



Canadian Association of Chiefs of Police
Association canadienne des chefs de police

Presentation to the Standing Senate Committee on
Legal and Constitutional Affairs

C-48 - An Act to amend the *Criminal Code* (Bail Reform)

Remarks by:

Mr. Jason Fraser & Staff Superintendent Pauline Gray
(Members of the CACP Law Amendments Committee)

Representing:

Canadian Association of Chiefs of Police

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Thank you, Mr. Chair and members of the Committee. On behalf of Chief Danny Smyth, President of the Canadian Association of Chiefs of Police, we are pleased to be given the opportunity to meet with you today.

I am Jason Fraser, General Counsel with York Regional Police and I am accompanied by Staff Superintendent Pauline Gray of the Toronto Police Service. We are representing the CACP as members of the Law Amendments Committee.

Introduction

The CACP welcomes and supports Bill C-48 and the reform of Canada's bail system. The proposed amendments align with many of the calls to action put forward by police leaders dating back to a 2008 CACP resolution that called upon the federal government to implement a reverse onus for chronic offenders who seek bail. This year, the CACP adopted a new resolution advocating bail and firearms reform to support community safety.

The CACP recognizes that the fundamental right to reasonable bail is critical to the *Charter* protected presumption of innocence. In most circumstances, the Crown bears the onus of establishing why an accused should be detained in custody pending their trial.

Nevertheless, any system of reasonable bail must take into account considerations for public safety. After all, bail is fundamentally a risk management tool. A properly designed bail regime is meant to manage an accused's flight risk, their risk to public safety and the risk of undermining public confidence in the justice system. There will necessarily be circumstances where the onus must be reversed to require the accused to show cause as to why they should be released.

Firearms Offences

We wholeheartedly support the proposed new reverse onus for additional firearms offences including possession of a prohibited or restricted firearm. While the root causes of gun and gang violence are complex and extend well beyond bail reform, it is important to reflect upon the impact bail reform may have on stemming the tide of gun violence, especially in urban communities such as Toronto.

For example, in Toronto, in 2021:

- **772** people were released on bail for firearms-related charges.
- Of these, **165** people were **re-arrested** while on bail for firearms-related charges.
- Of these, **60%** were **re-arrested again** for firearms related charges.
- And of these, **50%** were released on bail yet again.

In 2022:

- **754** people were released on bail for firearms-related charges.
- Of these, **89** people were **re-arrested** while on bail for firearms-related charges.
- Of these, **47%** were **re-arrested again** for firearms related charges.
- Of these, **71%** were released on bail yet again.

Intimate Partner Violence

Many municipalities in Canada, including Toronto and York Region, have declared intimate partner violence (IPV) an epidemic. So, we also applaud the government's efforts to expand the reverse onus provision for intimate partner violence offences, added by Bill C-75, by applying the provision to accused persons who previously received a conditional or absolute discharge for IPV-related offences.

We recommend that the IPV-related amendments in Bill C-48 be clarified to ensure that the reverse onus also applies to previous acts of psychological violence, including the criminal distribution of intimate images, criminal harassment, and extortion.

Repeat Violent Offenders

The CACP supports the creation of a reverse onus for repeat violent offenders. However, we are of the respectful opinion that the proposed classification of repeat violent offender is overly restrictive.

By limiting the reverse onus to violent offences involving weapons, Bill C-48 does not address the risk posed by offenders who inflict real violence on their victims without using a weapon. For example, in 2022, a man broke into an elderly woman's home in York Region and violently sexually assaulted and choked her. He was on bail at the time of the offence. This offence would not be captured by the reverse onus bail provisions under Bill C-48 since the offender did not use a weapon. And yet, the offence involved a level of violence that shocks the conscience of our communities. We recommend that the proposed reverse onus should be expanded to include violent offences where a weapon is not used.

We are also recommending the following clarifications of, or refinements to, the reverse onus for violent offences:

1. There should be no five-year limit on the use of prior convictions. Such a limit fails to take into consideration the offender's period of incarceration resulting from their prior conviction as well as the objective gravity of using a firearm in the commission of an offence, which is punishable by a term of imprisonment of up to 14 years, and the dangerousness of an accused who would commit a second offence of that nature.
2. Any hybrid offence that is punishable by a term of imprisonment of 10 years or more should be eligible for consideration regardless of the Crown's election to proceed by indictment or by summary conviction.
3. The reverse onus for an accused who commits a prescribed offence while on bail with a no weapons term or while subject to a weapon's prohibition should be expanded to include an accused who commits a prescribed offence while subject to an undertaking given to a police officer that prohibits the accused from possessing a weapon.

Conclusion

Violence in our society is a complex issue that will not be solved by bail reform alone. However, as police leaders, we see Bill C-48 as an important step toward addressing the impact that repeat violent offenders have on the safety of Canadians and their trust in the justice system. We thank you for allowing us to express our support for this important Bill and we look forward to answering any questions that you may have.