

Controversies Concerning the Canadian Not Criminally Responsible Reform Act

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In Canada, individuals found not criminally responsible on account of mental disorder are subject to the disposition recommendations of the Provincial or Territorial Review Board of the jurisdiction where the offense was committed. Bill C-14, known as "The Not Criminally Responsible Reform Act" made changes to the postverdict disposition process of these individuals. This legislation was consistent with a broader "tough-on-crime" agenda of the previous federal government. The legislative changes codify that Review Boards take public safety as the "paramount consideration" in making their recommendations. The legislation also creates a new "high-risk" category for certain offenders and imposes limitations on their liberty. Further, Bill C-14 seeks to enhance victim involvement in the disposition process. The passage of this legislation has generated significant controversy in the medical and legal fields. Critics have stated that there is an absence of empirical evidence on which to base the amendments, that the legislation was an overreaction to high-profile cases, and that Bill C-14 is in questionable compliance with the Canadian Charter of Rights and Freedoms. In this review, we explore the potential catalysts involved in the creation of Bill C-14, the controversy surrounding the legislation, and the potential future impact on practicing forensic psychiatrists and on the forensic mental health system in Canada.

J Am Acad Psychiatry Law 45:44–51, 2017

As in other parts of the world, Canada has had shifting legislation when it comes to dealing with individuals with mental illness who commit crimes. Bill C-14, The Not Criminally Responsible Reform Act, formally known as "An Act to amend the Criminal Code and the National Defense Act (mental disorder)," was passed by the Canadian House of Commons on November 25, 2013, received Royal Assent on April 11, 2014, and went into force across Canada on July 11, 2014.^{1,2,4} As the title of the act suggests, several amendments were made to the Criminal Code of Canada with regard to defendants found not

criminally responsible on account of mental disorder (NCRMD). These amendments were limited to the postverdict disposition process; the sections of the Criminal Code concerning the definition of mental illness and the criteria for finding an individual NCRMD were not revised. Criticisms of the legislation have been widespread.

Undoubtedly, striking a balance between the safety of the public and the liberty rights of the NCRMD accused is one of the central objectives of the Mental Disorder regime. As Madame Justice McLachlin of the Supreme Court of Canada stated in *Winko v. British Columbia*, "the twin goals of [the Mental Disorder regime] are the protection of the public and treating mentally disordered accused persons fairly and appropriately."⁵ In examining this legislation, it is essential to look at how these two facets are addressed by asking the following questions: does Bill C-14 increase public safety and does Bill C-14 enhance civil liberty protections of the NCRMD accused?

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Disclosures of financial or other potential conflicts of interest: None.

History of the Review Board System

The Mental Disorder regime in the Criminal Code of Canada underwent an overhaul in 1992 in the wake of the decision of the Supreme Court of Canada (SCC) in *R v. Swain*.⁶ In *Swain*, the SCC ruled that the automatic detention of an insanity acquittee violates Section Nine of the Canadian Charter of Rights and Freedoms (i.e., "Everyone has the right not to be arbitrarily detained or imprisoned.")⁴ In response, Parliament passed sweeping legislation under Bill C-30 that established the current Mental Disorder regime (Part XX.1) in the Criminal Code.⁷ Before *Swain*, the safety of the public was placed ahead of the liberty of the insanity acquittee. A person found not guilty by reason of insanity (NGRI) before *Swain* could be held in detention indefinitely at the pleasure of the Lieutenant Governor. The SCC ruled in *Swain* that such deprivation of liberty was unacceptable.

Under Part XX.1, individuals found either unfit to stand trial or NCRMD fall under the dispositional control of the Provincial or Territorial Review Board (RB) in the jurisdiction of the committed offense. A court may make a ruling on disposition after the NCRMD verdict; however, in practice, the decision is typically deferred to the RB. The RB must hear a case within 45 days (which may be extended to 90 days) from the initial NCRMD verdict. The RB of every province is composed of at least 5 members. A quorum of at least three members is convened for any given RB hearing, which is meant to be inquisitorial and informal in nature. This three-member quorum includes a chairperson (who is a judge or retired judge) and at least one psychiatrist. The third person may be another psychiatrist or person with mental health training, but may also be a layperson. Within Part XX.1 of the Criminal Code of Canada is the description of the organizational structure and function of the Provincial and Territorial RBs. It includes specific criteria and directions that RBs must follow when making disposition determinations. Before Bill C-14, the primary directive of the RB was highlighted in § 672.54³:

Where a court or Review Board makes a disposition . . . it shall, taking into consideration the need to protect the public from dangerous persons, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused, make one of the following dispositions that is the least onerous and least restrictive to the accused:

(a) where a verdict of not criminally responsible on account of mental disorder has been rendered in respect of the accused and, in the opinion of the court or Review Board, the accused is not a significant threat to the safety of the public, by order, direct that the accused be discharged absolutely;

(b) by order, direct that the accused be discharged subject to such conditions as the court or Review Board considers appropriate; or

(c) by order, direct that the accused be detained in custody in a hospital, subject to such conditions as the court or Review Board considers appropriate.

RBs hear evidence in the form of a psychiatric report that includes detailed information on the individual's background, offense information, clinical status, and risk assessment. Victims also have the right to file victim impact statements with the RB for the hearing. The RB has the ability to make one of three dispositions: absolute discharge (i.e., released with no restrictions), conditional discharge (i.e., released with conditions), or custodial detention (i.e., detained in hospital). With this regime, there is no presumption of dangerousness by the RB, and individuals who are determined not to pose a significant threat to the public must receive absolute discharges. If there is a determination that there is a significant threat, the NCRMD-accused individual receives either a conditional discharge or custodial detention. Before Bill C-14, the dispositions of these individuals were reviewed, at least annually, by the RB.

Cause for Change

The media and public at large have routinely had difficulty in appreciating the spirit of the insanity defense. The public often has difficulty accepting the idea of the insanity defense and believes the safety of the public is put at risk as a result.⁸ Numerous misperceptions held by the public include the belief that NCRMD accused are soon released from custody once adjudicated NCRMD, that the defense is overused, and that those who use the defense are usually faking their condition.⁸ These misperceptions propagate the idea that dangerous offenders with disordered thinking are absolved of their crimes, are free to walk the streets, and essentially "get off." The insanity defense is not in keeping with publicly held values of punishment, retribution, and an overall "culture of punishment" in today's society.⁸ As Perlin suggests, "the continued existence of the insanity defense [is] dissonant with the political world that we [have] constructed."⁸ These public misperceptions

make legislation, which enhances the culture of punishment in amending insanity defense statutes, politically attractive.

Before the passage of Bill C-14, former Prime Minister Stephen Harper's government enacted substantial criminal reform legislation in parliament. Bill C-10, also called the Safe Streets and Communities Act, contained nine legislative actions that included increased mandatory minimum sentencing, lengthened prison sentences, and limited judicial discretion in sentencing.¹⁰ The legislation was controversial and widely criticized for its lack of an evidence-based approach to crime.¹¹ It was frequently seen as serving the ruling government's interest in forwarding a tough-on-crime agenda.

In addition, high-profile media cases involving persons with mental illness found NCRMD tend to invoke increased scrutiny and undermine public faith in the criminal justice system. Indeed, highly publicized cases of violence are associated with an exacerbation of negative attitude toward those with mental illness.¹² The reassessment of insanity standards after high-profile cases is perhaps best illustrated by the case of John Hinckley in the United States.¹³ This case led to a dramatic shift in the public and political perspective on the insanity defense and ultimately led to the passage of the Insanity Defense Reform Act (IDRA) by Congress in 1984.¹⁴ Reforms were passed in 34 states. Public sentiment after the Hinckley verdict and the subsequent passage of the IDRA reflect a shift in concern of the due process rights of accused individuals to that of public safety. Another notable parallel between the IDRA and Bill C-14 described herein includes the failure to take into account empirical data in the crafting of legislation. During public discussion of Bill C-14, several high-profile cases involving NCRMD accused were in the media spotlight. Stephen Harper shared his views of two of these cases through Twitter on November 25, 2013: "Brutal cases like Allan Schoenborn & Vince Li undermine confidence in our justice system. Our tough new law would change that."¹⁵ This statement parallels the typical public perspective on the association between mental illness and violence.¹⁶ The cases of Schoenborn and Li continue to receive significant public attention and reflect the misperception that these individuals are being treated leniently.

