

A Follow-Up Study of Persons Found Not Criminally Responsible on Account of Mental Disorder in British Columbia

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Objective: To describe the characteristics of individuals found not criminally responsible on account of mental disorder (NCRMD) after the 1992 Criminal Code amendments and to track their movement through the forensic system, as well as to unveil the changes to British Columbia's forensic psychiatric system that resulted from Bill C-30.

Method: Profile information relating to persons found NCRMD between February 4, 1992, and February 4, 1998, in British Columbia was collected and analyzed. Community follow-up data was collected and analyzed for a 24-month period following a subject's discharge from hospital.

Results: A substantially greater number of individuals entered the forensic psychiatric system in British Columbia after Bill C-30 was implemented. The post-1992 forensic psychiatric population contained fewer persons charged with serious index offences and a greater number of persons charged with relatively minor offences. The length of hospitalization for the NCRMD cohort decreased substantially after the 1992 Criminal Code amendments.

Conclusion: The Bill C-30 provisions have made the NCRMD defence an attractive option for defendants and legal counsel.

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Clinical Implications

- The post-1992 forensic psychiatric system is serving clients who do not fit within the traditional mental health and criminal justice systems.
- Bill C-30 has contributed to reducing the length of time that a person is initially detained in custody.
- A substantial proportion of subjects experience lengthy rehospitalizations after being conditionally discharged.

Limitations

- Data from only 1 province were examined.
- Data is limited to the contents of the files reviewed.
- Community follow-up data did not extend beyond a 2-year period.

Key Words: *Bill C-30, not criminally responsible on account of mental disorder (NCRMD), follow-up study*

On February 4, 1992, significant changes were made to the mental disorder provisions contained in the Canadian Criminal Code following the introduction of Bill C-30 (1). These amendments were proclaimed into force after the Supreme Court of Canada declared—in *R v Swain* (2)—that

the Criminal Code sections pertaining to the automatic detention of individuals deemed not guilty by reason of insanity (NGRI) were in violation of sections 7 and 9 of the Canadian Charter of Rights and Freedoms (3). While some of the changes have been characterized as being “largely

cosmetic" (4), the entire set of amendments was undoubtedly a monumental, and progressive, shift away from the pre-1992 legislation. Indeed, the enactment of Bill C-30 affected many aspects of the forensic system in Canada. The contents of the Bill and the accompanying changes to the Criminal Code have been thoroughly reviewed elsewhere (5–8), and some of the highlights include 1) codifying a definition and procedures to be used to determine fitness to stand trial, 2) limiting the duration of remand assessment orders, 3) replacing the Lieutenant Governor advisory boards with independent Review Boards, 4) extending jurisdiction to Review Boards for making dispositions concerning the accused, and 5) making a broader range of disposition options available for the Courts and Review Boards. In addition, under the new legislation, defendants who are found to have committed an offence, but are exempt from criminal responsibility under section 16 (1) of the Criminal Code, are now considered to be not criminally responsible rather than not guilty.

Several studies have examined how the implementation of Bill C-30 has affected Canada's forensic psychiatric system, most of which have concentrated on issues surrounding forensic psychiatric assessments (that is, fitness and criminal responsibility). In general, studies have found that the number of psychiatric assessments decreased immediately after the amendments to the Criminal Code were proclaimed into force but then increased 2 and 3 years afterwards (9–14). Even though certain provisions contained in Bill C-30 were intended to reduce the amount of time that a defendant is remanded for a forensic psychiatric assessment, growing evidence suggests that these particular provisions have not achieved their desired effect (10–17).

