



A Rapid Investigation into Repeat Offending and Random Stranger Violence in British Columbia

**EXECUTIVE SUMMARY
AND RECOMMENDATIONS**
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EXECUTIVE SUMMARY

The mandate of the Investigate Panel was to provide information and recommendations as to how BC can better respond to two public safety challenges. The first concerns “prolific offenders,” who have generated increasing concerns in communities throughout BC. The second is an apparent increase in violent, unprovoked stranger attacks generally believed to be committed by people with mental disorder and substance use needs. The term “prolific offender” was historically used to refer to a relatively small and stable group of people engaged in somewhat skilful and planned repeated property crimes. In recent years it has been used much more broadly to include people who are street entrenched, often living with severe mental health and substance use needs, who are engaged in increasingly aggressive theft and petty crime. We provide analysis of both subgroups, who we describe as people with repeat criminal justice encounters. We acknowledge that “prolific offender” terminology may contribute to stigma and ignores the many systems-level failures that contribute to crime.

We consulted with a variety of stakeholders including police, mayors and city officials, health authorities, Crown Counsel, community agencies, and academics. However, there are many voices that are missing from our consultations, namely the voices of Indigenous communities. Consultation with Indigenous communities requires relationship and trust-building, which takes time and resources that were unavailable as part of this rapid review. We want to acknowledge and stress that Indigenous Peoples in Canada continue to be disproportionately impacted by harms associated with and perpetrated by the criminal justice system as well as prohibitionist drug policy. For all recommendations included in this report, the relevance and appropriateness for Indigenous clients must be considered. Indigenous leaders and communities (including First Nations, Métis, and urban Indigenous) should have direct input into development, service design, planning, implementation, delivery, and governance of justice services. Any action taken by the Provincial Government in response to this report should align with the BC Government’s obligations under the *Declaration on the Rights of Indigenous Peoples Act* and its commitment to the implementation of the BC First Nations Justice Strategy.

The COVID-19 pandemic, and the public health measures to control it, have had devastatingly negative impacts on British Columbians. Research shows that the pandemic has worsened mental health and contributed to loneliness, substance use, suicide, disruptions in care, and financial difficulties. Importantly, the pandemic has disproportionately impacted those who are underserved, marginalized, and already living with the fewest resources. We heard from many stakeholders that the pandemic has had a profound impact on service access and social determinants of health, contributing (at least in part) to crime and disorder. The pandemic has also contributed to a reduction in the number of people

held for trial on remand, and a decrease in charges for substantive offences and for breaching bail conditions. This trend, already underway due to recent changes in federal legislation and case law, has left police and probation officers frustrated that the only tools they have to manage people who offend in the community have been virtually eliminated.

Community stakeholders (e.g., mayors, municipal officials, retailers) across the province expressed extreme frustration with increases in repeat and violent property crime. Police and probation officers conveyed that because people who offend repeatedly are not being held accountable and conditions are not being enforced, they are emboldened to continue offending, deteriorating community confidence in the justice system. Crown Counsel explained that they are bound by recent legislation and case law, and the lack of health and social services for accused, particularly in the northern regions, contributes to repeat cycles of offending. Stakeholders across the justice system expressed their desire for increased coordination of a multi-sectoral approach – with a robust governance structure – to provide access to services for people with repeat criminal justice encounters, and for dedicated Crown Counsel and probation officers to better manage cases in court and the community. There are also opportunities to expand access to specialized/integrated courts, particularly for those people whose offending behaviour is directly related to psychosocial and health-related problems.

Most of the community angst appears not to be centred on skilful/planned repeat criminal offending, which most police agencies felt they were able to manage reasonably well. Rather, stakeholders were concerned about violent thefts, aggressive behaviours, and highly visible street crime. For several reasons, including decreased crime reporting, official reported crime statistics may not provide an accurate picture of crime trends in BC. For example, the Vancouver Police Department (VPD) reported that in the first three months of 2022, 40.5% of calls to the non-emergency line managed by E-Comm went unanswered (due to lack of capacity), a dramatic increase from the 24.7% not answered in the previous quarter.

