

Bill C-15: Mandatory minimum sentences for drug offences
An open letter to the federal Ministers of Justice and Health

April 27, 2009

The Hon. Rob Nicholson
Minister of Justice and
Attorney General of Canada
284 Wellington Street
Ottawa ON K1A 0H8

The Hon. Leona Aglukkaq
Minister of Health
70 Colombine Driveway
Tunney's Pasture
Ottawa ON K1A 0K9

As front-line organizations, researchers and experts who work with people who use drugs, we are writing to express our opposition to Bill C-15, *an Act to amend the Controlled Drugs and Substances Act and to make consequential amendments to other Acts*. The Government has characterized Bill C-15 as getting tough on serious drug crimes in order to ensure the safety and security of neighbourhoods and communities. However, mandatory minimum sentences for drug offences represent bad policy for many reasons.

▪ ***Mandatory minimum sentences don't work***

The evidence demonstrates that mandatory minimum sentences are ineffective, in that convicting people of drug-related offences does not reduce the problems associated with drug use. Justice Canada's own review of the evidence in 2002 concluded that mandatory minimum sentences are "least effective in relation to drug offences" and that "drug consumption and drug-related crime seem to be unaffected, in any measurable way, by severe [mandatory minimum sentences]."

▪ ***Mandatory minimum sentences harm people with addictions, not large-scale traffickers***

Bill C-15 will predominantly affect people who are addicted to drugs and involved in small-scale, street-level drug distribution to support their addictions. Studies have shown that of the most vulnerable, street-involved people who use drugs, many are involved in low-level tasks such as carrying drugs and steering buyers towards dealers. The real profiteers in the drug market distance themselves from visible drug-trafficking activities and are rarely captured by law-enforcement efforts. The brunt of mandatory minimum sentences will be borne by people with addictions, not organized crime and gang leaders. This is particularly the case with Bill C-15 given that a previous conviction within the last 10 years is enough to trigger a mandatory prison sentence — in essence, a rule of "two-strikes-and-you're-out". These sentencing provisions are also likely to apply to many young people and students for experimenting with drugs, as well as women who are dependent on drug-involved partners. Contrary to the rhetoric, Bill C-15 will not protect our communities from gangs and organized crime, but will instead put some of the most vulnerable people in our society behind bars, as well as young people with otherwise bright futures and others far removed from any violent or high-profit drug trade.

▪ ***Incarceration doesn't address addiction***

Putting people who use drugs in prison does not get them the help they need to deal with the problems that contribute to harmful drug use. For example, research has established that, without treatment, most people with heroin addiction who are incarcerated will return to using heroin following release. Moreover, following a prison sentence, employment prospects are limited and challenges such as inadequate housing and experiences of violence and abuse remain in place.

- ***More imprisonment of people who use drugs is bad for public health***

Putting more people, including people with addictions, in prison for drug offences is bad for public health. Numerous studies in Canada and elsewhere show that people in prison have much higher levels of infection with HIV and hepatitis C. Bill C-15 would mean putting more people in prison who are already vulnerable to HIV and hepatitis C infection, where drug use will continue, but often with even higher risks for transmission of such blood-borne infections because they lack access to clean needles. This makes prisons less safe, not only for prisoners but also for prison staff. Furthermore, prisoners' health affects public health more broadly, since most prisoners return to families and communities. As a matter of public health, we should be keeping people who use drugs *out* of prison, not imposing mandatory prison terms.

- ***Mandatory minimums waste public resources in imposing unjust sentences***

The “aggravating factors” included in Bill C-15 that trigger mandatory prison sentences cast the net so widely as to include a significant number of non-violent offences. The societal, fiscal and health-related costs of imprisonment are much too high to be imposed automatically in every case where a minimum sentence is triggered by factors such as being “near a public place usually frequented by persons under the age of 18 years” or having been previously convicted of another substance offence within the previous 10 years. Judges need flexibility in order to ensure sentences that are tailored to the particular offender and the specific offence. With judges' hands tied, inappropriate and unduly harsh sentences are guaranteed to be handed down.

Bill C-15 should be withdrawn

Given the evidence that mandatory prison terms for drug offences have little effect in reducing crime, but impose significant human and societal costs while undermining public health, Bill C-15 is an inefficient and counter-productive misuse of public funds that could be better spent on evidence-based prevention, treatment and harm reduction programs.

We the undersigned therefore urge you to withdraw Bill C-15 and refocus on scientifically-proven approaches to addressing drug use and drug-related crime within Canada, approaches that work for people who use drugs and for our communities more broadly.

Organizations

AIDS ACTION NOW!
AIDS Committee of London
AIDS Committee of Ottawa
AIDS Niagara
AIDS Saint John
AIDS Thunder Bay
BC Compassion Club Society
BC Persons with AIDS Society
Bureau régional d'action sida — BRAS
Outaouais
Canadian AIDS Society
Canadian AIDS Treatment Information
Exchange
Canadian Association of Nurses in AIDS
Care
Canadian HIV/AIDS Legal Network
Central Toronto Community Health Centres
Centre for Addiction and Mental Health

Centre for Addictions Research of BC,
University of Victoria
Dianova Canada
Elizabeth Fry Society of Manitoba, Inc.
Eva's Initiatives
Fréquence VIH
Global Network of People living with
HIV/AIDS — North America (GNP+NA)
HIV Edmonton
John Howard Society of Sudbury
Living Positive Resource Centre, Okanagan
Meta d'Âme
Northern AIDS Connection Society
Ontario Aboriginal HIV/AIDS Strategy
Ottawa Coalition on HIV/AIDS
PASAN (Prisoners with HIV/AIDS Support
Action Network)
Patients Against Ignorance and
Discrimination on Cannabis
Pivot Legal Society

