

February 26, 2025

The Honourable Josie Osborne
Minister of Health
PO BOX 9050, Stn Prov Govt
Victoria, BC V8W 9E2

Via email: HLTH.Minister@gov.bc.ca

Re: Ensuring human rights compliance in mental health and substance use treatment

Dear Minister Osborne,

I am writing regarding the Ministry's plans to expand involuntary care in the province. While I am writing to express my serious concerns about the human rights issues raised by the proposed approach, I do not oppose the use of involuntary care in all circumstances. Rather, I believe that it must be used as a last resort and in compliance with the government's human rights obligations, including resourcing comprehensive voluntary mental health services for all who seek them before investing in an involuntary care system.

I share your government's deep concern about the toxic drug crisis in British Columbia, and the impact it has had on those most marginalized in our society. My Office has called for the protection of the rights of individuals detained under the *Mental Health Act* and other legislative authorities since the start of my mandate in 2019.

After discussions at the staff level, I understand that plans to expand involuntary care at Surrey Pretrial Centre are in development and have not been finalized. I will follow these developments closely. However, it is my understanding at this time that a designated psychiatric unit (LU-G) is being established at the Surrey Pretrial Service Centre to provide secure complex care within the corrections system for individuals in custody. It appears that some decisions about the number of voluntary versus involuntary care beds are still under consideration.

However, plans to provide involuntary mental health services in the facilities on the grounds of Alouette Correctional Centre are more developed. I understand that these facilities will not serve incarcerated people but will be a health care facility based on former Corrections' property and that these facilities are entirely for the provision of involuntary complex psychiatric and additional services.

Introducing a system that denies liberties without strong evidence of its effectiveness, adequate voluntary treatment options in the province including continuity of care for those who may receive services in pretrial, procedural safeguards, due process and oversight runs contrary to domestic

and international human rights law. These protections must be equally available to all; those who are already facing deprivations to their liberty in the correctional context must have access to the same rights in regard to their health care as those who are not incarcerated.

I urge you to ensure that any expansion of involuntary treatment is human rights compliant by ensuring that decisions are evidence based, voluntary treatment options are expanded, and oversight mechanisms are strengthened, with gaps in these mechanisms filled.

Ensure decision making is evidence based

A human rights framework requires policy decisions impacting rights to be based on transparent criteria and sound evidence. This is in part to ensure that decisions are not based on bias or stereotypes, even when they are well-intentioned. This is also in part to ensure that, if human rights are to be impeded, there are strong justifications that are compliant with the law.

Canadian constitutional law and international legal principles guarantee certain protections for those who are detained by the state. Detention cannot happen arbitrarily, and detention is arbitrary if not evidence based. To this end, the evidence on which the Ministry is basing its decision, including, but not limited to, the recommendations from the Chief Scientific Advisor for Psychiatry, Toxic Drugs & Concurrent Disorders, should have been released prior to taking this policy direction.

According to the publicly available evidence, it is not clear that involuntary care is effective in treating substance use disorders. A [2016 systematic review](#) of studies assessing the outcomes of compulsory treatment found that the evidence does not suggest improved outcomes, such as lower rates of substance use. Similarly, a [2023 systematic review](#) found a lack of high-quality evidence to support or refute involuntary treatment for substance use disorders. These studies are not cherry picked; they are systematic reviews and represent the available research on this topic. They are methodologically sound and are largely unchallenged by other credible research.

Although some limited research has found positive outcomes linked to involuntary care, the results are mixed. Additionally, several studies are limited by methodological issues that affect the reliability and validity of their findings. For example, the [2019 literature review](#) co-authored by Dr. Vigo, the Premier's Chief Scientific Advisor for Psychiatry, Toxic Drugs & Concurrent Disorders, found evidence of improved drug use patterns, quality of life, decreased stress at discharge, and reduced mortality. However, the study also found that individuals experienced increased distress 6 months post-release. In addition, it found that the literature had major methodological issues, such as inconsistent definitions of involuntary care and a lack of adequate comparators. Another example is a [2022 study](#) of stabilization care for 17 adolescents in B.C., which found that participants had a relatively high attachment to treatment services and opioid agonist treatment. However, since the study does not distinguish between patient outcomes for those admitted voluntarily compared to those who were admitted involuntarily, these findings cannot be

interpreted as an indicator of the success of involuntary care. Furthermore, the study was limited to a small group of participants, making it difficult to generalize the results.

In fact, research on youth experiencing involuntary care [suggests](#) that it can undermine trust and lead to future avoidance of health care services. There is evidence that without access to wrap-around services to maintain continuity of care, involuntary treatment may lead to an increased risk of [overdose](#) and [death](#) due to drug poisoning upon release.

