



# NEIGHBOURHOOD LEGAL SERVICES

Community Legal Clinic | Serving the Community Since 1973 | Barristers & Solicitors

Standing Committee on Justice Policy  
1 Queen's Park – Main Legislative Building  
Toronto, ON  
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## VIA ONLINE PORTAL

31 January 2023

**RE: Study on Bail Reform  
Submissions of Neighbourhood Legal Services**

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To the Standing Committee on Justice Policy,

Please receive these as the submissions of Neighbourhood Legal Services regarding the Committee's recently-initiated study on bail reform.

Neighbourhood Legal Services is a community legal clinic which has served Toronto's downtown east communities for 50 years. This includes St. Jamestown, Regent Park, Moss Park, the Church Street Corridor, and the Esplanade. The communities we work with experience some of the highest rates of poverty in the province; our catchment area has the highest concentration of homeless shelters in the city; and our constituents are at the front lines of both the opioid and mental health epidemics, as well as the Toronto housing crisis. The most prominent demographic among our client population is ageing people who live alone – they are often socially isolated and lacking social supports. Our constituents also disproportionately identify as Black, Indigenous and people of colour. These factors lead our clients to be over-policed and at high risk of coming into contact with the justice system.

Our office practices primarily in the areas of housing, social assistance, immigration and employment law. We rarely engage directly with the criminal justice system, and we generally do not deal with bail matters. We do, however, wish to bring to your attention an issue that

occasionally arises among our clients as a result of the bail system, which has significant detrimental impacts for them.

The major issue that we encounter is **bail conditions which prevent a person from returning to their home**. We have represented a number of tenants, particularly people living in social housing complexes, who have been put under bail conditions not to attend the building they live in, or even to be within a certain distance of that building. They have uniformly had difficulty retaining criminal counsel to seek variations of bail conditions which prevent them from attending their homes.

The result of these decisions can be catastrophic for our clients. They are effectively rendered homeless summarily, as a “line item” in a long list of seemingly standard conditions (not to possess weapons; not to contact the complainant or co-accused; to be of good behaviour, etc.). While the legislature has recognized the importance of housing security for tenants, and has enacted legislation such as the *Residential Tenancies Act, 2006* to ensure that tenants are not evicted without due process (including adequate notice and a full evidentiary hearing), bail courts can ultimately circumvent all of these protections without the same statutory guidance, notice requirements, or evidentiary standards.

Bail conditions which prohibit a person from attending their home have a number of serious consequences. Firstly, many of our clients live in social isolation and come from communities that collectively experience poverty and social marginalization. It is not fair to assume that people who are barred from attending their homes have support networks which can provide them with alternate living arrangements while they wait for the resolution of their criminal matter. The clients we have worked with in this situation are at a higher risk of experiencing the most acute forms of homelessness – moving into a homeless shelter or even becoming unsheltered.

One of our clients, an elderly man with Fetal Alcohol Spectrum Disorder who has the cognitive abilities of a child, has been sleeping on the heating vent of a condo across the

street from his home since early 2022, after he was put under bail conditions not to attend his building. He was subsequently charged with a breach of conditions after he attended his unit to pick up fresh clothes. He is now under probation conditions not to attend the building for 18 months after pleading guilty to that breach.

Secondly, it is well understood that homelessness has a severe detrimental effect on health outcomes. Homelessness can exacerbate existing health conditions by making treatment and follow-up difficult or impossible (ie. bedrest, wound care, adherence to medication, attendance at appointments are very difficult when one does not have a home). Homelessness causes severe stress and can exacerbate existing mental health conditions, can trigger mental health episodes, and may lead to drug use or relapse for those who have experienced drug and alcohol addiction. It is an inherently traumatizing experience.

Another client of ours was put under bail conditions not to attend his building, based on an allegation by a person who does not live in his building, for an incident which took place off the premises (in a nearby park). He experienced a relapse in his alcoholism and experienced a notable decline in his mental and physical health. He experienced frequent hospitalizations and would then go missing for weeks at a time and lose contact with his legal workers, health care providers and other support persons. He died of liver failure in September, 2022. We have no doubt that the chance of this happening would have been substantially reduced if he had been able to remain in his unit.

Thirdly, bail conditions preventing tenants from attending their homes have significant financial impacts on tenants. Tenants must continue paying rent at their ordinary place of residence, while also incurring the costs associated with not having a fixed address. This includes paying money for alternate accommodation (even for a friend or family member's couch), increased costs for meals and transit, loss of employment and more. Particularly for those living on Ontario Works, Ontario

Disability Support Program, or a pension, the increased costs of living in homelessness are untenable and they risk losing their housing because they cannot afford to keep paying rent for a home they are unable to use.

Finally, these bail conditions create unnecessary strain on the shelter system, the health care system, and waste limited and valuable housing resources in the city. It is a serious misuse of resources to have a person taking up a shelter or hospital bed, while their unit sits uninhabited.

We propose the following recommendations to the Committee for consideration as it seeks to improve the bail system in the Province of Ontario:

1. There must be adequate legal resources provided to ensure that accused persons are able to meaningfully bring forward arguments about their housing in bail hearings, and that they can get legal assistance to seek variations of conditions which prohibit them from attending their homes.
2. There should be a presumption that accused persons will not be put under conditions not to attend their home or building.
3. Bail courts should be required to consider housing impacts on an accused. They should be given explicit guidance on factors to take into account, including the availability and viability of alternate accommodation, the costs of alternate accommodation, and the ability of the accused to afford alternate accommodation. Bail conditions should be subject to review if an alternate housing option becomes unviable.
4. Bail courts should be given guidance on constructing the narrowest possible conditions where those conditions might have an impact on a person's housing. This may include:

- a. Not to attend the same floor as a complainant, witness or co-accused;
- b. Not to communicate with a complainant, witness or co-accused;
- c. To maintain a certain distance from a complainant, witness or co-accused;
- d. Not to attend locations in the building when it becomes known that the complainant, witness or co-accused is present in those locations.

We appreciate the Standing Committee on Justice Policy's review of Ontario's bail regime, and we hope that our submissions can be of assistance on this very important subject.

Sincerely,

**Neighbourhood Legal Services**

**Per:**



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Staff Lawyer



Victoria Peter  
Staff Lawyer



Jennifer Stone  
Executive Director