

# Bail Reforms in Canada



March 1, 2023

Submitted by:

Markita Kaulius  
President  
Families For Justice



Families For Justice  
12-14952 58 Avenue  
Surrey, B.C. V3S 9J2

The Standing Committee on Justice and Human Rights  
Parliament of Canada  
Ottawa, Ontario K1A 0A9

2023-03-01

### **Bail Reforms in Canada:**

The December 27th, 2022 killing of a Ontario Provincial Police (OPP) Officer, brings renewed scrutiny to Canada's bail system. Following the shooting death of Const. Grzegorz Pierzchala near Hagersville, Ontario, the 25-year-old suspect Randall McKenzie was wanted by police for missing an August court date. He was accused of assault, and he had a number of weapons charges in an incident involving his son's mother and her boyfriend. A judge issued a warrant for McKenzie's arrest in August when he failed to show up for a scheduled court date.

He also had a previous lifetime firearms ban after being convicted for a 2017-armed robbery and spent much of his nearly three-year sentence in maximum security or segregation for allegedly stabbing another inmate. While out on bail for charges that included assaulting a police officer and illegally possessing a handgun Randall McKenzie allegedly killed OPP Const. Greg Pierzchala. Randall McKenzie is one of two people facing a charge of first-degree murder in the death of Const. Grzegorz Pierzchala.

The Canadian Public, Victims of crime and several Police Agencies have great concerns and demand new bail reforms. There have been six Police officers killed in line of duty in the last recent months. On January 13, 2023 Premiers across Canada issued a call-to-action strongly urging the federal government to take immediate action to strengthen Canada's bail system. This is a second unified call-to-action from the provinces and territories, petitioning the federal government following the October 2022 meeting of justice and public safety.

“There have been a growing number of calls for changes to prevent accused persons, who are out on bail, from committing further criminal acts,”. “The justice system fundamentally needs to **keep anyone who poses a threat to public safety off the streets**. This starts with meaningful changes to the Criminal Code (CC), an area solely within the federal government’s jurisdiction.”

The call for bail reform is supported by the Ontario Association of Chiefs of Police (OACP) the Canadian Police Association, the Police Association of Ontario, Ontario Provincial Police Association and the Toronto Police Association. In addition, you have millions of Canadian’s who are asking for bail reforms and demanding tougher sentencing laws in Canada. We believe the rights of the accused are being prioritized over the rights of victims and public safety.

Most Canadians are feeling: Enough is enough! We cannot allow the deaths of six Police Officers and other innocent people to go unchallenged. “As elected officials **you need to review the judicial and public safety frameworks, commit to further research to fully understand the best remedies, identify what isn’t working, and call for change to ensure that this does not continue**. Everything should be on the table – from bail to sentencing, to a growing and chronic shortage of police officers.”

Victims have legitimate concerns about the potential for some accused, to commit further offences while on bail. Families For Justice continues to advocate for victims of crime, public safety and legislative reforms in the delivery of justice for all Canadians, including the bail process involving violent repeat offenders and violent firearms crimes.”

Recently a woman in Vancouver who was charged with manslaughter, drugging and stealing from men using an escort service, has now been released on bail again. Jessica Nicole Kane was charged with manslaughter, seven counts of administering a stupefying or overpowering drug or substance, six counts of theft over \$5,000, four counts of fraud and two counts of extortion. In February 2021, a man died after being given a substance during an encounter. She appeared in court on February 13, 2023, and was released on bail with conditions for a second time after allegedly drugging and robbing another person in Vancouver. This is proof that Canada's bail system needs to be toughened up to keep repeat violent offenders and prolific offenders off our streets.

In Canada we seem to have a catch-and-release bail policy, and a revolving door at the Courthouses. The accused who have been arrested even if they have a long rap sheet of previous offences for violent crimes, are being released on bail. Canadians believe accused offenders should stay in jail until their trial is complete, and they can be assured that if convicted, they should stay behind bars until such time as it can be assured that they are no longer a danger to the public.

Ensuring the security and safety of victims and witnesses is an essential part of the decision-making process in release procedures. It is important that victims be able to provide information about how the release of an accused person could affect their personal safety and security. This information needs to be considered by police,

prosecutors, and courts in the lead up to making bail release decisions. Currently this is not the case.

