FEDERALISM-E

Reforming the NCR system: Tying the Knot on Federal Integration

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The bureaucratic problems in treating those deemed Not Criminally Responsible (NCR) can be addressed by creating a federal hospital for NCR patients. Implementing a federal NCR hospital would allow for further national preventative efforts to reduce the need for NCR patient care. However, a clear concept of the current system must be attempted before establishing an understanding of what an NCR patient is or how their situation can be improved. During the preliminary research it became clear that an understanding of how the NCR system functioned was lacking at both an operational and administrative level. After calling five hospitals that treat NCR patients in Ontario and British Columbia, it was found that none were aware whether the funding came directly from the province or federal government. Beyond the billing of patient care to the province, all further information was unknown. The BC Forensic Psychiatric Hospital was unclear if the chain of custody was under Provincial or Federal authority, as both remanded patients to the facility without differentiation. To reflect the limited level of sources available, Ontario will be the focus of this paper. The Ontario legislation also reflects the duality of authority between the provincial and federal levels.¹ The result is a system that neither serves the patients nor the society which entrusts the system to treat these individuals which the community perceives as dangerous.

The modern concept of Not Criminally Responsible was confirmed following an appeal to the Supreme Court in 1991 in the case of *R v. Ratti*.² A person found NCR had to have either been found guilty of committing a crime in a criminal court or deemed to be a public nuisance requiring incarceration.³ For a defendant to request NCR status, the act must fall within an offence that each province has deemed allowable for an NCR request. The 1991 appeal further established that the person restrained under NCR must be deemed by a provincial review board as no longer posing a risk to public safety before release.⁴ Both the province and the federal government could establish more severe conditions of release as deemed necessary.⁵ The authority of the person was placed under provincial jurisdiction, at the pleasure of the federal government. The limit of federal power over NCR patients has yet to be addressed and has remained a constitutional question. The roots of this constitutional confusion dates back to the inception of treating those deemed NCR or at the time ‘criminally insane’.

The history of treating the ‘criminally insane’ in Ontario illustrates the overall confusion under which care of NCR patients are conducted in several provinces. The treatment of NCR patients in Ontario dates back to 1838 under the colonial parliament of Upper Canada when an asylum was authorized under colonial governance, with heavy regional autonomy.⁶ The first

¹ Ontario, “Mental Health Act, RSO 1990,” CanLII, December 21, 2015, <https://www.canlii.org/en/on/laws/stat/rso-1990-c-m7/latest/rso-1990-c-m7.html#document>.

Further reading see: CAMH, “Information about Forensic Mental Health,” CAMH, December 2019, <https://www.camh.ca/en/camh-news-and-stories/information-about-forensic-mental-health>.

² *R. v. Ratti*, 1991.

³ Ontario, “Mental Health Act, RSO 1990,” CanLII, December 21, 2015, <https://www.canlii.org/en/on/laws/stat/rso-1990-c-m7/latest/rso-1990-c-m7.html#document>.

⁴ *R. v. Ratti*, 1991.

⁵ Anne G Crocker and Tonia L Nicholls, “The National Trajectory Project of Individuals Found Not Criminally Responsible on Account of Mental Disorder in Canada. Part 2: The People behind the Label, 2015,” SAGE Journals, March 15, 2015, <https://journals.sagepub.com/doi/10.1177/070674371506000305>.

⁶ Allodi, Federico, and Kedward “The Evolution of the Mental Hospital in Canada.” *Canadian Journal of Public Health / Revue Canadienne De Sante'e Publique* 68, no. 3 (1977): 219-24.

asylum was established in an abandoned prison in 1841, under what would evolve into the Center For Addictions and Mental Health (CAMH).⁷ Other facilities were progressively built from that point onwards until they were consolidated under the Ontario Mental Health Act of 1990 that placed mental health under the jurisdiction of the province.⁸ The consolidation of these hospitals into a unified system on the provincial level is ongoing, as each hospital must attempt to provide basic mental health care regardless of specialization or resources.⁹ The development of the system has resulted in NCR patient care that is individual and largely dependent on the location of sentencing, not patient need.

