



CAEFS submission on Bill C 14

**An Act to amend the Criminal Code, the Youth Criminal Justice Act and the
National Defence Act (Band Sentencing Reform Act)**

to the

Standing Senate Committee on Legal and Constitutional Affairs (LCJC)

2026-05-07



Introduction

The Canadian Association of Elizabeth Fry Societies (CAEFS) is a national non-profit organization mandated to support criminalized women and gender-diverse people. We work to address the persistent ways that criminalized women and gender-diverse people are excluded from decisions that directly impact their lives and are prevented from meaningful participation in society. Elizabeth Fry Societies across Canada work directly with those at risk of criminalization, those held in provincial and federal custody, and those reintegrating into the community. At CAEFS, we think about public safety every day as we support women and gender-diverse people through all stages of involvement with Canada's legal and prison systems.

To begin, we want to be explicit that we share in all of our collective desire to increase community safety and agree with the need for cross-sectoral collaboration to do. It is visible to all of us that we have serious social problems in Canada, and that our country can and needs to do better.

It is based on our deep knowledge of issues surrounding criminalization, that CAEFS submits that Bill C-14 risks deepening Canada's already excessive reliance on pretrial detention and lengthening incarceration through sentencing provisions that reduce judicial discretion.

With certainty, these changes will harm and further criminalize women, especially Indigenous women and gender-diverse people. At a time when women are the fastest growing prison population, and Canada's rates of incarceration of Indigenous women persist at unacceptable metrics, we express great concern and sadness at the lack of attention in government to the system-driven factors influencing this direction.

Incarceration is meant to be used as a last resort in a constrained in humane manner. This guiding approach has long been held by our country. It is held because incarceration produces devastating impacts for the people and families who are impacted by it. We have seen directly and time and time again how even short periods of pre trial incarceration can lead to family fracturing, child apprehension, loss of housing and employment, and can create devastating mental health conditions. These outcomes are not insignificant losses in a person's life and produce long-lasting traumatic effects that can be hard to recover from, if at all. Each year, for the first week of May we celebrate Elizabeth Fry week, and it is by design that Elizabeth Fry week occurs every year during the week leading up to Mother's Day, as it is an opportunity to highlight the long-lasting detrimental effect that incarceration has on the many children whose mothers are incarcerated in Canada. Bail decisions for mothers are, in practice, bail decisions for their children and their families.

At the end of this submission, we provide a series of proposed observations for the Committee's consideration in its study of Bill C-14. These observations are intended to highlight key issues arising from the current use of pretrial detention in Canada and the potential implications of legislative reform in this area. The observations which we recommend draw attention to the current operation of the bail system in practice, including the extent of reliance on remand, the conditions under which individuals are detained, and the effects of detention on those who are legally presumed innocent. They also identify particular impacts experienced by women, Indigenous women, and individuals with caregiving responsibilities, as well as the broader consequences for families and communities. Lastly, they articulate concern over the various parts of the Bill that limit judicial discretion and the effect that that will have on criminalized survivors.

Canada's Excessive Use of Pretrial Detention



As brought forward in the John Howard Society' of Canada's testimony before this committee, Canada has one of the highest rates of pretrial detention among comparable jurisdictions. Pretrial detention in Canada has become routine rather than exceptional, despite the legal presumption of innocence. When it comes to the people that we work with, we see that women are frequently detained not because they pose an unmanageable public safety risk, but because of poverty, unstable housing, unmet health needs and addiction, or lack of access to meaningful bail supports. Prisons are not only ill equipped to respond to these problems, they pronounce them for individuals, creating increased risk of social exclusion and victimization post release.

Already, factors determining bail are significantly influenced by privilege, not deviance or a person's dangerousness to society. Houselessness for example, is interpreted as a risk factor at a bail hearing, rather than a need, leading to more women and gender-diverse people with no homes, ending up in pre-trial detention.

Loss of Family, Parental Disruption, and Intergenerational Harm

For criminalized women, incarceration almost always means family separation. Women held on remand are very often mothers and sole or primary caregivers. Even brief periods of detention can lead to child apprehension, loss of housing or employment, and prolonged involvement with child welfare systems. These impacts can be irreversible and are unacceptable, particularly given legal innocence prior to trial.

There is first the trauma that separation has on the mother, and then there is the equally traumatic experience for the child of being separated from one's primary caregiver. Once detained, there is rarely time, or the resources necessary to put in place a stable plan for care for children. This leads to family rupture and a crisis that cannot be understated.