The number of people receiving custodial sentences declined drastically during the pandemic, from 15,284 admissions in 2019 to 9,165 admissions in 2021. While the overall numbers have decreased, BC Corrections and Correctional Health Services staff have seen an increase in the complexity of mental health issues among people admitted to custody, and this is supported by reliable prison health data. We heard that people in custody continue to be underserved, particularly with respect to access to psychologists and psychiatrists. Many stakeholders recommended the creation of new units or facilities which would be therapeutically designed and dedicated to providing high quality psychiatric care to people who are incarcerated. Typical sentences for property offenders are often too short for meaningful intervention, but custody provides a unique opportunity to do a comprehensive health screening and assessment and connect clients directly to community-based resources.

Unfortunately, there is a shortage of resources available to meet the needs of people who have been incarcerated when they are released. This is a crisis that must be ameliorated. Many people return to precarious housing, shelters or homelessness, and back to communities where they are at high risk of returning to crime because their needs remain unmet by the systems that should be supporting them. Having a concrete plan and supports for the post release period is critical for sustaining any health gains that may have been made while people are in custody. Probation officers described many challenges they face gaining access to high-quality care for mental health and substance use for their clients, and how limitations around information-sharing makes it difficult to prepare for clients' re-entry into community. Adequate transitional housing supports post prison release, and bail housing with appropriate supervision, were identified as key areas for investment to improve outcomes post-prison release. Bridging services, such as Correctional Health Services' Community Transition Teams, are critical to filling an important gap in the transition period from prison to community (which is a high-risk period for adverse outcomes including drug toxicity death).

Many stakeholders believe a solution to repeat offending is more aggressive prosecution and sentencing to support police enforcement and detain people who repeatedly offend. However, sentencing is in the hands of an independent judiciary bound by legislation and precedent. The typical sentence is short and there is evidence that short custodial sentences cause harm and do not reduce recidivism. Yet seeking longer sentences as a solution is undesirable and unrealistic because it conflicts with Canadian sentencing laws, including the principle of proportionality. Furthermore, **long-term reductions in crime require that the Provincial Government invest significantly in addressing the systems-level issues that contribute to offending including systemic racism, poverty, inadequate health services, food insecurity, and housing unaffordability.**

With respect to repeat offending, a promising and evidence-based response is a carefully coordinated, multidisciplinary approach that combines enforcement with targeting of resources to address the underlying causes of offending. This type of approach, based on the Prolific Offender Management Model (from the UK), was piloted in BC from 2008-2012. Stakeholders expressed general support for resurrecting this model but emphasized that senior government support is required to facilitate effective information sharing between participants. It is not sustainable, desirable, or effective for police to continue to bear the primary responsibility to manage people who offend repeatedly. Prolific Offender Management Teams should include representatives from police, BC Corrections, Correctional Service Canada, Crown Counsel, and relevant ministries, such as Mental Health and Addictions, Social Development and Poverty Reduction, Attorney General and Minister Responsible for Housing, and Public Safety and Solicitor General.

Unprovoked stranger attacks have been a concern particularly in Vancouver and Victoria. In Vancouver, stranger attacks in 2021/2022 increased by 35% compared to 2019/2020, coinciding with the pandemic. Some of the incidents have been extremely violent and the subject of extensive media

coverage. An analysis of a sample of 40 cases indicates most involved suspects living with serious mental illness and/or substance use. Most suspects had been apprehended previously under the *Mental Health Act* and most had been named as suspects or charged in previous violent crime incidents. While BC's non-violent Crime Severity Index (CSI) score went down by 7.55% in 2021, its violent CSI score went up by 4.32%. Victoria's non-violent CSI dropped by 20%, but its violent CSI increased by 21% between 2020 and 2021.