Another line of research has focused specifically on Canada's not criminally responsible on account of mental disorder (NCRMD) population; however, there is still a dearth of empirical research in this area. A contributing factor why little research exists on this population may be due to the fact that the NCRMD defence is rarely employed successfully (13,18). In Alberta, the number of persons found NCRMD was reportedly increasing prior to and up to 1 year following Bill C-30's introduction, but the numbers decreased in the second and third years after the Bill's implementation (19). In Ontario, the number of forensic assessments increased between 1993 and 1994, but the disposition outcome remained stable across the 2 years (14). Studies from British Columbia indicate that the number of persons receiving NCRMD findings substantially increased after the implementation of Bill C-30 (20,21), and that the numbers of psychiatric recommendations that are supportive of a NCRMD finding also increased in the 1993–1994 fiscal period compared with the previous year (12).

In terms of describing the composition of the NCRMD population, one study conducted in Quebec revealed that most

subjects who were found NCRMD were diagnosed with a psychotic-spectrum disorder and that a person's criminal history had an impact on decisions pertaining to criminal responsibility (13). Results from a study conducted in British Columbia indicated that individuals who were found NCRMD had been charged with a broad range of index offences and that the proportion of serious charges for which the defence was raised was lower than in previous NGRI populations (20). Other studies that examined the dispositions of BC Courts and Review Boards revealed that, during a 1-year period following the Criminal Code amendments, only 25% of persons who were found NCRMD were given an immediate conditional discharge by the courts (15). Moreover, it appears that the initial hearing of the BC Review Board most often results in a conditional discharge (67%) and rarely results in an absolute discharge (0.9%) (20).

The current literature pertaining to persons who were found NCRMD contained a small number of studies that described the population's characteristics and very little information regarding what happened to individuals after they were discharged to the community. Another limitation of the above studies is that their data collection did not extend beyond 2 to 3 years after the implementation of Bill C-30; consequently, the long-term effects of the Bill remain unknown. It is generally recognized that the Courts require a period of time to adjust to the implementation of new legislation, and research has yet to uncover data related to an NCRMD population that extends beyond the anticipated adjustment period. Indeed, a Parliamentary Standing Committee recently noted that there is a "relatively small volume of Canadian research" on issues surrounding the mental disorder provisions of the Criminal Code and that "more research is required and more hard data has to be collected" (22). The present article addresses this research gap by describing the results of a long-term follow-up study of individuals who were found NCRMD after the 1992 Criminal Code amendments. The purpose of the present study is to describe the characteristics of a post-Bill C-30 NCRMD population and to track their movement after adjudication and subsequent to community discharge.

Methods

Persons found NCRMD between February 4, 1992, and February 4, 1998, in British Columbia, Canada, were included in the current study. The individuals who were immediately granted an absolute discharge by the Courts were difficult to identify in a reliable fashion and, consequently, were not included in the present study; however, this number is believed to be quite small. Profile information pertaining to the NCRMD cohort was gathered through a comprehensive review of files of the Forensic Psychiatric Hospital (FPH), Port Coquitlam, BC.

In addition to the profile data, information was gathered on each subject during their stay at the hospital and for a 24-month period following their discharge to the community. The follow-up period ended August 30, 2000. The data were obtained through a review of the files of FPH and the 6 regional forensic community clinics. Collateral information concerning criminal justice contacts was extracted from the RCMP and BC Corrections databases. Since subjects who receive an absolute discharge are not required to have regular contact with forensic psychiatric services, the follow-up data available for these subjects was limited to criminal justice or forensic contacts incurred subsequent to their absolute discharge.

Results

Profile Data

Demographic Characteristics. During the 72 months after the proclamation of Bill C-30, 276 individuals were identified as having been found NCRMD in British Columbia. This cohort comprised 85.5% men and 14.5% women. The average age at the time of the NCRMD finding was 36 years and ranged from 16 to 81 years. At the time of the index offence(s), 10.4% were 21 years of age or younger; 26.0% were between the ages of 22 and 29 years, inclusive; 36.4% were between the ages of 30 and 40 years, inclusive; and 27.1% were over 40 years of age. Eighty percent of the NCRMD cohort was identified as white, while individuals with Aboriginal, East Indian, Asian, and African heritage comprised 9.1%, 3.6%, 3.6%, and 0.7% of the population, respectively.

