

Recommended Amendments to Bill C-14, Not Criminally Responsible (NCR) Reform Act

The mental health community supports the Government of Canada in its efforts to enhance victims' rights and public safety and to do so with legislation that that will indeed meet this public protection goal without perpetuating the stigma and discrimination of mental illness. We are confident that Canadians want the same thing and offer to work on amendments to Bill C-14 that can meet needs of the public, inclusive of those living with mental illness. The mental health community supports enhancing victims' rights and putting public safety first. We do not believe that the creation of a high-risk designation will meet this goal. We seek to create amendments that will enhance public safety and victims' rights as well as lessen the harm for people with a mental illness and their families. We are looking for a Bill that the mental health community, and the millions of people it serves, can support. Even more importantly, we are looking for a Bill that supports public safety while also allowing for the recovery from mental illness for millions of Canadians.

We seek the following amendments within the High-Risk Accused category:

1. **Undo the reverse onus set upon the new High-Risk Accused, requiring the Review Board or court to be "satisfied that there is not a substantial likelihood that the accused will use violence that could endanger the life or safety of another person".** Canada's legal system usually places the onus on the Crown to prove why individuals should be detained when a crime is committed. An accused who has a mental illness should not face a greater burden than that faced by criminals who were fully aware of the crime they committed. Maintaining the "high-risk" label should be the responsibility of the Crown. Giving courts greater responsibilities within Bill C-14 has been welcomed and/or encouraged by victims' groups.

2. **Remove restrictions that will limit access to treatment.** Without argument, victims who wish to have no interaction with the individuals found NCR should be provided with safeguards to ensure no such interactions occur. We support the changes in the Bill that better inform victims. The purpose of treating people found NCR is to help them recover and lead healthy lives, including being reintegrated into society. This requires many forms of treatment. Therefore, we seek that the Bill allow for NCR accused to be absent from the hospital for reasons related to his or her treatment if the accused is escorted by a person who is authorized by the hospital and a structured plan has been prepared to address any risks related to the accused's absence. This amendment adds significant safeguards for the public and the victims without limiting the patient's access to community-based treatment resources.

3. **Eliminate the retroactivity of the Bill for patients who have already been granted a conditional discharge.** Eliminating the retroactivity will not affect any of the high profile cases that have been associated with this Bill. What the proposed legislation has done is cause uncertainty and anxiety to stable individuals who have been granted conditional discharge, with some of these individuals fearing that certain characteristics of their offence or their history will result in the granting of the "high-risk" designation and an automatic return to custody. Making the Bill retroactive for those well on their way to successful community reintegration will not enhance public safety or victims' rights but only reverse progress made by these individuals.

Our recommended amendments are supported by research and criminal justice experience and also take into consideration how healing for victims and for people with mental illness comes from understanding, respect, and when necessary, access to treatments and supports.