

**Submission by Colin and Colleen Marsh to Health and Ambulance Services
Committee for their review of the Mental Health (Recovery Model) Bill and
Mental Health Bill 2015**

I make this submission to the Queensland Health and Ambulance Services Committee to provide information from a victim's perspective when their case has been diverted to the Mental Health Court and the person who did the offence is granted a mental health defence.

I was the victim of a serious violent crime in August 2012 where a male person known to me (he was a relative of my neighbours) came to my driveway and attacked me without warning cutting my throat multiple times with a knife. This was a complete surprise as there was not any indication that anything like this would ever occur from him. I was critically injured and he followed me through the front door of my house. I went to the bathroom with my wife and he followed us into there with his knife and he continued to threaten me and my wife. I am aware that he was then admitted to a secure mental health facility and managed by them.

He was charged with attempted murder and whilst in the mental health facility he sent me correspondence through another person joking about the extra smiley face he had given me and he asked me to drop the charge. I was aware that he had a previous history of serving time in prison for drug related charges and assault charges.

As a result of the attack on me I have been left with scarring to my throat, other ongoing health problems in swallowing and sleep disturbance. I have had ongoing bad dreams, and shake at times when I think about him returning. Myself and my wife have been traumatised where we live in fear of him returning to our home and attacking us again, or if we saw him in our community that he would attack us. This offence has had a significant impact on our lives.

I was told by police and the Office of the Director of Public Prosecutions that he would be a mental health patient for a long time in a secure mental health facility and that I did not need to worry about him being back in the community. He was granted a mental health defence in February 2014.

Under the Mental Health Act I applied for a Forensic Information Order so that I was kept informed about his leave conditions and to my surprise in early 2015 he was granted by the Mental Health Review Tribunal access to leave in the community. This has now increased in October 2015 where he can access leave in the community without a supervisor for up to 5 nights per week with the permission of his treating psychiatrist.

My concern under the current and proposed Mental Health Bill is that the balance of considering patients interests far outweighs the interests of the victims of serious violent crime and their families. I believe that in cases where someone has been so unwell to commit serious violent crimes then this should be taken very seriously by the community if they are granted a mental health defence. This is because on the basis of their mental illness the charges no longer proceed and they are managed by a treating team. Because someone has a history of becoming so mental unwell that it

results in them committing serious violent crimes, then there is always a risk they can become unwell again and offend again.

It does not make sense that someone who has committed such a violent crime as attempted murder can be granted leave back to the community for up to 5 days and nights per week without supervision within 3 three years of committing the offence.

Given the gravity of the offence, and its impact on victims, it should be considered that each time a forensic patient is granted leave to the community where they were charged with murder or attempted murder that this has a significant detrimental effect on victims and their safety. Therefore I propose the following in the new Mental Health Bill 2015:

- That any leave to the community for forensic patients within the first 5 years after a murder or attempted murder offence should be monitored by a tracking device due to the risk to the community
- That people who are granted a mental health defence for murder and attempted murder should be mandated to be on a Forensic Order for 15 years so that the community is kept safe. This is because if someone can become so mentally unwell as to commit such a devastating crime, then the state has an obligation to make sure they not commit the offence again and this requires significant ongoing monitoring for 15 years.

Without these conditions in place in the Mental Health Bill, this means that victim's rights and their recovery and own wellbeing will continue to be ignored.

It has taken me two years to start to build trust again in meeting strangers in the community. When I am advised through the Forensic Information Order that he is granted additional leave and I am not provided with any reasons for this, it raises my fear and anxiety about whether he will return to harm me and my wife. This sets my recovery back as I live in fear of his return. I know in the new Mental Health Bill that reasons are proposed to be given to victims when leave is increased to the community and I support this.

If I knew the person who attacked me was consistently monitored and this was in place for 15 years, then this would make a difference to my and others recovery in similar situations. It would also help me, and I believe other victims for their recovery and trust in the forensic mental health system if there was certainty about the length of monitoring and oversight by mental health.

Submitted by:

Colin Marsh *Colin Marsh* Colleen Marsh *C.M. Marsh*

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