Another [study](#) showed that the number of people in B.C. who were involuntarily hospitalized due to a substance use disorder rose about 2.5 times between 2008 and 2017. Over the same time period, the proportion of B.C.'s custody population that had been diagnosed with a substance use disorder increased from 38 per cent to 50 per cent. After a three-week stay at St. Paul's Hospital for addiction and other mental illnesses, nearly one in five patients were discharged to no fixed address. Unsurprisingly, these individuals were at very high risk for readmission.

In sum, the balance of available, methodologically sound evidence does not support the conclusion that involuntary care is an effective approach to reducing deaths or other harms of the toxic drug crisis, or addiction more generally. If the government has reliable, current, and compelling evidence to the contrary, I strongly urge you to release it immediately.

Strengthen oversight mechanisms

The lack of oversight mechanisms - both systemic and individual - is highly concerning. If the right to bodily autonomy is to be denied, adequate procedural safeguards must be put in place. Taking such actions without oversight is contrary to human rights protections.

Arising from their [2022 monitoring report](#), the Ombudsperson urged the government to continue implementation of an independent rights advisory service to inform patients of their legal rights, to provide advice and advocacy, and to help ensure that involuntary detentions are lawful and that procedural safeguards are followed for all patients, which has been accomplished. While the establishment of an independent rights information service is encouraging, it does not go far enough. The report also highlighted the importance of ensuring that involuntarily admitted patients are supported financially in accessing legal aid to exercise their legal rights. It is noteworthy that while the rights information service is an important step forward in protecting the rights of people detained under the MHA, to prioritize procedural fairness for those detained, the service must offer legal advice from lawyers and all those detained must have access to counsel. This requires ensuring adequate funding of legal aid services in this area, including the CLAS Mental Health Clinic.

To improve oversight at the systemic level, I am currently drafting a recommendation about independent systemic oversight of detentions in health care facilities and provision of involuntary health care, including oversight of detentions of adults under the *Mental Health Act*. This recommendation stems from my Office's current inquiry into human rights issues in the detention

of vulnerable adults under the *Adult Guardianship Act*, the details of which will be released in April 2025. Oversight must include the ability to proactively conduct systemic reviews and the transparent collection and disclosure of relevant systems-level data.

Expand voluntary healthcare services and harm reduction

It is contrary to human rights principles to invest in a system of involuntary care when adequate investments in voluntary care have not been made. This has also been highlighted in the key findings in *Dr. Bonnie Henry's report Looking at Alternatives to Unregulated Drugs*.

I recognize the government's efforts to increase investments in voluntary treatment, including the recent [commitment](#) to establish 26 new treatment and recovery beds for people seeking care for substance use, though am concerned at the recently erected barriers to safe supply access. Ultimately, voluntary options still fall far short of meeting the needs of British Columbians. Greater investments are needed to develop robust and accessible community-based system of wrap-around, voluntary, culturally safe, trauma-informed, and evidence-based harm reduction and treatment services. People with mental health and substance use disorders must have access to health care when they seek it before they are forced against their will into treatment, as a matter of both fairness and effectiveness.

Investments in complex care housing and substance use treatment for people with severe mental health and substance use needs should also be increased; if we do not address upstream issues such as lack of affordable and accessible housing options, we will never be able to truly address the toxic drug crisis.

I am particularly concerned with the lack of progress in implementing evidence-based harm reduction services. I echo the serious [concerns](#) about the unregulated drug emergency articulated by Provincial Health Officer Bonnie Henry, as well as the need to refine and expand prescribed alternatives to unregulated drugs and explore implementing programs that enable access to treatment and alternatives to unregulated drugs. While this issue deserves far more attention than I am able to give it in this letter, I want to emphasize that these issues are intimately connected and the government's recent steps to introduce obstacles to accessing safe supply will have a detrimental impact on the ability of drug users and people with mental health disorders to care for themselves.

As noted above, I do not oppose the use of involuntary care in all circumstances. Rather, I believe that it must be used as a last resort and in compliance with the government's human rights obligations. We share the goals of ensuring that people with mental health and substance use disorders have access to necessary health care services and that toxic drug deaths and disabilities are prevented. Respect for human rights is essential to the well-being of people at the center of this issue, and to the safety and health of our communities.



I welcome the opportunity to discuss this matter further with you. To support my commitment to public accountability and responsibility to serve the people of British Columbia, this letter, or portions of it, may be made public.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kasari Govender'.

Kasari Govender
Human Rights Commissioner

cc: The Honourable Niki Sharma, Attorney General and Deputy Premier
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