A major problem with the lack of clear jurisdiction in NCR cases is in the treatment of prisoners with mental illness. The NCR system and Correctional Services Canada are not linked in a way that would allow a prisoner to receive care reserved for NCR patients; as a court must determine them NCR.¹⁰ The federal government, due to it's the overlap between the criminal justice system and mental health acts, has left a discrepancy in the prison system, having limited assets to treat patients. The mentally ill are over represented in prison system with 65% of federal inmates requiring mental health treatment which often goes untreated at the standard considered as basic care.¹¹ These prisoners having committed a crime serious enough to where community treatment was not accepted but mental illness was not considered a factor large enough to be classed as NCR.¹² Prisons are left providing care that meets the standard of harm reduction where possible but not considered treatment.¹³

Furthermore, the lack of a unified national mental health act has only exacerbated the issue of overlapping authority.¹⁴ Criminals have distinctly less access to mental health services while conversely the criminal code is often used as a means to provide patient care.¹⁵ This leaves

⁷ Ontario Ministry of Government and Consumer Services, Records at the Archives of Ontario: Psychiatric Records, accessed November 18, 2020,

http://www.archives.gov.on.ca/en/explore/online/health_records/psychiatric.aspx.

For further see: CBC, "CAMH Getting Rid of Piece of Toronto History by Tearing down Portion of Wall, Critics Say | CBC News," CBCnews (CBC/Radio Canada, May 25, 2019),

<https://www.cbc.ca/news/canada/toronto/section-historic-toronto-camh-wall-torn-down-1.5149144>.

⁸ Ontario, "Mental Health Act, RSO 1990," CanLII, December 21, 2015.

⁹ CMHA, "Policy Papers on Health Systems Transformation," CMHA Ontario, May 18, 2020,

<https://ontario.cmha.ca/documents/addressing-integration-of-mental-health-and-addictions/>.

For a further breakdown of the hospitals: Government of Ontario, Ministry of Health and Long-Term Care, "Designated Psychiatric Facilities under the Mental Health Act - Psychiatric Hospitals - Health Services in Your Community - MOHLTC," Designated Psychiatric Facilities under the Mental Health Act - Psychiatric Hospitals - Health Services in Your Community - MOHLTC (Government of Ontario, Ministry of Health and Long-Term Care, 2020), <http://health.gov.on.ca/en/common/system/services/psych/designated.aspx>.

¹⁰ Legislative Services, "Consolidated Federal Laws of Canada, Not Criminally Responsible Reform Act," Not Criminally Responsible Reform Act, November 13, 2020, https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2014_6/page-1.html.

¹¹ Richard D. Schneider, "The Mentally Ill: How They Became Enmeshed in the Criminal Justice System and How We Might Get Them Out," *Department of Justice Canada*, March 2015.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Pegah Memarpour, Rose Ricciardelli, and Pauline Maasarjian, "Government Reports versus Offenders' Experiences: toward the Resolution of Discrepancies in Healthcare and Healthcare Delivery," *International Journal*

mental health heavily under-addressed in the prisons, which is correlated to increased recidivism.¹⁶

The complex clinical environment of CAMH, which treats NCR patients, involves multiple social services including the police.¹⁷ There is no data on NCR interactions with police prior to being found NCR. However, the data can be extrapolated from those who are admitted to a psychiatric institution overall and by the interactions by disorder which are most common in those found NCR. Over 75% of all involuntarily admitted patients had previous interactions with police or social services.¹⁸ Of those patients with mood disorders, which make up 70% of NCR cases, 83% had prior interactions with police.¹⁹ Therefore, given this data it can be stated that a majority of NCR patients had prior interactions with police. The number of patients convicted of a crime prior to the NCR status was at 36%, indicating that mental health care was also not completed to the need level during their prison term.²⁰ The evidence of prior police interactions reinforces the active involvement of police and social services in NCR prevention programs as found at CAMH.