In April of 2008, Allan Schoenborn killed his three children, aged 10, 8, and 5 years, in Merritt,

British Columbia.¹⁷ At the time of the killings, Mr. Schoenborn held the delusional belief that his children were being molested and that the only way to protect them was to kill them. In 2010, he was found NCRMD on three counts of first-degree murder and subsequently detained at the Forensic Psychiatric Institute in Coquitlam, British Columbia. The RB granted him the possibility of escorted day passes to the community at his first annual hearing in 2011, leading to a harsh public reaction. At the time of the hearing, Mr. Schoenborn's estranged ex-wife had relocated to a city nearby the institution where an escorted day pass had the potential to be exercised. The relocation of his ex-wife had not been indicated on her victim impact statement and was thus unknown to the RB at the time. Because of the intense public response, a rare second RB hearing was held. Mr. Schoenborn later withdrew his request for escorted passes. During the heightened public attention to the case, Barry Penner, the Attorney General for British Columbia, wrote a letter to then Federal Minister of Justice Rob Nicholson suggesting that amendments be made to the Criminal Code concerning sections that dealt with individuals found NCRMD.¹⁸ Similar media sentiment regarding the granting of privileges occurred with NCRMD-accused Vincent Li.¹⁹ Li was found NCRMD in 2009 after decapitating and partially cannibalizing a passenger on a Greyhound bus in 2008. Politicians, including the Federal Justice Minister and the Manitoba Premier, publicly denounced the RB's decision in 2014 to grant Li unescorted day passes.²⁰

Bill C-14

Bill C-14 has 33 clauses that amend the Mental Regime (Part XX.1) of the Criminal Code and the National Defense Act. The revisions described in Bill C-14 involve three main areas: the alteration of wording of disposition decisions made by RBs, the creation of a high-risk designation, and changes to victim involvement in the postverdict process.

First, with respect to disposition decisions, Bill C-14 alters the wording of § 672.54:

When a court or Review Board makes a disposition . . . it shall, taking into account the safety of the public, which is the paramount consideration, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused, make one of the following dispositions that is necessary and appropriate in the circumstances.¹

This revision replaces the “least onerous and least restrictive” provision of the previous version with “necessary and appropriate.” It further codifies that the RB must make the “safety of the public” the “paramount consideration” in making disposition decisions.¹ The phrase “paramount consideration” can be seen as a codification of the language of the Supreme Court of Canada in *Pinet v. St. Thomas* (2004), where it was stated that “public safety is paramount” when taking into account liberty interests of the NCRMD accused.²¹

Second, Bill C-14 creates with Section 672.64 a new “high-risk” designation that the court could impose upon an individual who is adjudicated NCRMD and who meets specific requirements. The court would have the sole ability to revoke such a designation. This high-risk accused (HRA) designation may apply to individuals found NCRMD of a serious personal-injury offense. For the designation to be applied, the court must be satisfied that the “accused will use violence to endanger the life or safety of another person” (§ 672.64(1)(a)) or “if the acts that constituted the offense were of such a brutal nature so as to indicate a risk of grave physical or psychological harm to another person.” (§ 672.64(1)(b)).¹ Thus, in accordance with § 672.64(1)(b), an HRA designation may be imposed on an NCRMD defendant on the basis of his index offense alone. Accused persons who receive this designation are not eligible for a conditional or absolute discharge and are automatically detained in the hospital setting. The restriction of liberty within the detentional setting of HRA persons is also codified. Under Section 672.64,¹ an HRA person may leave the hospital only for medical reasons and must have an escort. Before this amendment, individuals who received a custodial disposition had the possibility of receiving on- and off-grounds privileges (which may be escorted or unescorted) depending on the recommendation of the RB. Further, Bill C-14 permits the lengthening of time between RB hearings from an annual basis to every 36 months for HRA individuals.

Third, Bill C-14 also seeks to enhance victims’ involvement through several mechanisms. The act specifies a process to notify victims of the NCRMD accused’s intended place of residence at the time of a conditional or absolute discharge (§ 672.5). In addition, it is specified that the court or RB take into

consideration victim impact statements when making disposition determinations.