Many victims carry an emotional burden and fear, with them for many years after a crime. They hope they will find some justice when the person responsible is found guilty of the crime committed. The months and **perhaps years** of carrying that burden to court date after court date, during cross examinations, and through adjournments, can take a heavy toll on a person dealing with postponement Court dates. If a stay of proceedings is ultimately entered, this can be devastating for victims. There is no resolution and no sense of justice being served. When there is little to no sentence or accountability given to the perpetrator by the Courts, and victims are sadly retraumatized all over again, and justice has not been served.

Canada needs to overhaul how it handles Bail reforms and sentencing laws need to be tougher in Canada. We have a Criminal Justice System that is not working, and it hasn't been working for years. Most Canadians when asked to consider our Criminal Justice System refer to Canada's Criminal Justice System as a joke. Based on the lack of appropriate sentences handed down for serious crimes based on Court precedence. This includes impaired driving cases, stalking, domestic violence cases and homicide cases.

Bill C-75 – a federal bill passed in 2019 that was designed in part to "modernize and streamline" bail procedures – is inadvertently causing more repeat offenders to end up on the streets. In Bill C-75 we see "easy catch-and-release bail policies are found in this bill which makes it much easier to get bail."

Canada's criminal justice system is a shared responsibility of the provinces and the federal government. One of the things we would like to see is a legislative bill reform that gives more weight to those that we deem as chronic offenders, those that have demonstrated a repeat pattern of violent behavior, and behaviors with firearms and the actions caused by involvement due to being Impaired by Alcohol and Drug.

Under the Criminal Code of Canada, everyone has the right to a bail hearing within 24 hours of arrest, or as soon as possible if a judge is not available. Canada's Charter of Rights and Freedoms also states that police and prosecutors must have a compelling reason or "just cause" to keep someone behind bars; namely that they pose a risk to the public, they are likely to skip a court appearance, or when pre-trial detention is needed for "maintaining confidence in the administration of justice" such as in high-profile cases with strong evidence related to a violent, firearms-related offences. Previous criminal history can also play a large role in determining if bail is granted.

It's generally up to authorities to argue the case for withholding bail before trial, unless someone is charged with certain serious crimes like murder, terrorism, or certain firearm offences. In these cases, it's then up to the accused to convince the court that they can be released on bail, which is known as "reverse onus." Bill C-75 also amended the Criminal Code to extend this "reverse onus" to repeat offenders charged with committing offences against intimate partners.

The plea-bargaining process most often takes place without the victim even being aware it is happening, let alone being consulted. Currently, there is no legal duty to automatically inform victims when an offender is released on bail. This means victims with legitimate concerns for their safety may not be made aware when the accused person is released, nor what conditions may or may not be in place.

Ensuring victims have this information allows them to make informed choices when it comes to safety planning. If victims are not informed when an accused is released, secondary victimization often occurs if the information is learned after the fact, via the news, or on the internet.

Victims affected can experience a level of stress similar to that of the actual offence, as can their families. Given that ensuring the security and safety of victims and witnesses is an essential part of the decision-making process in bail procedures, it is important that victims be able to provide information about how the release of an accused person could affect their safety and security. This information needs to be considered by police, prosecutors, and courts in the lead up to making bail decisions not just at a sentencing.

In my province of British Columbia, since 2017 there has been a 118 per cent increase in the amount of time the province takes to review files it receives from police, and a 75 per cent increase in the rate of the BC Prosecution Service choosing to not charge suspects based on police cases.

In Canada, there continues to be documented cases of accused persons committing violent crimes while on bail. In BC recent stats show 200 people accounted for 11,000 police files in just one year, “Our police agencies also flagged a significant increase in the number of offenders routinely breaching conditions without consequence, while on bail and failing to appear in court without consequences. The urgent call for stronger bail conditions, stricter consequences in sentencing, as well as stronger consideration for “maintaining public confidence in the administration of justice” in bail and charge assessment policies, is now long overdue!

Victims of crime have legitimate concerns about the potential for some accused to commit further offences while on bail. On behalf of all Victims of Crime, I call upon this Justice and Human Rights Committee, and the Federal Government of Canada to make the needed strengthened changes to Canada’s Bail Reforms, to help ensure the safety of the public.

Respectfully,  
Markita J. Kaulius  
President  
Families For Justice  
Email: [FamiliesForJustice@shaw.ca](mailto:FamiliesForJustice@shaw.ca)  
Email: [mkaulius@telus.net](mailto:mkaulius@telus.net)  
Ph: 604-574-0228