Beyond the release of the patient, social services are often involved to ensure that the individual is not breaking their terms of release or causing a nuisance to their community.²¹ The use of private institutions, which provide funding for integration services, is also essential in integrating NCR patients into society after release.²² A multitude of groups exists within the NCR system, the programs that are used by CAMH to address recidivism, further compounds the issues of jurisdictional ambiguity. The coordination of these groups is largely left at the hospital's discretion and limited to the local area, further illustrating the problem of legal confusion that this paper's reforms attempt to address.²³

The first stage of the reform would be to establish a separation of authority from the health care system for NCR funding, housing, staffing, and support. This system already exists in a limited capacity as the province of Ontario creates a strong distinction between those remanded by the court and those remanded for public safety.²⁴ Distinction between those remanded for

of Prisoner Health (Emerald Group Publishing Limited, December 21, 2015), <https://doi.org/10.1108/IJPH-02-2015-0006>.

For more see... Ontario, "Mental Health Act, RSO 1990," CanLII, December 21, 2015, <https://www.canlii.org/en/on/laws/stat/rso-1990-c-m7/latest/rso-1990-c-m7.html#document>.

¹⁶ Pegah Memarpour, Rose Ricciardelli, and Pauline Maasarjian, "Government Reports versus Offenders".

¹⁷ CAMH, "Mental Health and Criminal Justice Policy Framework," *CAMH Report*, October 2013.

¹⁸ University of Alberta, "Individuals Found Not Criminally Responsible (NCR) by the Justice System Show Very Low Rates of Recidivism, New Study Shows," University of Alberta (University of Alberta, January 7, 2020), <https://www.ualberta.ca/psychiatry/news-and-events/news/2018/october/individuals-found-not-criminally.html>.

¹⁹ Ibid.

²⁰ Caulet, Malijaï, Anne G Crocker, Michael C Seto, and Tonia L Nicholls. "Description and Processing of Individuals Found Not Criminally Responsible on Account of Mental Disorder Accused of 'Serious Violent Offences.'" *Department of Justice, Canada*, March 2013. <https://doi.org/10.13140/RG.2.1.3483.1521>.

²¹ CAMH, "Center for Addictions and Mental Health," n.d.

²² Ibid.

²³ Ibid.

²⁴ Richard D. Schneider, "The Mentally Ill: How They Became Enmeshed in the Criminal Justice System and How We Might Get Them Out," *Department of Justice Canada*, March 2015.

public safety and NCR are made at every stage of the care process.²⁵ During the course of determining NCR status, the factor of criminality directly changes the level of access and what options the courts has choices for patient care.²⁶ If they are found guilty of a misdemeanor criminal offence where mental illness was a contributing factor but is not NCR, the access to care is distinctly different.²⁷ Depending on the severity of the case, those where mental illness was a factor but not NCR might be put on probation and be admitted to a psychiatric institution under involuntary admission or receive care in the community.²⁸ These patients are not placed under the Ontario Review Board, which draws a clear line between NCR patients and those who are not.

The distinction between NCR patients and involuntary patients is further made during hospitalization. NCR patients are separated into different wards with higher security then those who are involuntarily admitted.²⁹ The level of training to work on the secured wards is higher, with CAMH requiring additional courses and or training before a staff member is allowed to work on the ward.³⁰ The level of security also translates into an increased ratio of security personnel. The method of release is distinctly different, with the Ontario Review Board being responsible for the release of the NCR patient. This is in contrast to those who are admitted involuntarily, whose release is determined by the patient's care team.³¹ The exact numbers in the allocation of funds between those found NCR and remanded is unclear, however, it is significant enough to be noted by the Department of Justice.³² The lack of availability of such documents is possibly because of patient confidentiality, which is due to the hospital billing the province individually by patient need.³³ The informal system has provided care that meets the regulations to the minimum standard and leaves the hospitals to rely on private funding for any additional support.³⁴ This system exists in its current state due to the provinces' attempts to keep costs low, thereby treating the NCR as patients rather than prisoners and fostering an attitude that views them as burdens.³⁵ The distinction in a legislative capacity would allow the provinces to separate the NCR from the health care umbrella and allow for greater evaluation of NCR treatment needs.³⁶ The separation would also allow for a distinction in public perception between those deemed NCR and remanded for public safety, which on a treatment level is already a strong

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ CAMH, "Mental Health and Criminal Justice Policy Framework," *CAMH Report*, October 2013.

