

The Honourable Peter Gordon MacKay
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8



January 21, 2014

Dear Minister MacKay,

Re: Bill C-14 Not Criminally Responsible Reform Act

We are writing to you on behalf of the clients and partner organizations of the Provincial Human Services and Justice Coordinating Committee (HSJCC) in Ontario. The Provincial HSJCC is mandated by the *Provincial Strategy to Coordinate Human Services and Criminal Justice Systems in Ontario (1997)* and established to coordinate resources and services, and plan more effectively for people who are in conflict with the law. Priority consideration is for people with a serious mental illness, developmental disability, acquired brain injury, drug and alcohol addiction, and/or fetal alcohol spectrum disorder. Our role is to facilitate the exchange of information and promising practices, identify provincial level challenges, and work collaboratively with the Government to resolve challenges within the human services and justice sectors.

The Provincial HSJCC commends the Federal Justice Minister and the Government of Canada for your commitment to improving the safety and security of all Canadians and enhancing victims' rights. Now that Bill C-14 has been reintroduced, we hope that your government will work with stakeholders to consider evidence based amendments that balance victims' rights with recovery oriented services and supports for people who are found not criminally responsible on account of mental disorder (NCRMD). We urge the Federal Justice Minister and the Government of Canada to consider the evidence heard in the hearings on Bill C-14 (formerly C-54) and the advice of individuals with lived experience of mental health disabilities, consumers/survivors, community health and addictions representatives, legal experts that specialize in the area of civil liberties, police officers, medical professionals, as well as organizations like the HSJCCs that are inter-disciplinary, inter-sectoral collaboratives that support individuals with mental health disabilities who come into contact with the criminal justice system. In particular, we would encourage you to consider the findings of the [Justice Canada study \(2013\)](#) in relation to persons found NCRMD and continue to consult with the Mental Health Commission of Canada on this legislation.

It is imperative that the needs of people with mental health disabilities be taken into consideration during this review of the NCRMD provisions. Persons with mental health and human service needs face multiple barriers to accessing the social determinants of health, such as housing, employment and education, and they are often vulnerable to criminalization. Incarceration is a double-edged sword for individuals with mental health disabilities. On the one hand, research indicates that the correctional environment can aggravate pre-existing mental health conditions, and impede recovery and successful transition back into the community. One possible by-product of the current amendments will be that people will not avail themselves of forensic services. This will put additional pressure on federal correctional services which, according to the Correctional Investigator for Canada Howard Sapers, are ill equipped to treat and support people with serious mental illness. Within the justice system, these individuals are often victimized and face stigma and discrimination due to their illnesses while also experiencing great difficulty accessing appropriate psychiatric treatment.

In Ontario, the Ontario Review Board (ORB) assesses each individual directed to their attention through Part XX.1 Mental Disorder of the *Criminal Code* with the express mandate of weighing the rights of the individual with the need for public safety in each case. If found NCRMD, a person receives individualized psychiatric care with a focus on rehabilitation that is often inaccessible outside of the justice system. Guided by the 1999 Winko

decision, the ORB will not discharge any individual if they pose a significant threat to the safety of the community. For the majority of people who enter the forensic mental health system (which is governed under Part XX.1 Mental Disorder of the *Criminal Code*), this often means a form of incarceration in a secure environment for treatment, which often extends longer than would have been mandated if they had been convicted of a crime. Further, until an absolute discharge is granted, the individual remains subject to the authority of the ORB.

Thus, Part XX.1 Mental Disorder of the *Criminal Code* currently protects Canadians from being punished for actions of which they are incapable of appreciating the wrongness, nature or quality due to a mental disorder, or a "disease of the mind" as it defined therein. Justice within this context is understood as ensuring that any consequences in such cases are not punitive but instead directed towards recovery of the individual with a mental health disability while simultaneously safeguarding the community from any foreseeable recidivism. For this reason, the Provincial HSJCC strongly recommend more consultation with stakeholders and consideration of the evidence given to date in the hearings on C-14 before significant changes are made to the NCR provisions of the *Criminal Code*, especially as only a small percentage of individuals found NCR are accused of serious violent crimes and the recidivism rate according to the Justice Canada study was only 10.4%

The Provincial HSJCC welcomes the opportunity to meet with you to further discuss this issue and to assist your government in crafting legislation that balances the rights of victims with the treatment and community reintegration needs of persons who are NCRMD.

About the Human Services and Justice Coordinating Committees in Ontario


The Human Services and Justice Coordinating Committee (HSJCC) network is comprised of 14 Regional HSJCCs, 42 Local HSJCCs and one Provincial HSJCC. Each HSJCC is a voluntary collaboration between health and social service organizations, community mental health and addictions organizations and partners from the justice sector including Crown Attorneys, judges, police services and correctional service providers. The Regional and Local HSJCCs coordinate communication and service integration planning among health, social services and criminal justice organizations within specific regions. Structurally, the Local HSJCCs provide input to the 14 Regional HSJCCs which in turn provide input to the Provincial HSJCC. As well, the entire network of 57 committees supports knowledge transfer across the province.

The Provincial HSJCC consists of regional chairs representing their Regions and ex-officio members from important stakeholder groups such as Corrections Services Canada, Legal Aid Ontario, the Ontario Provincial Police and the Ontario Association of Chiefs of Police. There are also ex-officio representatives from the Ontario Provincial Ministries of the Attorney General, Children and Youth Services, Community and Social Services, Community Safety and Correctional Services, and Health and Long-Term Care.

For more information about the HSJCCs, please visit: <http://www.hsjcc.on.ca/>

Thank you for your attention to this matter. We look forward to your response. For further discussion, please feel free to contact us directly at the information below.

Sincerely,



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Cc: The Honourable Steven Blaney, Federal Minister of Public Safety
The Honourable John Gerretsen, Attorney General of Ontario