Social and Psychiatric History. Information pertaining to marital status indicated that 62.3% of the NCRMD cohort was never married; 25.6% was divorced or separated from their spouse; and only 11% was married (either legally or common-law). In addition, of the 182 files containing pertinent information, 51.1% indicated that people in the sample had no biological children; 40.6% had between 1 and 3 children; and the remaining 8.2% had 4 or more children at the time of the index offence. In terms of level of education, 68.7% of the cohort had attained grade levels 10 to 13. Further, 11.2% of individuals in the NCRMD cohort had received a vocational or technical certificate, 2.9% received a college diploma, and 2.9% completed a university undergraduate degree. Only 5.7% of the cohort was employed (part- or full-time) at the time of the index offence; concomitantly, 68.9% were financially supported primarily through social assistance or pension, and 10.5% had no means of financial support. It was also reported that, during childhood, 29.4% of the total cohort were physically abused; 14.9% were sexually abused; and 12.3% were placed in a foster home.

With regard to their psychiatric history, 76.5% of the cohort had been treated in a psychiatric inpatient facility prior to the

index offence. This is comparable with the finding of an earlier study that 78.7% of persons who had been found NGRI experienced psychiatric hospitalization at least once prior to their NGRI adjudication (23). Moreover, 51.8% had been admitted to a general psychiatric facility on 4 or more occasions, and 31.5% were previously admitted to a forensic psychiatric inpatient facility. Thirty-eight percent of the cohort had a documented history of suicidal threats or ideations, and 33.0% had a history of attempting suicide. Of the total NCRMD cohort, 32.2% and 43.1% had a history of psychiatric hospitalization and substance abuse difficulties within their immediate (biological) family, respectively.

Criminal Justice History. Almost two-thirds (63.0%) of the cohort had been involved with the criminal justice system prior to their NCRMD adjudication. In terms of the number of prior convictions, 33.8% had 1 to 4 convictions, 13.8% had 5 to 9 convictions, and 15.4% were convicted of 10 or more offences. Thirty-seven percent of individuals in the cohort were previously convicted of offences against persons; 34.4% had prior property-related convictions; 21.9% were convicted of noncompliance offences; 21.2% were convicted of motor vehicle offences; 16.0% had prior drug-related convictions; and 5.9% were convicted of weapons offences. Of the offences against persons, 81.4% were violence-related, such as physical assaults; 7.6% were sexual-related, such as sexual assaults; and 11.0% were for other offences, such as threats and intimidation. Further, 21.0% of the cohort was reported to have previously committed an offence while under the influence of alcohol or nonprescription drugs.

Criminological Aspects of NCRMD Offences

The NCRMD cohort was charged with a combined total of 557 index offences. For 45.5% of the cohort, the most serious type of offence for which they were charged was assault. Assault-type offences comprised 36.4% of the total index offences and involved 99 serious assault charges, 84 common assault charges, 13 driving assault charges, and 7 other assault-related offences. Nuisance offences, such as harassment, trespassing, and breach of probation, made up 22.4% of the total charges and were the most serious charge for 14.9% (41 individuals) of the cohort. Twenty-nine individuals were charged with murder or attempted murder, which included 10 murder charges (first- and second-degree), 3 manslaughter charges, and 24 attempted murder charges. The charges related to murder or attempted murder comprised 6.6% of the total index offences. Using data provided by an earlier study of the 188 persons found NGRI between 1975 and 1984 in British Columbia (23), Table 1 presents a comparison of the distribution of charges for the NCRMD and NGRI cohorts. In short, the NCRMD cohort was charged with fewer murder or

Table 1 Index offences for not guilty by reason of insanity (NGRI) (24) and not criminally responsible on account of mental disorder (NCRMD) cohorts

