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Case for Basic Income for Criminal Justice

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**THE CASE
FOR BASIC
INCOME
SERIES**

Basic Income and Criminal Justice

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SUMMARY

Poverty creates many of the underlying conditions for criminalization, increasing the likelihood of forced interactions with the criminal justice system. Additionally, people leaving incarceration face many barriers when reintegrating into society, which can lead to further encounters with the justice system. Financial insecurity often causes formerly-incarcerated individuals to reoffend, prolonging their involvement with the criminal justice system and leading to their return to carceral institutions. Implementing a basic income in Canada could affect the criminal justice system in three ways: 1) Basic income could contribute to individual and household stability – an important step in reducing the likelihood of forced interactions with the criminal justice system; 2) Basic income could serve as a significant form of income support for those involved in the justice system, especially for those leaving incarceration; and 3) Basic income could result in reduced spending within the criminal justice system, producing savings that could be redirected to community supports and resources.

ABOUT BASIC INCOME

Basic income means different things to different people. The Case for Basic Income series defines basic income as an income-tested and targeted unconditional cash transfer from governments to individuals to enable everyone in Canada to meet their basic needs, participate in society, and live in dignity, regardless of work status.

Some Case project teams make more detailed recommendations about the principles to guide the design of a basic income program in Canada.

ABOUT THE CASE FOR BI SERIES

The Case for Basic Income series explores the impacts of a basic income program for various communities and policy areas across Canada. Each Case has been developed collaboratively by subject matter experts and basic income advocates to consider the distinct issues and concerns between the Case topic and income insecurity - and the difference that basic income might make.

Every Case is unique in both function and form and is guided by its authors and contributors.

Basic Income and Criminal Justice

Basic income and the criminalization of poverty

Research has shown that poverty increases the likelihood of one's involvement in activities that are criminalized, otherwise known as the poverty-to-prison pipeline (John Howard Society of Ontario, 2014; Saint-Germain & Eggleton, 2018). However, criminalization is often used to address problems that are meant to be managed through our social systems (National Council of Welfare, 2000).

Many incarcerated people lack access to a secure and stable income. For example, between 2014-2015 approximately 60 percent of individuals identified employment needs at intake into federal custody, pointing to chronic under- or unemployment prior to prison (Sapers, 2015). Moreover, poverty-related criminalization is the reason many interact with the criminal justice system in the first place. According to the 2019 report from the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), the majority of crimes Indigenous women are charged with are property and drug-related offences, with one of the most common being theft under \$5,000.

Because poverty in Canada is not experienced equally, the impacts of its criminalization are also distributed inequitably. Certain groups – including women and single mothers, newcomers, Indigenous and racialized peoples,

and people with disabilities and mental health conditions – are at a greater risk of poverty and facing criminalization as a result (John Howard Society of Ontario, 2014). Indigenous youth and adults account for a disproportionately high percentage of those who are criminalized. In 2020, the Correctional Investigator of Canada revealed that Indigenous people now represent more than 30 per cent of individuals in federal custody across Canada, despite accounting for only five per cent of Canada's general population (Public Safety Canada, 2020a). Further, Indigenous women account for 42 per cent of incarcerated women. Meanwhile, in 2020/2021, Black people represented nine per cent of individuals in federal custody or under community supervision, but only accounted for four per cent of the national population (Department of Justice Canada, 2022). Between 2005 and 2015, the population of federally incarcerated Black individuals rose by nearly 70 per cent, termed an "explosion of Black incarceration" (Maynard, 2017, p. 109).

Residents living in low-income neighbourhoods are at a heightened risk of coming to the attention of state authorities due to increased police presence and disproportionate surveillance of these communities (Charron, 2012; Owusu-Bempah & Jeffers, 2021; Department of Justice Canada, 2023). This is especially apparent in police interactions with people living with mental health conditions,

people with substance use disorders, sex workers, and those experiencing homelessness. Further, Black and Indigenous individuals are disproportionately harmed by interactions with police and justice systems, attributable to systemic racism and over-policing of racialized individuals and communities, among other factors (Armony et al., 2019).

As a policy response, basic income could contribute to individual and household income security, an important step in reducing one's likelihood of encountering the criminal justice system in the first place. For example, youth with experience in the child welfare system are at greater risk of interacting with the youth criminal justice system, particularly Black and Indigenous youth (Owusu-Bempah & Jeffers, 2021; Department of Justice Canada, 2023). By contributing to household income security, a basic income could help reduce the number of Black and Indigenous children in the child welfare system, and in turn prevent future interactions with the criminal justice system (Fischer et al., 2023). The MMIWG Inquiry includes a guaranteed livable income as one of its Calls to Justice, recognizing the links between poverty, violence, victimization, homelessness, disappearance, trauma, and institutionalization.

