

A Position Paper to  
The Senate of Canada  
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**Bill C-10 (Federal Omnibus Crime Bill):  
Through the Lens of Peer Support/People with Lived Experience  
of the Mental Health System**

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**What is the Safe Streets and Community Act (Bill C-10)?**

The federal government's Safe Streets and Community Act (Bill C-10) passed in the House of Commons in December 2010, and will now be going through Senate Committee hearings lasting through March before over 100 witnesses and then will come to a final vote.

This bill is made up of nine previous pieces of legislation from the previous session of Parliament, when the Progressive Conservative Party was governing with a minority. With their recent majority re-election, Bill C-10 was re-introduced. Several sections of this bill have greater implications for persons with a mental health diagnosis. There are possible outcomes affecting the justice system, forensic system, and legal aid availability should this law pass in its present form.

The current version of the bill can be accessed at:

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Docid=5272291&file=4>

**What are the nine sections of Bill C-10? How do they change the current laws?**

Bill C-10 is separated out into the following nine pieces of legislation:

**The Protecting Children from Sexual Predators Act**

This amends current legislation which refers to child exploitation. This includes new mandatory minimum sentences, increasing maximum prison sentences, and two new provisions for offences covering the use of the internet to commit sexual offences. The Department of Justice backgrounder is available at:

[http://www.justice.gc.ca/eng/news-nouv/nr-cp/2011/doc\\_32634.html](http://www.justice.gc.ca/eng/news-nouv/nr-cp/2011/doc_32634.html)

**The Increasing Penalties for Organized Drug Crime Act**

This bill includes mandatory minimum penalties for serious drug offences when they target youth or when undertaken by "criminal enterprises" (organized crime). There are increased

minimum penalties for production of marijuana (from 7 to 14 years). So-called “date-rape drugs” and amphetamines are reclassified so that higher maximum penalties apply.

The Department of Justice backgrounder is available at:

[http://www.justice.gc.ca/eng/news-nouv/nr-cp/2011/doc\\_32636.html](http://www.justice.gc.ca/eng/news-nouv/nr-cp/2011/doc_32636.html)

### **Protecting the Public from Violent Young Offenders Act**

This bill makes the “protection of society” the main objective of the Youth Criminal Justice Act. Violent and repeat young offenders are to be kept off the streets while awaiting trial. Stronger sentencing provisions and the likelihood of custody is permitted. Adult sentencing for child offenders is to be considered for those who have committed serious violent offences.

The Department of Justice backgrounder is available at:

[http://www.justice.gc.ca/eng/news-nouv/nr-cp/2011/doc\\_32633.html](http://www.justice.gc.ca/eng/news-nouv/nr-cp/2011/doc_32633.html)

### **The Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act**

This act would change the current practice of conditional sentences such as granting house arrest to persons convicted of the crimes of manslaughter, arson, sexual assault, drug trafficking, breaking and entering, theft over \$5,000, motor vehicle theft, kidnapping, and other offences.

The Department of Justice backgrounder is available at:

[http://www.justice.gc.ca/eng/news-nouv/nr-cp/2011/doc\\_32635.html](http://www.justice.gc.ca/eng/news-nouv/nr-cp/2011/doc_32635.html)

### **The Increasing Offender Accountability Act**

The bill is aligned to the needs of victims’ families. They are to receive more information and formalize their access to parole board hearings. Offenders who appear to be in breach of condition of any conditional release can be arrested without a warrant, and if an offender is on parole and receives a new sentence, their parole is revoked.

The Department of Justice backgrounder is available at:

<http://www.publicsafety.gc.ca/media/nr/2011/nr20110920-eng.aspx>

### **Eliminating Pardons for Serious Crimes Act**

This bill strikes the word “pardon” and replaces it with “record suspension”. The waiting period for applying for a record suspension is increased. Those convicted of sexual crimes against minors or who have a record of three offences would not be eligible.

The Department of Justice backgrounder is available at:

<http://www.publicsafety.gc.ca/media/nr/2011/nr20110920-2-eng.aspx>

### **The International Transfer of Canadian Offenders Back to Canada Act**

New criteria have been added to the consideration of whether a Canadian who committed an offence outside Canada will be allowed to serve their sentence in the country. Public safety, the possibility of continuing criminal activity, and potential endangerment of children are among those factors.