Offence type	Percentage of sample				Percentage of charges	
	Most serious charge		Second most serious charge		NGRI (n = 263)	NCRMD (n = 557)
	NGRI (n = 188)	NCRMD (n = 276)	NGRI (n = 188)	NCRMD (n = 276)		
Murder or attempt	40.4	10.5	1.1	1.4	30.4	6.6
Sexual assault	5.9	7.3	0.5	1.1	4.6	4.1
Assault	19.1	45.5	4.8	21.0	18.3	36.4
Robbery	8.5	1.8	3.2	0.7	9.5	2.0
Weapons	9.0	6.5	8.5	4.3	13.7	7.5
Property	8.5	10.2	1.6	9.8	8.8	11.0
Nuisance	1.6	14.9	1.6	15.2	2.7	22.4
Theft	5.9	3.3	3.7	5.4	11.4	9.9
Drugs	1.1	0	0	0	0.8	0

attempted murder index offences and a greater number of both assault and nuisance-type index offences compared with the NGRI cohort.

A total of 360 victims were involved in the index offences, with 25.1% of the total charges involving one victim and 39.5% involving multiple victims. Victims were defined as those people who suffered some form of interpersonal harm or whose well-being was threatened; a maximum of 3 victims were coded for each index offence. Only victims of offences against persons (for example, assault, kidnapping, and murder) were included in this study. In terms of the victims' relationship with the accused, 26.7% were strangers, 21.1% were acquaintances, 16.4% were family members, and 13.1% were professionals (for example, police officers and mental health staff). During the commission of the index offence(s), 22.1% of the subjects were reported to have been under the influence of alcohol or nonprescription drugs.

Antecedent Fitness Assessments

Overall, 245 (88.8%) individuals in the cohort received one or more court-ordered fitness assessments prior to the NCRMD adjudication. Despite the Criminal Code's presumption against in-custody assessment orders (section 672.16 [1] of the Code), 75.1% of initial fitness assessments were conducted in a forensic psychiatric hospital and 22.9% were completed in other in-custody facilities (that is, pretrial and jail). Moreover, 64.3% of the subsample was reported to have received psychiatric treatment during the initial fitness assessment. Other studies have also found that the majority of post-1992 assessments continue to be conducted in remand facilities (12,15) and that a large proportion of persons being

assessed for fitness received treatment while remanded (16). Twenty percent of the antecedent fitness assessments resulted in psychiatric recommendations of unfit to stand trial; however, whether the Court concurred with the recommendations was not ascertained.

NCRMD Assessment and Adjudication

NCRMD assessments were conducted in custody for 79.3% of the cohort, with most of the assessments (70.7%) being completed in a forensic psychiatric hospital. Like the fitness assessments, 67.0% of the cohort was treated during the NCRMD assessment. During the assessment stages, the evaluators often decided not to make any diagnostic judgements: however, individuals who did receive an Axis I DSM-III-R (24) diagnosis were most frequently identified as having schizophrenia (39.5%), organic mental disorder (19.9%), mood disorder (15.6%), or psychotic disorders not elsewhere classified (13.4%). The most common Axis II diagnoses were Clusters B (6.2%) and C (6.9%) personality disorders and developmental disorders (2.1%). In the assessment reports, psychiatrists were supportive of an NCRMD finding for 77.9% of the cases.

After making an NCRMD finding, the Courts deferred their disposition to the Review Board in 82.2% of the cases. Of the cases that were deferred, only 18.6% were immediately released to the community. The Courts granted conditional discharges to 13.1% of the NCRMD cohort, and the remaining 4.7% received custody orders. Only 66.7% of those that received a conditional discharge were immediately released to the community.

