

# DISPATCHES FROM THE CANADIAN CARCERAL STATE

## **The Truth About Provincial Prisons \***

*Jose Vivar*

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**I**nnocent until proven guilty. Well in Ontario, it is actually guilty until proven innocent. We have not been convicted of any crimes, yet solid brick and steel surround us, and we now have bunk partners. Our case is still before the courts, yet we are condemned to months upon months of metal toilets and horrible food. We are handcuffed and put into a fortified van, an urban tank, and hauled off to court. But getting bail is impossible; the fight is expensive, extensive, and exhaustive. So we go back to jail.<sup>1</sup>

We are instantly stripped bare of every sense of our identities in a provincial prison. We are issued orange jumpsuits and we must be in this uniform at all times. We are given one towel each, one orange t-shirt with holes, a pair of wool socks, and a pair of faded blue polyester underwear with smear marks. These items have all been used by hundreds before us – the smell of pits and sweat linger in their cloth.

Since clothing exchanges only happen weekly, we have to launder our clothes while showering and we hang them on makeshift clothing lines. We spend hours naked underneath our pumpkin suits until our clothing dries. It is either this or smell like a ripe Spanish onion for the day! We also have the option of purchasing smuggled clothes from other prisoners. For those of us who are not survivors, clothing is snatched right off our backs. In this jungle, demand for clean clothes is astronomical.

For a person who has never been to jail, this is traumatizing. We are depressed and literally feel like we are going to die. Once we have been in for a while we become institutionalized and we start to wander our prison unit like the un-dead.

We spend our days staring at other men's faces or pacing back and forth. We play 'crazy eights' and do 'push-ups'. We live in a squash court with 30 other men, three phones, two showers and one television. We only get to watch the news. We cannot go to school or purchase reading material. There is no programming available to help with our rehabilitation. Our days in a provincial prison are a waste of life.

Contraband searches happen regularly even when there is no contraband. Officers shake down prison units with gusto and make us open our mouths and order us to run our fingers through our hair. They tell us to bend over

and spread our cheeks. After a number of searches this becomes nothing to us. We are no longer ashamed. We have become animals.

We have been in for months and have still *not* been found guilty of anything. We get two twenty-minute visits per week. Our family members are treated like cons when they come and sometimes they are turned back from the front because of a random lockdown. When we finally see our families it is through thick bulletproof glass. They tell us that we look green and pale. “Are you alright?”, they ask. We put our hands on the thick glass and tell them that we love them. We start to tear up, but then a wretched guard cuts our visit short.<sup>2</sup> After two or three years waiting for trial, we will probably lose our families.

Collect calls last twenty minutes. We cannot call cell phones. We talk to our children about school and our wives and husbands about their stress-filled day at work, and before we say good...night the call is done. How about when we try paying a bill, or calling our accountants or our banks to arrange finances for our lawyers to get us out and for our struggling families to get by? Fugghetaboutit.

Fresh air? Ya right! The days that we actually see the sun, we squint – the light blinds us like we have been cavemen for decades. The sudden urge to run wild overwhelms us and we take off like prize horses when we are given the privilege of fresh air.<sup>3</sup>

Even though we have *not* been convicted, we are now tempted to plead guilty just to get it over with.

This system breaks us into pieces. Most of us buckle and plead out. How can we defend ourselves against the enormous power of the law? The fight is expensive, extensive and exhaustive. Besides, once we *are* found guilty, we are treated better.<sup>4</sup> We can wear our own clothes, we can hug our families, and we can walk as much as we like. We can look at the sun all day. Why would we wait for trial? Let us just get it over with and go to the penitentiary!

Reasonable bail is part of the Canadian Charter of Rights and Freedoms, yet bail takes time to get and is like winning the lottery. In a provincial prison, we are considered guilty until we prove ourselves worthy of our freedom even though the law says that we are innocent. We spend our days living the nightmare I just described before we are released. Those of us blessed with the miracle of bail are then punished with stringent conditions: no cell phones or alcohol. A curfew. Some of us are ordered to house

arrest and our homes become our prison. The only truth about the current provincial prison system is that no matter what, people will come.

Does this all sound like innocent until proven guilty to you?

### ENDNOTES

- \* Editors' note: In 2010/2011, approximately 34 percent of the more than 38,000 individuals held in custody across Canada on a given day were being held on remand (Dauvergne, 2012), which includes those awaiting trial or sentencing under court-ordered detention. In the past decade, the rate of individuals under remand custody increased by 52 percent (Dauvergne, 2012). Furthermore, due to the dramatic increase in the adult remand population in Canada, the number of remanded individuals consistently outnumbers those in sentenced custody in provincial jails – a trend also reflected with youth held in remand (Porter and Calverley, 2011). These trends have contributed to a burgeoning prison population and deteriorating conditions of confinement for Canadian prisoners.
- <sup>1</sup> The current law has a reverse-onus clause. The accused has to prove in some cases why they should not be detained. The accused and their lawyer need to show cause why detention is not justified. This takes time, money, and patience.
- <sup>2</sup> The government's distorted solution to this is the opening of new 'modern' facilities in which there will be no close-proximity visits through glass, which will further dehumanize prisoners by having them see their visitors through a screen in a video visitation booth (see O'Toole, 2013).
- <sup>3</sup> The government's plan for their new 'modern' facility will be to have 'fresh air' rooms on each cellblock opposed to an actual yard. These are concrete-floored and walled spaces fitted with basketball hoops and windows where air filters in through windows with heavy metal bars. No outside yard exists at all and prisoners are still caged in (see O'Toole, 2013).
- <sup>4</sup> Pre-trial detention was recognized by the courts to be much worse than regular time. For this reason, a two-for-one credit and sometimes even a three-for-one credit, was available to judges at sentencing. The Conservative government's "Truth in Sentencing" legislation limited this, not recognizing that prison time after being found guilty is much more humane than time served while legally innocent. The Supreme Court of Canada struck down parts of this law in April 2014 (see Canadian Press, 2014), reaffirming how difficult pre-trial detention is to serve.

### REFERENCES

- Canadian Press (2014) "Supreme Court softens Tories' tough-on-crime sentencing law", *CBC News* – April 11. Retrieved from <<http://www.cbc.ca/news/politics/supreme-court-softens-tories-tough-on-crime-sentencing-law-1.2606789>>.
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## **ABOUT THE AUTHOR**

*Jose Vivar* is incarcerated at Bath Institution and has published over 30 articles to date. He is currently working on two full-length novels.