The vast majority of people with mental illness will never be involved in crime or violence. However, there appears to be a moderate but significant association between psychotic disorders and violence. Further, the use of stimulant drugs like methamphetamine, which may cause hallucinations and paranoia, is an exacerbating factor and is associated with an increased risk of violence compared to other drugs. Stakeholders confirmed that the number of people presenting with methamphetamine induced psychosis has “skyrocketed” in emergency departments across BC and this coincides with an increase in the reported use of methamphetamine according to the BC Centre for Disease Control. In addition, repeated nonfatal overdoses are resulting in increasing rates of acquired brain injury and research has robustly demonstrated that aggression and agitation are common consequences of brain injury. People with acquired and traumatic brain injuries are also overrepresented in Canadian prisons. Resources are woefully inadequate to meet the needs of this population and an urgent response is required, including enhanced screening and community-based outpatient, and residential treatment options for people with acquired brain injuries.

Anecdotally, changes in drug patterns and the toxic illicit drug supply are contributing to unpredictable, and sometimes violent, behavioural patterns with one service provider explaining “the drugs are changing... people are now becoming violent who we have never seen act violently in the past.” An average of six people per day are dying from highly toxic drugs in BC. There are significant opportunities to address this, including expanding access to a safer drug supply (e.g., pharmaceutical alternatives). The BC government has received approval to remove criminal penalties for small amounts of illicit substances including heroin, cocaine, and methamphetamine, and this will take effect in January 2023. This is an important step towards reducing the harms of criminalization associated with prohibitionist drug laws, but its impact on reducing deaths from drug toxicity is yet to be determined.

Stakeholders explained that with the exception of forensic care, health services and facilities in BC are not equipped or appropriately staffed to meet the needs of people who present with violent behaviours. Furthermore, a critical area of policy/practice that requires strengthening in BC is the civil psychiatry and forensic psychiatry interface. There is an urgent need to fill the gaps in the continuum of health care services for people with complex, often concurrent, mental health and substance use needs – some of whom have violent behaviours. While we recognize that involuntary admission may be necessary when violence is a concern, strict accountability mechanisms should be in place to ensure

compliance with the *Mental Health Act* as well as access to independent rights advice services. Safeguards and oversight are especially important given BC's history of lack of compliance with the *Mental Health Act* (this is well-documented in the Ombudsperson's report *Committed to Change: Protecting the Rights of Involuntary Patients under the Mental Health Act*).

For people who engage in violent attacks who are living with serious mental disorders that have rendered them incapable of appreciating that what they were doing was illegal or wrong, they may be found Not Criminally Responsible on Account of Mental Disorder (NCRMD). They may then be detained in a forensic hospital under the jurisdiction of the BC Review Board until they are ready to be released with or without conditions. In BC, the NCRMD provision is most often used as a defence, although in some cases Crown Counsel can lead NCRMD evidence, despite several legal, practical, and philosophical barriers. It is an open question whether Crown can and should more often lead NCRMD evidence to divert people with serious mental illness away from the criminal system and into the forensic mental health system to better address their health needs and enhance community safety.

An expert in mental health law advised that seeking federal legislation similar to "restricted patient" legislation in the United Kingdom could help address the gaps between the civil and forensic mental health systems in BC. These may be used in cases where mental disorder is clearly related to offending behaviour, allowing the accused to be diverted to the hospital through a regime that offers another pathway through sentencing to the forensic system or low secure care. Such new legislation would be within federal jurisdiction and therefore outside of the control of the BC Provincial government. Nevertheless, we believe this is a matter worthy of further research and analysis by the Ministry of Attorney General with a view to the potential, as a longer-term solution.