Table 2 Initial hospitalization for persons discharged from hospital according to the most serious index offence

Index offence	Number of persons discharged	Mean (days)	Median (days)	Minimum (days)	Maximum (days)
Murder	4	1165.0	1081.0	747.0	1751.0
Manslaughter	2	523.0	523.0	507.0	539.0
Attempted murder	14	284.2	202.5	0.0	877.0
Sexual assault	17	591.2	428.0	0.0	2509.0
Serious assault	50	338.0	118.0	0.0	2079.0
Common assault	44	218.3	166.5	0.0	1291.0
Driving assault	7	202.4	111.0	44.0	679.0
Robbery	4	344.3	322.0	43.0	690.0
Weapons	17	130.54	39.0	0.0	660.0
Serious Property	8	237.6	106.5	0.0	1069.0
Minor Property	14	216.1	44.5	0.0	1357.0
Nuisance	36	230.2	157.0	0.0	878.0
Theft	7	47.7	0.0	0.0	298.0

At the first Review Board hearing following the Court's NCRMD adjudication, 49.3% of the individuals were granted a conditional discharge, 41.7% were given a custody order, and 2.5% were granted an absolute discharge. The conditions most often attached to the custody orders by the Review Board hearing were that the accused was 1) under the general direction and supervision of the Director, 2) required to keep the peace and maintain good behaviour, and 3) required to reside at FPH. While the first 2 conditions were also commonly attached to conditional discharge dispositions, the Courts frequently articulated other conditions for which the accused must comply, including 1) to report to a specified forensic or mental health outpatient clinic, 2) to abstain from the use of alcohol or nonprescription drugs, and 3) to reside in a supervised setting deemed appropriate by the Director.

Length of Hospitalization after NCRMD Adjudication

The mean length of hospitalization after the NCRMD adjudication for the 228 subjects who were discharged to the community during the study period was 9.8 months (299.8 days), with a median length of 5.0 months (151 days) and ranging from 0 to 2509 days. This may be an underestimate, however, given that the 48 subjects who were not discharged during the study period spent an average of 59.3 months (1808.3 days) in hospital, with a median of 57.6 months (1756 days) and ranging from 877 to 2893 days. The average length of initial hospitalization for persons discharged to the community according to the most serious index offence is presented in Table 2.

Community Tenure

A 24-month follow-up was completed on 200 individuals in the NCRMD cohort. Complete community follow-up information was not available for 28 individuals because they were transferred outside of the Province of British Columbia, their community files were unobtainable, they died during the study period, or the time between their community discharge and the end of study period was less than 24 months. Overall, 78 eventually received an absolute discharge from the Review Board during the study period. Interestingly, 38.5% of the persons who were granted an absolute discharge were originally charged with serious index offences, including 1 murder and 7 attempted murder charges. The average length of time between first release to the community and absolute discharge was 13.6 months (415.0 days) and ranged from 0 to 731 days. One individual remained in the hospital for 21 days after receiving an absolute discharge; this case was omitted from the calculations.

Living Conditions. During their first community discharge, the primary living arrangement for 47.7% of the sample was an independent situation (for example, apartment or hotel), 19.6% were living in a supervised arrangement (for example, group home), and 19.6% were living with a family member. In terms of the stability of their living arrangements, 43.2% of the sample had no change of address, 51.4% had 1 to 3 address changes, and 5.5% had 4 or more changes of address. Of those who were discharged into the community, 61.4% were supported primarily through government assistance (that is, welfare or disability pension), and 9.1% were supported primarily through employment. In total, 42.0% were employed during

Table 3 First and second hospitalization following community discharge^a

Location of hospitalization	Subject's first hospitalization			Subject's second hospitalization		
	FPH	General hospital	Other	FPH	General hospital	Other
Total number admitted	61	29	4	33	11	4
Reasons for hospitalization						
Decompensating (%)	41.0	69.0	50.0	39.4	81.8	75.0
Breach of conditions (%)	36.1	6.0	0.0	48.5	0.0	0.0
Patient request (%)	6.6	13.8	0.0	6.1	9.1	0.0
Psychiatric assessment (%)	13.1	0.0	0.0	6.1	0.0	0.0
Noncompliance (%)	9.8	6.0	0.0	3.0	9.1	0.0
Unsuccessful placement (%)	9.8	3.5	0.0	9.1	0.0	0.0
Other (%)	18.0	20.7	0.0	18.2	18.2	0.0
Mean length of stay (days)	188.4	24.9	9.5	178.6	12.8	63.3
Median length of stay (days)	72.0	5.0	3.5	115.0	12.0	26
Minimum length of stay (days)	1.0	1.0	1.0	1.0	1.0	4
Maximum length of stay (days)	703.0	456.0	13.0	675.0	29.0	197

