministry shall not enter into a contract or agreement with the Crown in right of Canada to detain individuals on administrative immigration grounds.

Since RNAO, other health-care providers, members of the legal community, and the Ontario Human Rights Committee called on the province to end the ongoing incarceration of immigration detainees in provincial prisons in 2016,¹⁹ at least one more person has died. Teresa Michelle Gratton, 50, who died October 30, 2017 at the Vanier Centre for Women, recently came to public attention as her family sought answers about her death.²⁰ Initial reports of her death that described her only as a "50-year-old woman" were clouded in secrecy.²¹

Lack of transparency also characterized the circumstances of the death of Abdurahman Ibrahim Hassan, 39, who had been held at the Central East Correctional Centre for more than four years.²² Ebrahim Toure, 46, is still alive after more than five years in immigration detention, but he spent the first four-and-a-half years in Central East Correctional Centre.²³ A Superior Court judge ruled Toure's indefinite detention in a maximum-security facility without charge amounted to "cruel and unusual" treatment that violated his Charter rights and so he was moved to the less-restrictive Immigration Holding Centre.²⁴

It is past time for the province of Ontario to stop accepting immigration detainees into provincial correctional facilities. The Canadian Border Service Agency (CBSA) "routinely, even presumptively" transfers people with "mental health issues" or who exhibit "disruptive behaviour" to provincial facilities.²⁵ The indefinite nature of immigration detention, as well as the damaging physical and psychological effects of detention itself, are particularly harmful for vulnerable migrants, including people with mental or physical disabilities, and victims of torture. As the provincial correctional system is already failing to meet its human rights obligations to provide a community standard of health care, it is unconscionable to accept even more vulnerable people from CBSA into already overcrowded and under-resourced facilities.²⁶

Transfer of responsibility for health care services from the Ministry of Community Safety and Correctional Services to the Ministry of Health and Long-Term Care

Recommendation 4. RNAO recommends continuing the process of the transfer of responsibility for health care services from the Ministry of Community Safety and Correctional Services to the Ministry of Health and Long-Term Care, with full implementation by the end of 2019.

The preamble of the *Correctional Services Transformation Act*, 2018 includes, among other principles, that the people of Ontario and their Government "affirm our obligation to provide safe and humane custody and care, including through the provision of adequate conditions of confinement and appropriate, patient-centred, equitable health care services that respect clinical independence and provide continuity of care with services provided in the community."²⁷

To fulfill this human rights obligation, Ontario must learn from the experience of correctional reform in other international and provincial jurisdictions such as England, Wales, Scotland, France, Norway, British Columbia, Alberta, and Nova Scotia.²⁸ From his research, Sapers identified a "broad consensus that the responsibility for health care in correctional facilities must rest with the government authority in charge of health."²⁹ For the principle-based and evidence informed reasons identified in section 7 of the IROC report,³⁰ by the World Health Organization's whole-prison approach,³¹ WHO's good governance principles for prison health,³² the John Howard Society,³³ and RNAO,^{34 35} it is imperative that the government of Ontario move ahead with this consensus approach in order to save lives and improve the health of incarcerated people.

Clinical independence is a critical component of high quality health care and health care professionalism, especially in correctional settings where the relationship between patients and caregivers is not based on free choice.³⁶ In particular, changing the governance model helps to address the problem of "dual loyalty" where health professionals experience conflict between the obligations of their clinical role and the culture of "military-like (command-control) hierarchies."^{37 38 39} Improvements to health services brought about by changes in governance may be attributed to: a decreased ad-hoc approach; decreased professional isolation; improved recruitment, retention, and expertise of health human resources; and increased transparency.^{40 41} Enabling health professionals to fulfill their ethical and professional responsibilities to those in their care will not only improve health outcomes but also will decrease conflict between health personnel and correctional authorities.^{42 43}

Conclusion

Systemic challenges within the provincial correctional system are causing premature death, negative health outcomes, and growing health inequities for those who are incarcerated and stressful working conditions for correctional staff. Principle-based changes that are evidence-informed will improve health and save lives of

people who are already marginalized. RNAO stands ready to support the province in implementing these long overdue changes.

Thank you to the Standing Committee on Justice Policy for considering these recommendations.

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