

June 27, 2019

Honourable John Horgan, M.L.A.  
Premier of British Columbia  
West Annex Parliament Buildings  
Victoria, BC V8V 1X4

Honourable Judy Darcy, M.L.A.  
Minister of Mental Health and Addictions  
Room 346 Parliament Buildings  
Victoria, BC V8V 1X4

Honourable David Eby, M.L.A.  
Attorney General  
Room 232 Parliament Buildings  
Victoria, BC V8V 1X4

Honourable Adrian Dix, M.L.A.  
Minister of Health  
Room 337 Parliament Buildings  
Victoria, BC V8V 1X4

Dear Premier and Ministers:

**Re: British Columbia *Mental Health Act* Law Reform**

---

We are organizations that are dedicated to the advancement of human rights, equality, and dignified and effective mental health and addiction services. We commend the government's intention to transform the BC mental health and addictions system described in "A Pathway to Hope" – the 10-year provincial strategy announced June 26, 2019. However, we are deeply disappointed to learn that this strategy does not include a plan to address the law that governs this system. We call on the BC government to establish an independent review process to reform the BC *Mental Health Act*.

The BC *Mental Health Act* takes an outdated approach that prioritizes detention, coercion, and discipline over voluntary and effective health care services. As a result, mental health detentions have increased dramatically, rising by approximately 71% over the last ten years,<sup>1</sup> while voluntary mental health services have been neglected. "A Pathway to Hope" notes that BC has the highest rate of hospitalization due to mental illness and substance use in Canada. We are pleased that the government has committed to increased funding of voluntary, community-based mental health and addiction services. However, the BC system's extraordinarily high rates of hospitalization and involuntary care will not substantively change unless the law that governs this system is also changed.

There have been significant advances made in research and understanding on effective services and treatment for people with mental health and addiction issues. These advances have

---

<sup>1</sup> Ombudsperson's Special Report No. 42, [Committed to Change: Protecting the Rights of Involuntary Patients under the \*Mental Health Act\*](#), March 2019, page 15.

coincided with the development of national and international human rights principles that now require that our laws treat people with mental health and addiction issues in a dignified and non-punitive manner that promotes self-determination. It is now clear that the old paradigm that pits “rights” and “treatment” in opposition to each other is a false one. In fact, individual rights must be respected and fulfilled in order to provide effective treatment and care.

But the BC *Mental Health Act* has not been reviewed and updated in decades to reflect these developments. As a few examples, the current BC *Mental Health Act*:

- authorizes detaining facilities to “discipline” patients in detention with no statutory limits on disciplinary measures and no review process.
- has no criteria governing the use of restraints and seclusion, so patients are tied to their beds using mechanical restraints and solitarily confined in small, locked rooms with no statutory limits on when it can be used and how long it can last.
- provides no patient rights to access counsel, to receive visitors, to same sex clothing removal, or to access means of communication with people outside detaining facilities.
- permits indefinite detention without mandatory, independent, periodic reviews.

The approach to detention, coercion, and discipline in the BC *Mental Health Act* can be harmful and traumatizing, which interferes with treatment and care. The outdated law acts as a disincentive for people with mental health and addiction issues to connect with services when they need them. The BC *Mental Health Act* does not respect the rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the United Nations *Convention on the Rights of Persons with Disabilities*, a binding international human rights convention to which Canada is a signatory. The BC *Mental Health Act* was recently singled out for criticism by the Special Rapporteur on the Rights of Persons with Disabilities following an inspection of Canada.<sup>2</sup>

BC has fallen far behind other Canadian provinces and territories. While other Canadian jurisdictions have hired retired judges and independent evaluators to conduct systemic reviews to critically examine their mental health laws, BC has not engaged in systemic, independent review of its *Mental Health Act*. The need for a systemic overhaul was researched and documented by the Community Legal Assistance Society in **Operating in Darkness: BC’s Mental Health Act Detention System**.<sup>3</sup> Since its publication in 2017 the BC government has not acted on calls for law reform, despite sustained requests from community. None of our organizations were consulted in the development of the strategy articulated in “A Pathway to Hope” and, as a result, it shows misunderstandings about how this system is impacting the communities we serve on the ground.

---

<sup>2</sup> [End of Mission Statement by the United Nations Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas-Aguilar, on her visit to Canada](#) (April 12, 2019).

<sup>3</sup> [Operating in Darkness: BC’s Mental Health Act Detention System](#), Community Legal Assistance Society (November 2017).

BC deserves a *Mental Health Act* that is grounded in evidence-based best practices that prioritize effective and dignified prevention, harm reduction, treatment, and recovery services. We call on the BC government to establish a transparent and independent law reform process that includes meaningful consultations with people with lived experience of involuntary mental health and addictions care and the organizations that serve them. BC has the opportunity to transform its mental health and addictions system by creating a new *Mental Health Act* that promotes human rights principles and effective care.



**Community Legal Assistance Society**



**Pivot Legal Society**



**West Coast LEAF (Women’s Legal Education and Action Fund)**



**British Columbia Civil Liberties Association**



**Together Against Poverty Society**