We have conducted a rapid investigation into better responding to those who offend repeatedly, and those who commit violent unprovoked stranger attacks. We have made several recommendations that have the potential to improve the management of these challenges and enhance health and safety outcomes. We recognize there is considerable work ahead. Many of the recommendations will require significant analysis and legislative work to ensure they are the most effective and efficient action to address the identified areas of concern. Our recommendations are not meant to be overly prescriptive - there are myriad ways that the Provincial Government may address the key issues and gaps we have identified. However, it is important that the Provincial Government is transparent about the steps they are taking and that they regularly, and publicly, report on the progress of these efforts.

There is an urgent need to add specialized interventions to the continuum of care for people with complex mental health and substance use needs, and to strengthen the interface between general and forensic psychiatry. Currently, mental health related crisis response in BC is primarily left to police and hospital emergency departments - both of which have been shown to contribute to adverse outcomes

for people in crisis. We need a broader and more creative set of solutions including (non-police) mental health crisis response teams. We have also recommended three major investments, including the creation of Crisis Response and Stabilization Units (or an equivalent model) to enhance emergency department and police diversion; Low Secure Units for people who are at serious risk of violence, the treatment of whom requires a secure setting with long-term supports; and separate, custom-built units or facilities for people with acute and chronic mental health needs who are incarcerated (e.g., Regional Treatment Centres or Prison Health Units). While our focus is on people who interact with the justice system, expanding crisis care and tertiary care options has the potential to reduce and prevent justice contacts. People should not be forced to interact with the justice system before getting access to high-quality, publicly funded mental health care.

We emphasize the need for structured, mandated, coordination between health and justice agencies. While increased coordination of stakeholders is important, its impact will be limited by the services available to address the underlying causes of offending, including substance use and mental disorders, parental neglect, trauma, poverty, and homelessness. We suggest that the Provincial Government use a public health framework that prioritizes prevention and social justice with a focus on addressing inequities to improve health, wellbeing, and public safety throughout BC. Bold and courageous actions will be required to effect sustainable change.

RECOMMENDATIONS

The following recommendations focus on addressing critical gaps in the continuum of care for people with mental health and substance use needs who are involved with the criminal justice system and enhancing opportunities for diversion along the criminal justice pathway (e.g., police, courts, corrections).

1. We recommend that the Provincial Government continue to invest in civilian-led (non-police) mental health crisis response teams in collaboration with community service providers (e.g., Peer Assisted Care Teams).
2. We recommend that the Provincial Government support the creation of Crisis Response and Stabilization Centres (or an equivalent model). These centres would offer BC communities “no wrong door” access to high-quality mental health and substance use care that accepts walk-ins, as well as people being transported by ambulance, fire and police.
3. We recommend that every Provincial Court be assigned a dedicated forensic psychiatric nurse (or health professional with the relevant forensic psychiatry training). The nurse can support immediate client psychiatric assessments and recommend diversion opportunities in both traditional and specialized court settings. The nurse can also recommend fitness and Not Criminally Responsible on Account of Mental Disorder (NCRMD) assessments, to be conducted in community or at the forensic psychiatric hospital.
4. We recommend that the Provincial Government, as a longer-term strategy, research the potential for advocating with the Government of Canada for legislation similar to the UK’s “restricted patient” laws. The purpose would be to create a mechanism to divert accused people with serious mental disorders from the criminal system to the forensic system or low secure care (see Recommendation 5 for information about low secure care).
5. We recommend that the Provincial Government create Low Secure Units for clients with complex mental health and substance use needs who present with a high risk of harm to others, and who need the safety of a secure setting. The units would be for people who are not appropriate for forensic care but whose needs exceed the structural design and capacity of an open in-patient hospital unit. These units should be designed to provide intensive rehabilitation as well as social, housing, education, and employment services. The Provincial Government should refer to best practices guidance for low secure care (developed by the UK) as well as National Institute for Health and Care Excellence (NICE) guidelines for improving service user experience in adult mental health services.

