

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

April 27, 2009

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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  
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