³⁰ Ibid.

³¹ Ibid.

³² Caulet, Malijaï, Anne G Crocker, Michael C Seto, and Tonia L Nicholls. "Description and Processing of Individuals Found Not Criminally Responsible on Account of Mental Disorder Accused of 'Serious Violent Offences.'" *Department of Justice, Canada*, March 2013. <https://doi.org/10.13140/RG.2.1.3483.1521>.

³³ CAMH, "Quality Improvement Plan (QIP) Narrative for Health Care ...," 2015, https://www.camh.ca/-/media/files/qip_2015-2016_narrative_and_workplan_final31march2015-pdf.pdf?la=en&hash=378F807CB4DDD2D1A5A08D1C2ECA2B23789186BB

³⁴ CAMH, "Center for Addictions and Mental Health," n.d.

³⁵ Ibid.

³⁶ Ibid.

distinction.³⁷ Most importantly, the distinction allows for a change in the jurisdiction from the health care system to the criminal justice system.

Under the federal act that governs NCR patients, the powers of the provinces are defined as a minimum standard of care.³⁸ However, another act could remove the powers entirely. An act of the federal parliament that placed the care of the NCR under the existing legislation of criminal justice could logically follow existing federal-provincial distinctions of responsibility. Any NCR patients who committed any act that could have, if tried under the criminal justice system, resulted in a sentence greater than two years, would be remanded to federal care, in line with existing provincial-federal distinctions. The precedence for such an act already exists as the federal government has set stricter regulations for NCR patients to the provinces.³⁹ Under the existing criminal justice legislation, the NCR patients would be remanded to the custody of Correctional Services Canada. The biggest opposition to this proposal would be to the possible change of perception of the NCR from patients to the prisoner.⁴⁰ This problem could be addressed in the next step with the establishment of a federal mental health hospital.

The creation of a federal mental health hospital would allow for the control of the treatment of NCR patients with equality of care. The inclusion of Health Canada in the form of, at minimum, an oversight capacity would ensure that the care would remain therapeutic rather than punitive. The use of existing infrastructure under federal direction until the hospital was operational would be the ideal solution for maintaining consistent care.⁴¹ The Canadian Mental Health Commission (CMHC) that serves in an existing advisory capacity for all mental health may also prove valuable in the federalized treatment of NCR patients.⁴² The majority of statistics on the topic of NCR patients and those involuntarily admitted are generated by CMHC working in conjunction with government entities.⁴³ The third-party nature of CMHC, which seeks to advocate for patient care would also serve as a safe guard against abuse.⁴⁴ The establishment of such a hospital would address three fundamental problems with the mental health system: cost, consistency of care, and recidivism. The movement of all NCR patients who would have received a federal prison sentence to one location would eliminate the need for multiple hospitals in every province, allowing the reallocation of funding. The care consistency would be addressed by being able to provide a universal set of treatments for each group of mental disorders with the appropriate resources.⁴⁵ A large number of patients in one location would further justify

³⁷ CAMH, "Quality Improvement Plan (QIP) Narrative for Health Care ...," 2015.

³⁸ Robert Lacroix et al., "Controversies Concerning the Canadian Not Criminally Responsible Reform Act," *Journal of the American Academy of Psychiatry and the Law* (Journal of the American Academy of Psychiatry and the Law Online, March 1, 2017), <http://jaapl.org/content/45/1/44>.

³⁹ Robert Lacroix et al., "Controversies Concerning the Canadian Not Criminally Responsible Reform Act," (Journal of the American Academy of Psychiatry and the Law Online, March 1, 2017).

⁴⁰ CAMH, "Information about Forensic Mental Health," CAMH, December 2019.