Ideally, a basic income should be designed in consultation with communities most affected by poverty and its criminalization, and complemented by community-led solutions that support decriminalization, decarceration, and the abolition of carceral systems. While a basic income alone cannot fully address the

criminalization of poverty and broader structural injustices, it does have the potential to help break these cycles of oppression by contributing to individual and household stability and providing communities with the means for greater choice and opportunity.

Basic income and building a life outside of incarceration

People leaving incarceration regularly face barriers to accessing and maintaining employment, housing, and income support. This can range from lacking a driver's license to discrimination by employers, landlords, and caseworkers (Griffiths et al., 2007). These barriers are amplified for certain groups, such as Black and Indigenous persons, who already face discrimination in accessing employment and housing without the added burden of a criminal record (Centre for Equality Rights in Accommodation et al., 2021). For migrants, interactions with the criminal justice system can lead to the double punishment of deportation (Canadian Bar Association, 2017).

Criminalized individuals frequently encounter overwhelming stigma in the labour market, and often face significant barriers in securing employment with a criminal record. As a result, they are often forced to seek support from subnational income assistance programs which have long been criticized for inadequate benefit rates that barely cover basic needs and costs of living. Further, these programs typically exclude incarcerated individuals from benefit eligibility (e.g., Government of Alberta, 2023; Government of Ontario, 2022). As a result, the time between a person's release and their

application, approval, and receipt of benefits is often a period of severe economic insecurity (Public Safety Canada, 2022). In particular, Indigenous people are often prevented from receiving provincial income assistance due to jurisdictional disputes (Collier, 2020). For First Nations people living off-reserve, a basic income could help mitigate jurisdictional issues that can arise when applying for social assistance.

Poverty and homelessness increase the likelihood of individuals being forced to return to prison or jail due to breaching conditions of release (Coady, 2018). Without income or a safe and stable place to stay, meeting strict conditions of parole (e.g., payment of fines, abstention conditions) can be substantially more challenging. Moreover, poverty affects access to legal representation. Restrictions on legal aid eligibility across jurisdictions drive many low-income individuals to appear before the courts unrepresented (Canadian Bar Association, 2016). These social and financial barriers can result in revolving convictions, further delaying and presenting additional challenges to life outside of incarceration.

In this context, a basic income would offer a sense of stability to individuals with justice system experience that is not provided by other programs. Rather than condemning them to a life of poverty on social assistance or in low-wage, precarious employment, a basic income would help put those transitioning out of the criminal system on a more even playing field with the rest of society. A basic income could mitigate the need to worry about survival or

navigating complex social assistance systems upon reentry. However, a basic income should not mean the cancellation or retrenchment of other welfare state infrastructure that is crucial to supporting the wellbeing of criminalized individuals, including affordable housing, universal health care, employment services, and disability and child supports, among others.

The cost of the criminal justice system

Not only can basic income address the root cause of many crimes, but it makes economic sense: per person, the cost of incarceration is dramatically higher than the cost of a basic income. According to Statistics Canada data from 2022, there are nearly 18,950 adults in provincial and territorial custody, and 12,830 in federal custody. The average daily cost for keeping one person incarcerated in federal prison is about \$343, or \$125,466 per year; in provincial jails, the average annual cost is approximately \$67,000 (Public Safety Canada, 2020b; John Howard Society of Canada, 2018). Across all jurisdictions, total public spending for criminal justice in Canada is approximately \$20 billion, with prisons and jails accounting for nearly a quarter (John Howard Society of Canada, 2018). In 2021-2022, expenditures on adult correctional services exceeded \$2.9 billion by provinces and territories alone (Statistics Canada, 2023). A basic income could also inform cost savings beyond the correctional context (e.g., police budgets).

Conclusion

The links between poverty and crime are complex. By ensuring everyone in Canada has

access to a guaranteed livable income, a basic income could help alleviate the underlying conditions leading to criminalization, support individuals to build lives outside of incarceration, and lead to the reduction of criminal justice-related expenditures by multiple levels of government. Basic income is not only equitable, but it is needed to fulfill Canada's

reconciliation objectives from the Truth and Reconciliation Commission (2015) and Calls to Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls (2019), as well as help address the symptoms of economic racism affecting Black and other racialized Canadians (Siddiqi et al., 2021; Persaud et al., 2021).

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