^aA maximum of four reasons were coded each time a subject was hospitalized.
FPH = Forensic Psychiatric Hospital, Port Coquitlam, BC

their first release to the community, with 29.8% of the subsample working sporadically, 27.4% working part-time, and 20.2% maintaining full-time employment.

Criminal Justice Contacts. Data extracted from RCMP and BC Corrections databases revealed that 36 subjects (18.0% of persons discharged) faced a combined total of 92 new criminal charges during the 24-month follow-up period. Of the total charges, 32.6% were theft-related, such as theft or robbery; 29.3% were public order-related, such as harassment or failure to appear; 15.2% were assault-related, such as common assault or aggravated assault; and 6.5% were for sexual assault-related offences. Twenty-six of the subjects facing new charges were detained in a remand centre, of which 73.1% were remanded for 1 to 5 days. The longest time for which an individual was remanded was 78 days for charges relating to 2 counts of common assault. Only 15 (7.5%) of the individuals who were discharged to the community were ultimately convicted of an offence, of which 4 were convicted after having been absolutely discharged. Three subjects were sentenced to spend time in custody and served an average of 20.3 days.

Rehospitalization. Of the 94 people (47% of those who were discharged) who experienced rehospitalization during the 24-month community follow-up period, 48.9% were rehospitalized on 1 occasion, 42.6% were rehospitalized 2 or 3 times, and 8.5% were rehospitalized on 4 or more occasions. The average length of time between discharge to the community and first rehospitalization was 7.7 months (234.3 days),

with a median of 195 days and a range of 2 to 696 days. The average length of the first rehospitalization for this subsample was 4.3 months (130.4 days); however, the median was 35.5 days, and the range was 1 to 703 days. The 79 subjects who eventually returned to the FPH spent an average of 7.8 months (236.5 days) in the community before they were first readmitted and most frequently returned to FPH because their mental state was deteriorating (45.8%) or because they breached the Review Board conditions (36.2%). Table 3 presents a summary of the location and circumstances surrounding the subjects' first and second rehospitalization.

Discussion

The present follow-up study of a post-1992 NCRMD population has yielded several interesting results that support the contention that the Bill C-30 amendments have made the NCRMD defence a more appealing option for defendants and legal counsel. One piece of evidence for this argument is the fact that a substantially greater number of individuals were found NCRMD in BC during the 72 months after the proclamation of Bill C-30 ($n = 276$) compared with the number of persons found NGRI in the same province between November 1975 and January 1, 1984 ($n = 188$) (23). While some authors attribute the growth of the NCRMD population to an increased success rate (12), other observers postulate that the increase is likely a consequence of more persons choosing to raise the defence (20). Additional research is required to discern the correctness of these arguments.

The present study reveals that the growth of the post-1992 forensic population is attributable to new clients being attracted to the BC forensic psychiatric system. For example, while only 43% of the NGRI cohort did not have previous contact with the forensic psychiatric system, 68.5% of the NCRMD cohort did not have contact with the forensic system prior to their NCRMD adjudication (23). In addition, the results suggest that the post-1992 forensic psychiatric system is serving a segment of the population that may not fit within the traditional mental health and criminal justice systems (9,25). This assertion is supported by the fact that a large number of persons in the NCRMD cohort have had previous involvement with the criminal justice and mental health systems prior to coming into contact with the forensic psychiatric system. Further, compared with the NGRI cohort, a greater number of the NCRMD cohort were charged with relatively minor index offences, such as assault- and nuisance- type, and fewer individuals were charged with more serious index offences, such as murder and attempted murder (see Table 1).