⁴¹ Richard D. Schneider, "The Mentally Ill: How They Became Enmeshed in the Criminal Justice System and How We Might Get Them Out," *Department of Justice Canada*, March 2015.

⁴² Mental Health Commission of Canada, "Who We Are," Who We Are | Mental Health Commission of Canada, accessed November 18, 2020, <https://www.mentalhealthcommission.ca/English/who-we-are>.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ CAMH, "Mental Illness and Addiction: Facts and Statistics," CAMH, 2020, <https://www.camh.ca/en/driving-change/the-crisis-is-real/mental-health-statistics>.

specialized treatment for certain rare disorders that might be deemed too costly in the provincial setting.⁴⁶ The possibility of providing research for more effective treatments also exists due to the large potential research pool. The reduction of recidivism is a mix of the previous solutions due to the complex nature of the NCR system.

A federal mental health hospital could address the issue of recidivism by addressing the problem at the source. The largest contributor to addressing the NCR cost is to prevent the possibility that they might re-offend by providing resources to those who show signs of possible psychosis.⁴⁷ Those who receive treatment early may be prevented from offending entirely and remain productive members of society.⁴⁸ The cost of treating someone who can remain in the community is significantly lower than someone who is institutionalized; further, the volume of patients that can be treated is larger than can be achieved in a hospital.⁴⁹ The cost to society when a crime is prevented is further offset when considering the rates of prisoners who are not at the threshold for NCR but have mental illness as a significant factor in their criminality.⁵⁰ Unfortunately, the lack of a Canadian mental health database that distinguishes for NCR patients forces the use of American data gathered by Harvard Medical Mental Health letters; however, based on the large sample size, similar conclusions can be made.⁵¹ Those with personality disorders, including bipolar, narcissistic personality disorder and others, are disproportionately represented in the Criminal Justice System.⁵² When coupled with Substance Abuse, it accounts for 6.3 times the rate of violent crimes compared to the general population.⁵³ Those with Schizophrenia and Substance Abuse make up 5.4 times their population ratio.⁵⁴ These individuals would not necessarily fall under NCR statutes; however, their mental illness was a factor in the violent crime. Therefore, a prevention program that can identify these individuals successfully may prevent the commission of violent crimes that deprive the life of those who benefit society.⁵⁵

This concept is already being addressed by CAMH, partly through private donations and cooperation of the Toronto Police Services.⁵⁶ CAMH attempts to identify those with a risk of psychosis and provide them with assistance to prevent a possible crime, with this program lowering both the number of criminal acts and NCR patients.⁵⁷ The current lack of a national

⁴⁶ Ibid.

⁴⁷ Anne G Crocker and Tonia L Nicholls, "The National Trajectory Project of Individuals Found Not Criminally Responsible".

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Anne G Crocker and Tonia L Nicholls, "The National Trajectory Project of Individuals Found Not Criminally Responsible".

⁵¹ Harvard Health Publishing, "Mental Illness and Violence," Harvard Health, January 11, 2011, https://www.health.harvard.edu/newsletter_article/mental-illness-and-violence.

For further see: Canada, "Hospital Mental Health Database Metadata (HMHDB)," CIHI, 2019, <https://www.cihi.ca/en/hospital-mental-health-database-metadata-hmhdb>.

⁵² Harvard Health Publishing, "Mental Illness and Violence," Harvard Health, January 11, 2011.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ CAMH, "Center for Addictions and Mental Health," n.d.

⁵⁷ Ibid.

NCR database, however, makes these programs difficult.⁵⁸ The work of CMHC in attempting to create national mental health trends and policy serve as a useful first step to the creation of such a data base, should the government wish to peruse this.⁵⁹ Further, the police have neither the training nor the guidance and require additional training before they can fill the role. Training and guidance which the OPP and Toronto Police have directly requested from the province of Ontario on numerous occasions.⁶⁰ A similar program that is implemented across Canada, with the assistance of RCMP, could prevent criminal acts and save further costs. The jurisdiction of the RCMP, which is directly subordinate to the Federal government, also necessitates federal involvement for the implementation of regional programs for most of the nation.⁶¹ The dual diagnosis of addiction that permeates these cases is further best tackled through a nationalized effort.⁶² The direct correlation between addiction and criminality that has been established by the Federal government makes the expansion to mental health screening in jails a logical next step.⁶³ The next problem with those who are NCR is integration. Once released, medical assistance often ends, with the majority of supervision consisting of drug monitoring in a similar manner to a parole board.

