

Families For Justice

Alberta

Prepared for the:

Standing Committee on Justice and Human Rights

Submitted and prepared by:

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Brief To

**The House of Commons/Chambre Des Communes CANADA
Standing Committee on Justice and Human Rights**

Bill C-75: An Act to Amend the Criminal Code and Other Acts

September 26, 2018

On Easter weekend of this year, March 29, 2018, Bill C-75 was tabled by the Minister of Justice and Attorney General with the intention to address Jordan's Law. This Bill is extremely large, entailing many serious issues regarding our Justice System which not only affects offenders, it seriously affects victims of serious crime and most importantly it affects the general public and their confidence and trust in our Justice System. Sections of this Bill would have very serious consequences on our Justice System and the protection of the general public. On such an important and serious Bill it was not only extremely disappointing but also extremely heartbreaking to watch as debate was prematurely and unilaterally shut down. Bill C-75 is meant to speed up the lengthy court process, address the backlog of court cases quicker and improve the delays which are troubling to everyone. As I read through the entire contents of Bill C-75, and although I agree with some sections of this Bill, I am very disturbed and concerned with the 5th major area of the Bill, the "**reclassification of offences**". It's the hybridization of offences and the watering down of serious offences that is so alarming. This Bill purposes to allow summary convictions as a prosecutorial option regarding serious crimes that are currently in our criminal code as indictable offences. Serious crimes that are punishable by up to a maximum of 10 years would be reduced to a maximum of 2 years and with the very possibly of a mere fine! It is incomprehensible why this Government, who have recently passed Bill C-46, which increased penalties for "dangerous driving causing bodily harm from 10 to 14 years," to be considering weakening and watering down penalties for impaired driving causing bodily harm to a summary conviction which could be a short prison term or only a fine. As a victim and the voice for 10's of 1000's of victimized families, I find that our Government, instead of improving the Criminal Code by holding offenders accountable for serious offences, would be considering actually reducing the penalties by way of Summary Convictions.

The protection of society from the results of serious crimes is one of the most important responsibilities of Government. Public safety is paramount for all Canadians. Prime Minister Trudeau recently stated on August 23, 2018, while addressing a group of fire fighters in Nanaimo B.C. that "it is government's fundamental responsibility to keep its' people safe".

Our Members of Parliament as representatives of all Canadians are entrusted to develop and implement good legislation and laws that will protect law abiding citizens from criminal harm. One cannot argue that Bill C-75 which proposes to hybridize 136 serious indictable offences, would not impact and increase harm to society from criminal behavior. It is a simple fact that by hybridizing indictable offences that are now heard in a superior court and could ultimately become summary convictions heard in a provincial court, sentences would be much more lenient and result in increased crimes. The sentences for indictable offences range from 2-10 years but when changed to summary convictions at prosecutorial discretion sentences would be reduced to a maximum sentence of 2 years less a day and possibly only a fine. **This does not meet the Government fundamental responsibility to keep its' people safe.** Since "summary convictions" will have sentences with a maximum sentence of 2 years plus early parole provisions and the possibility of only a fine, two of the most important sentencing principals are being ignored. General deterrence and specific deterrence for committing serious crimes will be greatly reduced and the opportunity for rehabilitation of criminals, particularly for substance abuse, will almost be non-existent. **Clearing up the backlog in the criminal Justice System should never be done at the expense of victims and public safety.** Efficiency should not be considered a controlling factor when dealing with the safety of law abiding citizens.

It is most disturbing that **136** serious crimes that were previously identified as indictable offences are reclassified as hybrid offences in Bill C-75. Serious crimes such as "terrorism, participation in a terrorist group, assault with a weapon, advocating genocide, human trafficking, arson, abduction of a child under 14 years are included, to name a few. Bill C-75 purposes to reduce "impaired driving causing bodily harm, refusing to blow causing bodily harm and blood alcohol over the legal limit causing bodily harm from an indictable offence to a summary conviction at prosecutorial discretion. What is most disturbing to me and 1000's of Canadian families is that Canada's number 1 crime, **impaired driving**, is not regarded as a serious crime. As a victim, a mother that lost my 18 year old son to this horrific crime, I am very aware that impaired driving kills more innocent people than all other forms of homicide combined. Every single day close to 200 Canadian families are affected by this unbelievably horrific but yet preventable crime. To reduce these offences to summary convictions sends an unthinkable message to the victims and the general public, and holds absolutely no accountability or responsibility to the offenders. When it comes to impaired driving this Bill is taking 10 steps backwards. The impact on impaired driving causing bodily harm is only one example of the impact this Bill would have on our justice system. The impact that this Bill would have on our overall justice system is unimaginable when applied to 136 indictable offences. It would be a colossal change to our present justice system.