As with all other involuntary care settings, strict accountability mechanisms should be in place to ensure compliance with the *Mental Health Act* as well as access to independent rights advice services. Safeguards and oversight will be especially important given BC's history of lack of compliance with the *Mental Health Act*. Ongoing legal support should be provided to people in the low secure units who have been accused, charged, or convicted of a crime. A person's placement in a low secure unit should only be considered after all appropriate voluntary options have been exhausted.

6. We recommend that the BC Prosecution Service conduct an internal review as to the potential for increasing the use of “therapeutic bail” orders for people with mental health and substance use needs. Therapeutic bail (sometimes called therapeutic sentencing delay) involves agreement between Crown and defence counsel to delay sentencing while a person undertakes treatment or programming, which can result in avoiding a criminal conviction.
7. We recommend that the Provincial Government consult with Legal Aid BC and the criminal defence bar in BC on how to provide better access to information about treatment options for clients with mental health and substance use needs and to ensure that Legal Aid BC has the resources required to support such work. BC First Nations Justice Council must also receive adequate resources to support Indigenous clients.
8. We recommend that the Provincial Government consider commissioning an independent review to identify the resource gaps in the forensic mental health system that need to be addressed to ensure there is adequate capacity for fitness and NCRMD assessments, and to provide services to those people who are accused/convicted of criminal offences who are living with serious mental disorders.
9. We recommend that the Provincial Government explore the creation of facilities or units for people with acute and chronic mental health and substance use needs who are in provincial custody. It is an urgent priority to improve the quality of mental health care for people who are detained and to decrease the use of segregation. Models that may be considered include Regional Treatment Centres (similar to the model operated by Correctional Services Canada for people in federal custody) or Prison Mental Health Units (a model which is common in the UK). The key features of the model should include a therapeutically designed space, trauma-informed practice, 24/7 on-site health professionals, and separation from the general prison population. These facilities/units should be operated by the Ministry of Health.
10. We recommend that the Provincial Government make a significant investment in dedicated services and publicly funded programs for people with acquired brain injuries and developmental disabilities (e.g., Fetal Alcohol Spectrum Disorders) - including enhanced screening and community-based, outpatient, and residential treatment options. These programs should be informed by people with lived experience and family members/caregivers.

11. We recommend that the Provincial Government continue to work with BC First Nations Justice Council and Métis Nation BC to ensure future investment and expansion of the Indigenous Courts, First Nations Courts as well as development of First Nations justice institutions (this recommendation is aligned with the BC First Nations Justice Strategy - Strategies #2 & #12).
12. We recommend that the Provincial Government work with Indigenous service providers, BC First Nations Justice Council and Métis Nation BC to fill gaps in the accessibility of Indigenous healing centres and practices throughout BC. Initiatives should be nation led, and adaptable to regional and local traditional practices.

The following recommendations are focused on improving guidance, information-sharing and collaboration.

13. We recommend that the Provincial Government explore the creation of a dedicated Provincial committee (and/or regional committees) focused on coordinating communication and service integration planning between health, criminal justice, and social service organizations. The committee(s) should focus on people with complex health needs who come into conflict with the law. These committee(s) should be created in partnership with the BC First Nations Justice Council, Métis Nation BC, community agencies, and people with lived justice system experience. A backbone organization must be funded in order to maintain the committee infrastructure and support the implementation of objectives, workplans, and policies across regions (the Provincial Government may consider assigning this function to the Canadian Mental Health Association, BC Division).

We recommend that the Provincial/regional committee(s) engage in service planning, policy development, the creation of guides/toolkits, education, and training, and promoting/sharing best practices at the intersections of health and justice. (For a relevant model, see Ontario's Human Services & Justice Coordinating Committees.)

14. We recommend that Police Services develop a clear guidance document to support decision-making when responding to violent offences alleged to have been committed by people living with serious mental disorders. The guidance should speak to the appropriate and complementary use of the *Mental Health Act* and the *Criminal Code*.
15. We recommend that the Provincial Government commit to assigning or contracting staff to conduct a thorough inventory of appropriate mental health and substance use services that would benefit people working at all levels of the criminal justice system (police, Crown, defence counsel, corrections) and that this inventory be documented in a highly accessible and useful format, and that it be regularly updated to ensure it remains current.