A proper transition environment is also often lacking due to the costs. CAMH has one such facility that provides a transition environment. However, this was done entirely through private donations and the assistance of patient advocate groups. CAMH, despite being the largest mental health hospital in Canada, is not funded entirely by the taxpayer, with 23.3% of operational costs covered by private or other sources of revenue.⁶⁴ Although NCR is not specified in the report, as the care is directly under the hospital, it can be assumed that the funding is under the same category.⁶⁵ As such, the province barely provides enough money for the hospital's functionality, let alone services that reduce recidivism. The medical benefits of providing additional integration services are many, but critically it prevents recidivism.⁶⁶ The number one indicator of an NCR reoffending is stopping their treatment, whether by stopping their medication or by associating with groups known to stop treatment, known as triggers.⁶⁷ The

⁵⁸ University of Alberta, "Individuals Found Not Criminally Responsible (NCR) by the Justice System Show Very Low Rates of Recidivism, New Study Shows," University of Alberta (University of Alberta, January 7, 2020), <https://www.ualberta.ca/psychiatry/news-and-events/news/2018/october/individuals-found-not-criminally.html>.

Further see: Canada, "Hospital Mental Health Database Metadata (HMHDB)," CIHI, 2019.

⁵⁹ Mental Health Commission of Canada, "Who We Are," Who We Are | Mental Health Commission of Canada, accessed November 18, 2020, <https://www.mentalhealthcommission.ca/English/who-we-are>.

⁶⁰ Shanifa Nasser, "Canada's Largest Mental Health Hospital Calls for Removal of Police from Front Lines for People in Crisis | CBC News," CBCnews (CBC/Radio Canada, June 23, 2020), <https://www.cbc.ca/news/canada/toronto/police-mental-crisis-1.5623907>.

⁶¹ Civilian Review and Complaints Commission for the RCMP, "Jurisdiction," Civilian Review and Complaints Commission for the RCMP, accessed November 18, 2020, <https://www.crcc-ccetp.gc.ca/en/jurisdiction>.

⁶² CMHA, "Policy Papers on Health Systems Transformation," CMHA Ontario, May 18, 2020.

⁶³ Senate of Canada, "Mental Health, Mental Illness and Addiction: Overview of Policies and Programs in Canada" 1 Mental Health, Mental Illness and Addiction: Overview of Policies and Programs in Canada § (2004).

⁶⁴ CAMH, "Financial Snapshot," CAMH, March 31, 2018, <https://camh.ca/en/driving-change/about-camh/performance-and-accountability/annual-report-and-financial-statements/annual-report-2017-2018/financial-snapshot>.

⁶⁵ Ibid.

⁶⁶ Anne G Crocker and Tonia L Nicholls, "The National Trajectory Project of Individuals Found Not Criminally Responsible".

⁶⁷ Ibid.

lack of integration creates a possibility that the person may fail to integrate into society and become homeless.⁶⁸ If the former patient becomes homeless, then the likelihood that the individual will comply with treatment becomes all but non-existent.⁶⁹ The Province, however, bears no responsibility for this outcome as the duty of care ends the moment the patient is released.⁷⁰ Therefore, by attempting to cut costs in the interim creates a system that creates greater long-term cost to society due to recidivism. There is one final problem in the reform of the NCR system, political expediency.