Controversy

Our literature review identified few supporters of most of Bill C-14’s amendments outside of the government. An exception to this appears to be the amendments that enhance victim involvement in the disposition process, which has a general level of support among those who are otherwise critical of the legislation. Even though forensic mental health professionals, such as psychiatrists and psychologists, have expertise in risk assessment and management, which this legislation is attempting to address directly, neither the Canadian Psychiatric Association nor other mental health organizations were consulted in the drafting process. A position statement released by The Canadian Mental Health Association expressed concern that Justice Ministers Nicholson and Mackay declined to meet with any mental health organizations. Eleven National Health Organizations were publicly opposed to Bill C-14.²²

The notion that Bill C-14 will enhance public safety does not appear to be supported by the available evidence. Determining precise recidivism rates among individuals found NCRMD has been historically difficult. Part of the problem is related to various definitions of recidivism. Another is that an individual’s risk factors for recidivism may vary, depending on the stage of the proceedings.²³ The National Trajectory Project (NTP) is a landmark project funded through the Mental Health Commission of Canada and has recent data describing recidivism rates of NCRMD accused individuals in Quebec, Ontario, and British Columbia (the three most populous provinces that contain most of the NCRMD cases).²³ A group of 1800 individuals followed for an average of 5.7 years from the date of their index offense was included in their analysis. The index offenses and recidivism offenses were classified into three groups based on seriousness: severe offenses (murder, attempted murder, and sex offenses), other offenses against a person, and offenses not against a person. The overall recidivism rate after a fixed follow-up period of 3 years was 16.7 percent.²³ Individuals who committed severe violent index offenses were less likely to reoffend than other individuals who were found NCRMD: six percent of individuals in this group committed an offense of any kind after three years of follow-up.²³ This is com-

pared with the recidivism rates of individuals who had committed a less severe index offense against the person (15.3%) and individuals whose index offenses were not committed against the person (21.7%).²³ When analyzing the nature of the reoffense, the rate for nonsevere reoffenses against the person was 8.8 percent; 29 percent of these reoffenses were threats.²³ The rate for severe reoffending by the sample was 0.6 percent after three years (a total of 9 of 1611 individuals).²³ Furthermore, the severity of the index offense did not affect the likelihood of recidivism against persons.²³ This finding is in direct conflict with the creation of a high-risk designation based on an NCRMD person's index offense. The high-risk designation appears to be a misnomer, as the NTP found that an individual who committed a severe index offense was 2.14 times less likely to reoffend than individuals whose index offenses were not against a person.²⁴ The SCC has already commented on this point in *Winko*: "a past offense committed while the NCR accused suffered from a mental illness is not, by itself, evidence that the NCR accused continues to pose a significant risk to the safety of the public" (*Winko*, ¶ 62).

The recidivism rates described in the NTP appear to be lower than the recidivism rates of the general offender population. Estimates vary, although a study of release outcomes of long-term offenders in Canada in 2000 estimated a reconviction rate between 27 and 40 percent after seven years of follow-up.²⁴ Reconviction rates for violent offenses in this study ranged from 11 to 20 percent.²⁵ Another study of Canadian federal offenders estimated the recidivism rate (for all crime) to be between 40.6 and 44 percent; the reconviction rate for violence was approximately 13 percent.²⁶ This result appears to be consistent with estimates of 2-year recidivism rates in the United States and the United Kingdom of 42 and 58 percent, respectively.

Members of the legal and judicial community have also reflected their apprehension regarding Bill C-14. The Canadian Bar Association (CBA) also voiced its opposition to the measure.²⁶ In addition to criticizing the specific amendments, the CBA also took issue with how Bill C-14 did not address the adequacy of mental health services available to individuals before commission of an offense. The CBA also contended, as others have, that the measures in Bill C-14 will deter defendants from availing themselves of the NCRMD defense. Increasing the length