Pretrial detention is a critical point of intervention with immediate and often severe impacts on dependent children. Pretrial detention disrupts caregiving arrangements, creates crisis conditions for families, and introduces instability and anxiety for children and all before any finding of guilt.

The United Nations Committee on the Rights of the Child, has explicitly required courts to consider the best interests of the child when making remand decisions and emphasizes the use of non-custodial alternatives at the pretrial stage.

Children affected by bail decisions remain largely invisible within Canadian criminal proceedings, and have been largely absent in the testimony provided before this committee on this Bill.

Abhorrent Conditions of Pretrial Detention

Conditions in remand facilities across Canada are overcrowded, unsafe, and degrading. People held pretrial often experience prolonged lockdowns, inadequate access to nutritious food, healthcare and mental healthcare. For women, many of whom are survivors of violence, remand settings are retraumatizing. For gender-diverse people, detention involvet heightened risk of violence, isolation, and placement inconsistent with their gender identity, all while legally innocent. Regardless of a person's guilt, need, or circumstance, spending time under the violent conditions of prisons creates needs and issues, and worsens existing ones. If the aim of this system is to support law abiding citizens and to build public safety, the approach is woefully counterproductive.

In the 2025 oversight visit by the Council of Elizabeth Fry Societies of Ontario (CEFSO) to its provincial jails, we learned of people who have been placed in cells that were covered in feces. Without access to water, one woman



resorted to drinking the water from her toilet. Other women had been placed two to a small cell and were not allowed out of the cell, even to wash themselves, for over two weeks. In 2023, in Nova Scotia, a young Indigenous mother begged to access basic health care in a provincial jail, but her cries were ignored, and she died days later of double pneumonia.

CAEFS often hears from women who tell harrowing stories about how pre-trial detention upended their lives. CAEFS has previously shared in other contexts, the story that one woman relayed to us, “Remand time is like death. There’s no access to programs, no mental health supports and almost no health care. I spent 96 days waiting for justice and in the end they withdrew the charges and let me out. But by the time I got out I lost my apartment because I couldn’t pay rent, all my belongings were thrown away and my beautiful cats were taken. I came out with my disability support cut off, nowhere to live and no access to my life saving medication. My life was ruined. And for what?”

A December 2022 Deaths in Custody in Ontario report from Tracking Injustice, highlighted that being on remand increases a person’s likelihood of death.

Because the conditions of confinement in pretrial detention are horrific and so profoundly destabilizing, it leads to increased likelihood of guilty pleas, conviction, harsher outcomes, and future system involvement. As you have heard from several witnesses before this committee, detention severs community ties, entrenches poverty, and worsens health and trauma. For women, detention often intensifies prior experiences of violence and marginalization rather than addressing their root causes.

Need for Robust Bail Programs, Supportive Housing, and Community Supports

Community-based bail supervision programs, supportive housing, trauma-informed services, and Indigenous-led alternatives are proven to support court attendance and public safety. Many Elizabeth Fry societies run these programs. However, these supports remain under-resourced and unevenly available across and within provinces and territories. Legislative reforms that expand detention without requiring meaningful consideration of these alternatives effectively criminalize people for systemic service gaps.

A report on pretrial detention published in 2023 by the Ontario Chief Coroner’s expert panel on deaths in custody, highlighted the need for investing community based supports, “For more than two decades, remand has accounted for all growth in provincial custody numbers...The dominant profile of the population has become one of complex needs that require health care, mental health care, addictions treatment and recovery, and transition supports that can facilitate continuity of care and success at living in the community. Almost none of these things can be provided to the required degree in any of our prisons...”

Pretrial detention is extraordinarily expensive and is not a neutral or productive system. Incarceration, for the vast majority of individuals who experience, it does not contribute to safer communities. This is especially true for women and gender-diverse people, who become incarcerated with deep histories of victimization, trauma, and unmet social need. Community-based alternatives are substantially less costly and better disrupt cycles of incarceration by providing access to mental health care, treatment and recovery, family reunification, housing supports, and so much more.

Both fiscal responsibility and public safety are advanced through prevention-oriented investments in housing, health care, income supports, and culturally grounded services—not expanded incarceration. A recent report by the Elizabeth Fry Society of Manitoba, on bail in the province, shows that the cost of incarcerating a person rather than



being released on bail to a bail program is nearly triple. We know we can do better by investing in what already works, rather than what does not.