Regent Park Community Health Centre
Research and Education for Solutions to
Violence and Abuse (RESOLVE)
Saskatchewan
South East Toronto Organization (SETo)
Stella, l'amie de Maimie

Individuals

Barry Adam
Margaret Akan, CEO, All Nations Hope AIDS
Network
Bruce K. Alexander, Ph.D.
Jeannette Ambrose
Fred Andersen
Liz Atkinson-Plato I.C.A.D.C., C.G.C.,
Community Health Educator
Sally Bacchus
Karen S. Bach, BA, MA(Psych), MDiv
Horst Backe, R.N., M.N.
Lorraine Barnaby
Russell Barth
Natalie Basaraba, Harm Reduction Outreach
Coordinator, AIDS Committee of Guelph
and Wellington County
Ahmed M. Bayoumi, Departments of
Medicine and Health Policy, Management,
and Evaluation, University of Toronto
Larry Baxter, Halifax, NS
Line Beauchesne, Professeure titulaire,
département de criminologie, Université
d'Ottawa — Professor, Criminology
Department, University of Ottawa
Erin Beckwell, BSW MSW RSW (Sask),
Faculty of Social Work, University of Regina
Ann Bishop
Kimberley Blackmore, RN BN
Professor Neil Boyd
Geneviève Brunelle
Natacha Brunelle, Canada's Research Chair
on Drug use Trajectories and Associated
Problems, Department of psychoéducation,
Université du Québec à Trois-Rivières
Susan Boyd, PhD, University of Victoria
Margaret Bryans RN BN, Coordinator,
Manitoba Harm Reduction Network
Myriam Canas-Mendes, Weston king
neighbourhood centre
N. Rielle Capler, MHA
Louise Carruthers
Andre Ceranto
Ann Christie, CYW St. Leonard's Community
Services

Street Health Community Nursing Foundation
Streetworks, Edmonton
The Injection Drug Users Harm Reduction
Task Force [of Hastings and Prince Edward
Counties — (IDUHRTF)]
Toronto Harm Reduction Task Force

Yvon Couillard
Kathleen Cummings
Jennifer Davis
Archie DeGaust, SSW/Addiction Counsellor
Chantal Desgranges, Co Chair Toronto Harm
Reduction Task Force
Margaret Bryans RN BN, Coordinator,
Manitoba Harm Reduction Network
Miguel N. Dixon
Allan Dykstra
Jean-Sébastien Fallu
Patricia G. Erickson, Ph.D., Senior Scientist,
Centre for Addiction and Mental Health
Sara Gifford
Irene Goldstone RN, BN, MSc
Michael Gough
Kate Graham
Mark Haden
Michael J. Hamilton
Kathy Hardill, Primary Care Nurse
Practitioner, Bancroft, Ontario
Catherine Hardman, Executive Director,
Choices for Change: Alcohol, Drug &
Gambling Counselling Centre
Shawna Hohendorff
Lisa Hoshino
S. Mikael Jansson
Craig Jones, Ph.D., Executive Director, The
John Howard Society of Canada
Ralf Jürgens, Consultant — HIV/AIDS,
health, policy and human rights
Thomas Kerr, PhD
Gregory Kim, MHSc
Dr. Kenneth W. Kirkwood, Assistant
Professor of Applied Health Ethics, Faculty
of Health Sciences, University of Western
Ontario
Carl Lacharité
Peter La Grand
Barbara Lamble
Ms. Shelley Lauro
Pamela Leece, MSc, MD (May 2009)
Yvon Lemire
Sheahan Letondre

Guy Pierre Lévesque
 Laura Levin
 Philippe Lucas
 Bob Manson
 Jean-Francois Martinbault, Methadone Case
 Manager
 Iain McBride
 Carrie McCormack
 Charlie McKenzie, Secrétaire, Centre
 compassion de Montréal
 Albert McNutt
 James Meeks
 Dr. Margaret (Peggy) Millson MD MHSc
 FRCPC
 Luyaku Musiku, Fondation Internationale des
 Assemblées de Dieu en République
 Démocratique du Congo
 Adrienne Pelletier
 Councillor Gord Perks, Chair, Toronto Drug
 Strategy Implementation Panel
 Jessica Perry
 Aiyana Petronis
 Carrie Pockett
 Jocelyn Porter
 Mark Randall
 Jeff Reinhart
 John V. Rimore
 Donna Rogers
 Dr. Brian Rush, Senior Scientist and Co-
 Section Head, Health Systems Research
 and Consulting Unit Centre for Addiction
 and Mental Health
 Abu Monaim Md. Samsad, Dhaka,
 Bangladesh
 Charles Shames, Provincial Director,
 Ontario HIV and Substance Use Training
 Program, c/o Fife House
 Jadie Schettino
 Chris Spiess
 Carol Strike
 Marc-Boris St-Maurice, National Director,
 NORML-Canada
 Dr. Gerald Thomas
 Louise Thompson
 Marlo Turner Ritchie, Directrice / Executive
 Director, A deux mains / Head & Hands Inc.
 Mike Tutthill
 Carlos Vieira, Addictions counsellor/child
 youth worker
 Geoffrey W. Villebrun
 Taryn Walsworth
 Tracy Ann Warne

Jennifer Welbers B.N (Psychiatric Nurse)
 Juliana West
 Elinor Whidden
 Leslie Wicholas, MD
 Anna Willats
 Evan Wood, M.D., Ph.D.
 R. Alan Wood, RN, BScN, MSN (Cand.)
 Elisse Zack
 Maria-Victoria Zunzunegui, PhD