

Implementing Evidence-based Policies for Persons Found Not Criminally Responsible on account of Mental Disorder (NCRMD)

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Our team recently led the National Trajectory Project (<https://www.ntp-ptn.org>), a multi-province research study of the trajectories and outcomes of persons found Not Criminally Responsible on account of Mental Disorder (NCRMD) between 2000 and 2005. This research was funded by the Mental Health Commission of Canada. Analysis of the data obtained in this study are undergoing, however, in Winter 2013 we completed a research report for the Department of Justice Canada. In this research report, we examined the data for a subsample of 165 persons found NCRMD for a “serious, violent offence”, including homicide offences (58 cases), attempted murder (65 cases), and sexual offences (42 cases). A copy of this [report](#) is attached.

We would like to highlight the following points that are relevant to the proposed amendments in Bill C-54 regarding NCRMD provisions in the Criminal Code:

- Most persons found NCRMD have not committed “serious, violent” offences. This subset of offenders comprised 8% of our National Trajectory Project sample.
- The nature of the offence (e.g., homicide vs. assault vs. property crime) leading to a NCRMD verdict is a poor indicator of risk to reoffend. Many decades of research have identified other factors that are much more important indicators, and that are taken into account in the risk assessment procedures used routinely in both forensic mental health and correctional services ([Otto & Douglas, 2010](#)).
- Persons found NCRMD are *less* likely to violently or nonviolently reoffend than mentally ill offenders in corrections. In our Trajectory Project data, 10% of the “serious, violent” offenders highlighted in our Justice Canada report committed any new offence, and 7% committed a new violence offence, during three years of opportunity. This can be compared to rates of 69% and 39%, respectively, for a comparison group of mentally ill offenders released from correctional custody ([Villeneuve & Quinsey, 1995](#)). This difference suggests mentally ill offenders can be better managed when a spectrum of mental health services are available. It also suggests the Review Boards are already doing an effective job at managing the risk posed by persons found NCRMD and thereby protecting public safety.
- One possible consequence of decreasing the frequency of hearings and increasing the criteria for discharge will be fewer accused seeking an NCRMD defense, resulting in more mentally ill individuals entering the correctional system instead. The Office of the Correctional Investigator has already identified the challenges that mentally ill offenders face in federal correctional custody, where persons convicted of serious crimes such as homicide or attempted murder offences are likely to otherwise be sentenced ([Sapers, 2013](#)).
- In sum, the proposed legislation may have unintended and undesirable consequences, with more mentally ill accused avoiding an NCR defense, greater strain on mental health resources within the correctional system, and negative impacts on public safety as mentally ill accused return to the community without the carefully titrated support and supervision provided by the review board and forensic health systems.