In terms of how the mental disorder provisions have impacted legal decision making, our results reveal that the Courts now regularly defer the disposition to the Review Board (82.2% of the cases) and that most individuals continue to be detained in custody following the Court's NCRMD adjudication. At the initial Review Board hearing, almost equal numbers of individuals were granted detention and conditional discharge dispositions (41.7% and 49.3%, respectively). While only 2.5% of initial Review Board hearings resulted in an absolute discharge, 28.3% of the NCRMD cohort was eventually granted an absolute discharge during the study period. These results provide evidence that the Review Board is, in actual fact, utilizing the various dispositions that were introduced with the proclamation of Bill C-30.

The manner in which the Review Board utilizes its disposition options will continue to vary as the case law evolves through the appellate courts. Even though 49.3% of the NCRMD cohort received a conditional discharge at the initial Review Board disposition hearing, those who were granted conditional discharges prior to the case of *R v Johnson* (26) were commonly detained in custody under the authority of the Director (note 1). In fact, 72.1% of the present NCRMD cohort who received a conditional discharge at the original Review Board hearing was held in custody following the disposition. Of these, only 70.0% were subsequently released to the community during the study period. As predicted, the Review Board granted 29.5% fewer conditional discharges and 38.4% more custody orders in the 2 years following the *R v Johnson* decision compared with the previous 2 years (26).

Finally, the present study demonstrates that the average length of hospitalization for the NCRMD cohort (9.8 months) is

substantially shorter than the duration of initial hospitalization for the NGRI cohort (49.9 months) (23). In addition, the average duration of community tenure prior to absolute discharge is substantially shorter for the NCRMD cohort (13.6 months) than the NGRI cohort (47.7 months) (23). While very few individuals were convicted of new criminal offences or committed serious critical incidents following their discharge to the community, almost one-half (47.0%) of the subsample required psychiatric inpatient care—primarily at FPH. These results suggest that the 1992 Criminal Code amendments have contributed to reducing the length of time that a person is initially detained in custody; however, a substantial proportion of the subsample experience lengthy rehospitalizations after being conditionally discharged.

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Note

1. "... an unrestricted delegation to the Director of the authority to determine the place in the Province of British Columbia in which a conditionally discharged accused shall reside, where such discretion implicitly includes the power to direct that the accused 'reside' indefinitely in the Forensic Psychiatric Institute, is incompatible with an order that the accused be discharged conditionally into the community. As a matter of law, such an order cannot be made." (26)

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Résumé : Une étude de suivi des personnes trouvées non criminellement responsables pour cause de trouble mental en Colombie-Britannique

Objectif : Décrire les caractéristiques des personnes trouvées non criminellement responsables pour cause de trouble mental (NCRTM) après les modifications apportées au Code criminel en 1992 et suivre leur trajectoire dans le système médico-légal, ainsi que révéler les changements du système de psychiatrie légale de la Colombie-Britannique consécutifs au projet de loi C-30.

Méthode : Des données ont été recueillies et analysées sur les profils des personnes trouvées NCRTM entre le 4 février 1992 et le 4 février 1998, en Colombie-Britannique. Des données de suivi communautaire ont été recueillies et analysées durant une période de 24 mois suivant le congé d'hôpital d'un sujet.

Résultats : Un nombre substantiellement plus important de personnes sont entrées dans le système psychiatrique légale de la Colombie-Britannique après l'entrée en vigueur du projet de loi C-30. La population psychiatrique légale d'après 1992 contenait moins de personnes accusées d'infractions désignées graves et plus de personnes accusées d'infractions relativement mineures. La durée d'hospitalisation de la cohorte NCRTM a diminué considérablement après les modifications apportées au Code criminel en 1992.

Conclusion : Les dispositions du projet de loi C-30 ont fait de la défense NCRTM une option attrayante pour les défendeurs et leurs avocats.