I realize that our Justice System has a very heavy workload and has difficulty in prosecuting all the crimes committed. I am aware that there is a high percentage of serious criminal cases before our Courts and this is troubling to everyone. However, this is not because of bad or inappropriate laws but more likely because of funding constraints and Government priorities. It's apparent if more resources were allocated to our Justice System the prosecution of criminals and offenders could be done in a more timely manner and become much less of a problem. Transferring serious crime cases to our Provincial Courts does not solve any problem and only passes them off in favour of more lenient sentences. Furthermore and most importantly, it is incomprehensible as to how transferring indictable offences, (which currently has a 30 month timeframe window) to provincial summary offences (which only has an 18 month time-frame window) would help address "Jordan's Law". The Provincial court

would be burdened with a higher amount of cases and will be required to act in a much shorter time-frame i.e. 18 months versus 30 months. There is also the introduction of marijuana which will further burden the Provincial courts at the same time their workloads are increased by Bill C-75. As a result more offenders will walk free. It's the victims and law abiding citizens that suffer, not the offenders. As our population grows at record levels, we all recognize the need for more schools, hospitals, churches, libraries, roads and community buildings. Sadly we also need to recognize we require more courthouses, Judges, Crown Prosecutors, parole officers and unfortunately prisons as well.

Bill C-75 proposes that these serious offences could be prosecuted by **summary conviction** instead of the current **indictable offence** which means much lighter and more lenient sentences. For example: *"The moral culpability of an impaired driver is the same whether or not there is an accident. Although impaired drivers may not set out to seriously hurt or kill innocent people it should not be considered only serious if loss of life occurs. It is not "bad luck" for the offender of any serious crime that someone was hurt because that would suggest serious injury or death could not be predicted while engaging in serious offences"*. It is 100% predictable! The public safety of Canadians should be a priority for all levels of Government regardless of their political stripe or ideology. The safety of all Canadians should be your priority and all Canadians should expect a punishment that is fitting to the seriousness of the crime. It should deter others from committing the same crime and also deter offenders from recommitting and give a sense of justice to the victims and our communities. **Summary convictions** for serious offences will not deter nor hold offenders accountable. The Bill re-victimizes the victims and the result is that victims are being ignored and forgotten. Our justice system should be strengthened rather than weakened and the **rights of victims and communities** should have precedence over the treatment of offenders and criminals.

In regard to the hybridization of offences, Bill C-75 proposes to allow summary convictions as a prosecutorial option for crimes that were previously indictable offences. This will certainly result in many inconsistencies in sentencing. With all due respect to Prosecutors, they are only human. Their backgrounds, personal attitudes and penal philosophies may differ and they may operate in different geographical locations and court systems where conditions are different. Bad decisions by prosecutors on hybridized offences can easily set precedent which then becomes very difficult to avoid when making judicial decisions. The criminal code sets out the maximum and minimum prison term for offences. Maximum sentences are reserved for the worst of the worst and are very rarely if ever given. The majority of the sentences fall at the lower end of the range. It's safe to say a sentence of a few months or a small fine would be the expected sentence for a summary conviction. The judge takes into account the seriousness of the offence, background of offender, rehabilitation and most importantly the need to deter others from committing crimes. Judges are obligated to hand out a sentence that is consistent with case law. Once precedent is set for lower sentences, our justice system officially steps backwards and it is a step backwards for the victims and general public as well. Case law is set and would take decades to correct.

The hybridization of serious crimes is pro-crime and anti-victim. It makes it easier for criminals but does not help the victims or make it better for law abiding Canadians. It's unconscionable to think that this Government would put the safety of Canadians at risk by not keeping the existing provisions of the criminal code. A serious crime is a serious crime and should remain as an **indictable offence**. Lesser crimes should be **summary convictions**. All crimes should be treated the same throughout the population in consideration of the

seriousness of the crime, regardless of race, ethnic origin, religion, gender, economic or social status. The choice should be black or white with no grey area and no prosecutorial option. Judges are best qualified to judge sentencing options and make necessary adjustments for mitigating and aggravating factors, Gladue Reports etc.

I believe it is incumbent on all Members of Parliament to review and reflect carefully on the serious consequences that would be imposed on our Country's society if some of the proposals in Bill C-75 become law. It would be an unimaginable 10 steps backwards to reduce the penalties for the many serious crimes by allowing **summary conviction** as a prosecutorial option rather than the present **indictable offence**. One serious offence alone, impaired driving, kills 3-4 Canadians a day! There should be **no hybridization** of crimes. Crimes are either serious or not serious. I doubt that there are a few if any Canadians, who would be supportive of some of the changes to the legislation that are being proposed for serious crimes in Bill C-75.

It is recommended that Bill C-75 be amended to delete the 5th area of reform, the reclassification "**hybridization**" of offences. Serious crimes should remain as **indictable offences** as in our present legislation and the Criminal Code.

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