of time between RB hearings is also seen as punitive.²⁷ Regular annual reviews of NCR-accused detainees by RBs safeguards against perception of arbitrary detention. There are concerns that individuals already on conditional discharge may be subsequently deemed HRA as a result of the current legislation. This designation would shift them from the progress they have made in safely reintegrating into the community. The CBA also argued that Bill C-14 creates Charter vulnerabilities to Part XX.1, which will be detailed later on. Justice Richard Schneider, Chair of the Ontario Review Board, suggested that provisions in Bill C-14 have the potential to make the public less safe. He indicated at the Standing Senate Hearing on February 27, 2014, that accused persons may not avail themselves of an NCRMD defense because of their concern about being designated HRA and not having their case reviewed on a regular basis.²⁷ He suggested that these persons may instead opt to be tried in a regular prosecutorial manner. These people would likely then be released from detention without appropriate treatment, which "escalates the probability of recidivism."²⁸ He added: "all of the data are saying turn left, and the bill proposes that we turn right." There appears to be some support for this assertion. For example, data have shown that after the overhaul of the mental disorder regime in 1992 with Bill C-30, more individuals availed themselves of the NCRMD defense in British Columbia.²⁹ This appears to be similar across Canada. In 1994/95, criminal cases were diverted to RBs at a rate of 1.2 per 1000 adult criminal cases. By 2003/04, this had increased 50 percent to 1.8 per 1000 cases.³⁰

Charter Vulnerabilities

In reviewing the vulnerabilities Bill C-14 may have in the face of potential Charter challenges, several pertinent landmark Supreme Court of Canada (SCC) decisions are important to note. In addition to *Swain*, the SCC decisions in *Winko v. British Columbia* (1999),⁴ *Pinet v. St. Thomas* (2004)²¹, and *Penetanguishine Mental Health Center v. Ontario* (2004) (*Tulikorpí*)³¹ are of particular interest. In each of these cases, the SCC upheld the constitutionality of various portions of Part XX.1 of the Criminal Code before the amendments in Bill C-14. Reviewing §§ 1, 7, and 15(1) of the Charter may be useful in analyzing this³:

Section 1: The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Section 7: Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Section 15(1): Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, color, religion, sex, age or mental or physical disability.

In *Winko*, an NCRMD accused appealed a RB disposition, submitting that Part XX.1 of the Criminal Code violated his rights to liberty and security of the person, and equality under the Charter (Ref. 3, §§ 7 and 15(1)). In *Winko*, Justice McLachlin wrote for the majority: “Justice requires that the NCR accused be accorded as much liberty as is compatible with public safety” (*Winko*, ¶ 9). In *Winko*, the SCC provided a detailed analysis of the constitutionality of Part XX.1. Its ruling in *Winko* upheld the constitutionality of pre-Bill C-14 § 672.54, emphasizing the importance of the “least onerous and least restrictive,” disposition. Specifically, Madame Justice McLachlin stated that because Part XX.1 codified that the “least onerous and least restrictive” disposition of the accused be selected, it “ensures the NCR accused’s liberty will be trammelled no more than is necessary to protect public safety” (*Winko*, ¶ 71). When RBs and courts begin making dispositions that are “necessary and appropriate” rather than “least onerous and least restrictive,” the liberty of an NCR accused will be impinged. The CBA also supports this notion, stating that “the ‘least onerous and least restrictive’ requirement is critical to the constitutional validity of § 672.54” (Ref. 27, p 8).

Later, in *Pinet*,²¹ the SCC stated that the liberty interest of an NCR accused should be a “major pre-occupation” of the RB “within the outer boundaries defined by public safety.” They stated that in trying to balance these two values, “public safety is paramount.” The SCC stated that the “least onerous and least restrictive” test applies not just to the disposition as a whole, but to conditions of the disposition.

In *Pinet*, the SCC criticized the RB for having “proceeded on the basis that the conditions merely had to be shown to be ‘appropriate.’” This suggests that the SCC views the constitutionality of § 672.54 as being supported by the inclusion of the “least onerous and least restrictive” test.