The burden of the NCR being left on the province allows for a level of distance that limits negative exposure when incidents occur. The public perception of those known often referred to as “criminally insane” is not positive. The repeated examples of individuals escaping from hospitals, terrorists being found NCR, unlawful incarceration, or other controversies have created a decidedly negative perception of the NCR system.⁷¹ The jurisdiction of the NCR patients being left to the province and delegated to the hospitals can help to make these incidents appear isolated. The lack of a national NCR database, lack of interhospital or provincial cooperation, can be perceived as intentional rather than mismanagement. The separation of the NCR system from the Criminal Justice system also allows for a distinction from each other beyond treatment, as the controversies appear isolated. The support for reform exists within the government, with advocacy groups pushing for greater federal integration, but the risk of these controversies is high.⁷² The negative perception of people with mental illness, which has declined but remains high and may not be justified within a party agenda.

The trend towards gradually increased acceptance of mental illness has, in part, diminished this potential political pragmatism. The current Liberal government has repeatedly made pledges to address mental health; however, they avoid the subject of NCR patients.⁷³ The Conservative party also seems unlikely to address the issue, as the Mental Health Reform Act

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

Further reading: Shannon Bettridge and Howard Barbaree, “The Forensic Mental Health System in Ontario,” CAMH (CAMH, 2008), <https://www.camh.ca/-/media/files/guides-and-publications/forensic-guide-en.pdf>.

⁷¹ Alyshah Hasham, “Judge Slams Ontario for Still Detaining Man in Psychiatric Hospital Six Years after He Was Deemed Fit to Leave,” thestar.com, October 19, 2020, <https://www.thestar.com/news/gta/2020/10/19/judge-slams-ontario-for-still-detaining-man-in-psychiatric-hospital-six-years-after-he-was-deemed-fit-to-leave.html>.

Another example: Michele Mandel, “MANDEL: Mentally Ill Stabber in Army Recruiting Centre Attack to Be Allowed into Community,” (Toronto Sun, July 27, 2018), <https://torontosun.com/news/local-news/mandel-mentally-ill-stabber-in-army-recruiting-centre-attack-to-be-allowed-into-community>.

Further reading: CBC, “Missing CAMH Patient with History of Sex Offences Found by Police | CBC News,” (CBC/Radio Canada, August 2, 2019), <https://www.cbc.ca/news/canada/toronto/camh-missing-patient-found-1.5234408>.

Final example: Bryan Passifiume, “Another CAMH Inmate Walks Away from Facility,” (Toronto Sun, July 23, 2019), <https://torontosun.com/news/crime/another-camh-inmate-walks-away-from-facility>.

⁷² CMHA, “Policy Papers on Health Systems Transformation,” CMHA Ontario, May 18, 2020.

⁷³ Morgan Lowrie, “Trudeau Promises More Money to Kickstart Health-Care Talks with Provinces,” Federal Election 2019 (CTV News, September 23, 2019), <https://election.ctvnews.ca/trudeau-promises-more-money-to-kickstart-health-care-talks-with-provinces-1.4605790>.

moved the focus of the NCR system into a more punitive direction.⁷⁴ The potential for NCR reform may exist as the trend toward accepting mental illness continues due to ongoing efforts to destigmatize mental health.⁷⁵ Still, it is unclear if or when that point will occur.

Canada's mental health system suffers from a chronic lack of bureaucratic consolidation that has seen unequal treatment, overrun hospitals and a lack of understanding. The removal of the Not Criminally Responsible from the provincial jurisdiction will ultimately save costs and allow for greater care of the mentally ill population as a whole. This reform is feasible under the federalist system's current legal powers that do not require constitutional reform. The elimination of NCR patients would most likely not be objected to by the provinces that appear to view their responsibility over NCR patients as a burden that they wish to eliminate. The move to federal authority might improve the lives of the patients and society by ensuring all NCR patients are treated equally.

⁷⁴ Robert Lacroix et al., "Controversies Concerning the Canadian Not Criminally Responsible Reform Act," (Journal of the American Academy of Psychiatry and the Law Online, March 1, 2017).

⁷⁵ Claire Henderson, Sara Evans-Lacko, and Graham Thornicroft, "Mental Illness Stigma, Help Seeking, and Public Health Programs," American journal of public health (American Public Health Association, May 2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3698814/>.

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