The Department of Justice backgrounder is available at:

<http://www.publicsafety.gc.ca/media/nr/2011/nr20110920-1-eng.aspx>

### **The Supporting Victims of Terrorism Act**

This bill allows victims of terrorisms to sue those who perpetrate or support terrorism in a Canadian court. Those who perpetrate terrorism or support terrorism will be held accountable.

The Department of Justice backgrounder is available at:

<http://www.publicsafety.gc.ca/media/nr/2011/nr20110920-3-eng.aspx>

### **The Protecting Vulnerable Foreign Nationals against Trafficking, Abuse and Exploitation Act**

This bill allows the Minister of Citizen, Immigration, and Multiculturalism to set out written instructions so that immigration officers may screen out applicants who are vulnerable to abuse and exploitation by denying work permits.

The Department of Justice backgrounder is available at:

<http://www.cic.gc.ca/english/department/media/backgrounders/2011/2011-09-20.asp>

### **Why the Concern over the Focus on Incarceration in this Legislation?**

The Senate Report “Out of the Shadows at Last” in 2006 provided an all-parties’ perspective on a prospective mental health strategy for Canada. Key observations in this paper included:

- Treatment and Community Treatment Orders in Drug Treatment Courts as alternatives to jail sentences for substance users (p. 218)
- Federal offenders who have mental health diagnoses and are serving sentences of more than two years in institutions are to receive appropriate care from Correctional Service Canada (CSC) ( p. 300)
- Evidence indicates high rates of mental health problems and addictions, as well as suicide with this target population (p. 301)
- While a Mental Health Plan has been approved, resources to provide a continuum of care for those in custody has not materialized (p. 302)
- Consequently, availability of care is nowhere near the same level as the general population (p. 305)
- Discharge from incarceration poses its own issues of stigma, as individuals with a criminal record can find themselves excluded from community programs that offer re-integration and a recovery-based approach, which increases the risk of medication non-compliance or relapsing into crime (p. 306)
- There is an unmet need for staff training to recognize mental health issues (p. 307)
- The correctional system has even fewer resources to work with segregated offenders, the aboriginal population, women and individuals with developmental or behavioural problems such as Fetal Alcohol Spectrum Disorders (p. 308)

In conclusion, the Committee makes recommendations around standards of care guidelines and a full range of continuum of care for persons with mental health and addictions issues who are in federal institutions.

Fast-forward to 2011 and the annual report of the Correctional Investigator, Howard Sapers has documented some meaningful improvements. They include:

- Implementation of a computerized mental health screening and assessment of individuals at admission
- Some improved basic mental health care
- More frontline staff training
- Basic discharge planning for individuals with a mental health diagnosis

Nevertheless, the correctional system faces access to treatment and intervention issues, segregation is often the only strategy for offenders with serious mental health diagnoses, and labour shortages of qualified staff such as psychiatrists, nurses, and psychologists are chronic.

### **What are the Unintentional Consequences of the Omnibus Crime Bill on Persons with a Mental Health Diagnosis?**

The unintentional consequences have not been well-thought out and considered. Consider just the following:

- The intent of mandatory sentences will mean that mentally disordered individuals are more likely to attempt to use the judicial system to avoid time in jail. This will result in costly use of judicial resources, Legal Aid, Charter Rights Challenges, and so forth. Contrast that to the opportunity costs of court diversion, community-based treatment, peer support, and possibly most important, getting help as early as possible.
- There is arguably little benefit in incarceration as a “best practice” in mental health treatment. Social isolation leads to personal disintegration within institutions and makes community reintegration much harder for people who survive such experiences.
- The mental health and addictions system is still resistant to allowing persons with a forensic background from accessing its programs and therefore making the road to recovery much more problematic.
- In addition to the huge expenses of expanding both federal and provincial institutions to accommodate the newly-criminalized, expectations will be high that federal mental health and addictions programs will grow in the correctional system. One might

question the potential duplication of such resources when they are already scarce in provincial correction facilities and are at full capacity throughout the province.

In conclusion, OPDI believes that Bill C-10 is unintentionally capable of creating more harm to those individuals who are already vulnerable due to mental health issues. We are more concerned that it does not build on the past Senate achievement of a non-partisan perspective on mental health and addictions. For these reasons, we urge the Senate to review Bill C-10 in this light and reject it in its current form.