The creation of the HRA designation also has potential Charter vulnerabilities. The CBA stated that the system “is likely unconstitutional as it violates § 7 of the Charter on the grounds of arbitrariness and vagueness” (Ref. 27, p 13). Mandating that HRA persons be subject only to a strict detentive setting without any privileges may be too broad. § 672.54(c) provides that an NCRMD accused who receives a detentive disposition is “subject to such conditions as the court or Review Board considers appropriate.” However, as in *Pinet*, the SCC found in *Tulikorpi*³¹ that the Criminal Code requires that the “least onerous and least restrictive test” be applied “to the conditions of the appellant’s continued detention, and not just to the type of detention itself.”^{26,31} The reasoning in *Tulikorpi* further stated that “a variation in . . . the conditions under which an NCR accused is detained in a mental hospital, can also have serious ramifications for his or her liberty interest.” (*Tulikorpi*, ¶ 24). The ruling in *Tulikorpi* further expressed that “unnecessary “trammelling” of liberty can often lie in the precise conditions attached to the order and not just in the general mode of detention” (*Tulikorpi*, ¶ 52). This was also referenced in *Winko*, when Justice Gonthier wrote: “dangerous NCR accused can be subjected only to the disposition and the conditions that are the least onerous and restrictive upon them” (*Winko*, ¶ 165). This holding is at odds with the strict conditions on detention that Bill C-14 creates for an HRA. In fact, the SCC suggested in their decision in *Tulikorpi* that because of the “least onerous and least restrictive provision,” § 672.54(c) did not infringe on § 7 of the Charter. The HRA designation may also be vulnerable to a § 15(1) Charter challenge. As explained in *Winko*, the “individualized scheme of Part XX.1 . . . does not readily permit a finding of discrimination” (*Winko*, ¶ 89). The HRA designation is a departure from this individualized scheme.

Another feature of Bill C-14 that may be subject to a Charter challenge is the extension of annual RB hearings up to 36 months for HRA persons. The SCC reasoned in *Winko* that the liberty of the NCR accused is taken into account with annual review:

“Part XX.1 further protects his or her liberty by providing for, at minimum, annual consideration of the case by the Review Board” (*Winko*, ¶ 72). This minimum annual review allows for compliance with § 7 of the Charter. Extending this period for certain NCRMD accused to 36 months curtails this liberty.

Future Impact

As Bill-C14 has only been in effect for a short while, its implications for practicing forensic psychiatrists are not yet clear. Evaluating psychiatrists reflect on a structured inventory of risk factors when offering disposition recommendations to RBs.³² Of course, the essential role of the consulting psychiatrist will remain the same: to formulate risk assessments and offer treatment recommendations that can mitigate identified risk factors. Psychiatrists will not be bound by any of the amendments of Bill C-14 when offering these opinions. However, when psychiatrists offer disposition opinions and treatment recommendations for RB hearings, the presence of a HRA designation may be problematic. For instance, the RB would not be able to take into account an evaluating psychiatrist’s recommendation that an HRA individual receive a conditional discharge. Further, given the strict detentive restrictions codified in Bill C-14 for an HRA, RBs would be unable to consider recommendations for escorted and unescorted privileges. As safe reintegration into the community can be enhanced based on an individual’s success with gradual expansion of his privileges, the HRA designation would hinder appropriate treatment in these situations. As mentioned previously, research suggests that the severity of an individual’s index offense *per se* is not correlated with future risk of recidivism. The labeling of an NCRMD accused with the HRA designation is not accurate in reflecting the person’s risk, and may be at odds with the psychiatrist’s evidence-based assessment of that risk.

The codification of safety being a “paramount consideration” with RB decisions may not have much effect. Justice Schneider stated in the Standing Senate Hearing on February 27, 2014, that RBs across Canada already make safety their paramount concern, and codification of this in Bill C-14 would change “absolutely nothing.”²⁷ He also testified that despite the “least onerous and least restrictive” replacement with the “necessary and appropriate” phrasing, “the courts and/or review boards would nevertheless be imposing the ‘least onerous and least

restrictive’ disposition.” Further, the SCC already indicated in *Pinet* that “public safety is paramount” (*Pinet*, ¶ 19). The inclusion of this wording in § 672.54 simply reflects a codification of this.

Conclusion

The impact that Bill C-14 will have on the dispositions of future NCR accused persons and the makeup of the forensic mental health system in Canada remains to be seen. The HRA designation appears to be the component of the legislation that has both the potential to affect disposition outcomes and potential Charter challenges. Although politicians have contended that Bill C-14 is a necessary measure to ensure public safety, empirical support for this notion appears lacking, and criticisms have been widespread among the legal and mental health communities. Stigmatization, increasing arbitrariness, and a curtailing of liberty are chief among these criticisms. The constitutionality of Bill C-14 has also been questioned with potential Charter challenges on the horizon. Ultimately, this bill lacks empirical support that public safety will be enhanced. Legal experts have warned that it further restricts the liberty interests of NCRMD accused individuals. From this perspective, the legislation seems to be a misguided attempt at striking the balance between public safety and protecting liberty interests.

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