Canada needs to think strongly and soberly about the impact of incarcerating so many people based on vulnerability, rather than actual risk. Perhaps our system could better respond to those few individuals who do pose threats to public safety if our prisons and jails were not marred by people experiencing poverty, addiction, and living with unresolved trauma and unmet mental health needs.

Sentencing Provisions and lack of judicial discretion

There are also a number of sentencing provisions that are included in this Bill that taken together will have the effect of limiting judicial discretion. We are concerned that these sentencing provisions will have particularly harmful impacts on women and gender-diverse people, especially those who are survivors of gender-based violence. Restrictions on conditional sentences, the use of consecutive sentencing, and the expansion of aggravating factors limit the ability of courts to consider the context of coercion, caregiving responsibilities, and systemic disadvantage. As identified by other frontline feminist organizations, policies that remove nuance and constrain judicial discretion risk further criminalizing survivors, misidentifying them as “offenders”, and imposing longer and more harmful custodial sentences that disrupt families and deepen existing inequalities.

Proposed Senate Observations

Observation 1 — Pretrial detention and the presumption of innocence

The Committee observes that Canada’s reliance on pretrial detention is among the highest in comparable democratic jurisdictions, and that detention prior to trial undermines the presumption of innocence, particularly for women, Indigenous women, and primary caregivers.

Observation 2 — Family separation and gendered impacts

The Committee observes that pretrial detention produces unique impacts on women whose pathways to incarceration are driven by deep histories of victimization and disadvantage. That there are unique gendered impacts of detention, namely family separation, child apprehension, and long-term intergenerational harm, despite the legal innocence of the accused; that these impacts fall disproportionately on mothers and caregivers, and that detention harms children.

Observation 3 — Bail programs and prevention

The Committee observes that effective bail supervision programs, supportive housing, and culturally grounded community supports enhance public safety and reduce reliance on incarceration, and that legislative reform must be accompanied by sustained investment in such alternatives.

Observation 4 — Conditions of remand

The Committee observes that conditions of pretrial detention in Canada are frequently overcrowded and degrading, and that the incarceration of legally innocent persons in such conditions raises serious human rights concerns.

Related to the conditions of confinement for women and gender-diverse people on remand, the Committee observes that pretrial detention may exert coercive pressure on accused persons to plead guilty to secure release or reduce time in remand, undermining fairness and confidence in the administration of justice.



Observation 5 — Judicial Discretion

The Committee observes that judicial discretion is a critical safeguard that enables courts to consider factors such as caregiving responsibilities, experiences of trauma and poverty, systemic discrimination, and the impact of gender-based violence. Evidence before the Committee indicates that policies which reduce flexibility and limit contextual assessment may disproportionately affect women and gender-diverse people, particularly those who are survivors of gender-based violence.

Conclusion

Canada's jails and prisons are under significant strain. Prisons are being tasked with responding to unmet social needs—particularly in the areas of mental health, substance use, housing insecurity, and poverty—without the tools or resources to do so effectively, or humanely. As a result, the system's capacity to address the relatively small number of cases involving significant public safety risk is diminished, while individuals who could be safely supported in the community are unnecessarily detained.

The short-sighted approach being advanced in the name of Public Safety through this Bill and beyond move Canada into a dismal direction.

The observations proposed in this submission do not seek to create exemptions or special treatment. Rather, they aim to restore core principles that are foundational to Canada's criminal justice system: the presumption of innocence, the use of detention as a measure of last resort, the importance of judicial discretion, and the need for proportional and equitable outcomes.

CAEFS respectfully urges the Committee to ensure that its observations reflect these principles and acknowledge the evidence regarding the impacts of pretrial detention and sentencing practices. Legislative reform must be accompanied by sustained investment in community-based supports—including housing, healthcare, income supports, and culturally grounded services—that address the root causes of criminalization and enhance long-term community safety.

Canada can and must do better. Advancing public safety requires moving beyond a reliance on incarceration as a band aid response to our social problems. We must move toward responses that are evidence-based, proportionate, and grounded in the realities of those most impacted by the system. With incarcerated women being Canada's fastest rising prison population, we are already failing women and gender-diverse people, and implementing this bill, rather than making Canada safer for all, will only deepen the incarceration rates of women, and the adverse impact that follow for them, and for their families.