16. We recommend that the BC Prosecution Service, in collaboration with the criminal defence bar, arrange for the creation of comprehensive guides for Crown Counsel and defence counsel to assist in making decisions about cases involving accused people with mental disorders. The guides should be in a highly accessible and useful format. (See the UK's *Prosecution Guidance for Suspects and Defendants with Mental Health Conditions and Disorders* as an example.)
17. We recommend that the Provincial Government reform the necessary legislation to strengthen and enhance information-sharing options between health, justice and social services agencies.

The following recommendations are focused on better addressing repeat offending and improving public confidence in the justice system.

18. We recommend that the Provincial Government fund a pilot project led by the BC First Nations Justice Council to develop a program that will serve the unique needs of First Nations people who experience repeat contact with the justice system (see related Recommendation 28).
19. We recommend that police agencies create a Retail/Business Liaison position (or portfolio within an existing unit) to provide a single point of contact for retailers and businesses to raise concerns about crime. This organized approach can help police agencies develop focused projects, engage in crime prevention, and enhance community confidence in the justice system.
20. We recommend that police agencies, wherever relevant and practicable, submit "Community Impact Statements" as provided for in Section 722.2 of the *Criminal Code*, which may assist Crown Counsel and the courts with respect to charge assessment, bail hearings, and at trial regarding the impact of those who offend repeatedly in a particular community.
21. We recommend that the Provincial Government revisit the evidence-based Prolific Offender Management model that formed the basis of the pilot projects (~2008 - 2012) and that they fund, and allow sufficient time for, a robust evaluation of the model. The Situation Table model in BC may be adapted to fit this purpose. The Prolific Offender Management model may require updating but we recommend that the core components of the model be retained:
 - a. Creating a cohort of people who are involved in repeat crime using a selection prioritization tool
 - b. Identifying the unique needs of each person in the cohort
 - c. Ongoing services and enforcement activity based on each person's unique profile

- d. Feedback and case coordination at regular (e.g., monthly) Prolific Offender Management Team meetings. Teams should include representatives from police, BC Corrections, Correctional Service Canada, Crown Counsel, and relevant ministries, such as Mental Health and Addictions, Social Development and Poverty Reduction, Attorney General and Minister Responsible for Housing, and Public Safety and Solicitor General.
- 22. We recommend the BC Prosecution Service consider increasing the number of Crown Counsel specifically or primarily dedicated to repeat offender cases in communities large enough to warrant them and that these Crown Counsel sit on the Prolific Offenders Management Team, if/when they are formed.
- 23. We recommend that BC Corrections consider increasing the number of probation officers specifically or primarily dedicated to supervising repeat offenders in communities large enough to warrant them and that these probation officers sit on the Prolific Offenders Management Team, if/when they are formed.

The following recommendations were provided by the BC First Nations Justice Council (BCFNJC) and are also endorsed by the Investigative Panel. BCFNJC recommends:

- 24. The term “prolific offenders” is abandoned by government authorities and all police, as this term not only perpetuates harm and stigma but also fails to address that these individuals lack security and safety.
- 25. Harm reduction efforts should be centred to focus on the underlying systematic issues that perpetuate a cycle of abuse and harm.
- 26. A new process of consultation is put in place, including other Indigenous organizations, front-line workers, and people who commit crimes.
- 27. The collection of race-based disaggregated data to inform stakeholders and investigators of their mandate, with contextual information on the different categories to be considered.
- 28. Funding of \$100,000 and resource allocation should be granted for the design of a pilot program by BCFNJC in Prince George’s Indigenous Justice Centre to address the issue of criminal recidivism amongst First Nations people.

