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Charter challenge of forced psychiatric treatment filed in BC Supreme Court

Vancouver, BC [September 13, 2016] – Two individuals and the Council of Canadians with Disabilities filed a legal action in the BC Supreme Court today to challenge a BC law that forces psychiatric treatment on people without their consent. The case alleges that the law violates the *Canadian Charter of Rights and Freedoms*.

People who are involuntarily detained under BC's *Mental Health Act* – or released from hospital on leave – currently have no right to give or refuse consent to any psychiatric treatment. They are legally 'deemed' to consent to all psychiatric treatment and can be forcibly administered medications and electroconvulsive therapy, even when they are mentally capable of making their own treatment decisions. The law also deprives detained individuals of the right to a substitute decision maker, like a representative or family member, to give or refuse consent on their behalf.

"BC is the only jurisdiction in Canada that still uses a 'deemed consent' model," says Melanie Benard of the Council of Canadians with Disabilities. "In other jurisdictions, doctors must assess a patient's capacity to consent and consult with a substitute decision-maker before imposing treatment. BC's outdated law violates the *Canadian Charter* and the *UN Convention on the Rights of Persons with Disabilities*."

Louise MacLaren, one of the plaintiffs in the case, is a 66-year-old retired nurse who has worked in hospital psychiatric wards. She has been forced to undergo hundreds of rounds of electroconvulsive therapy and has been forcibly administered medications for symptoms related to bipolar disorder. The other plaintiff, a 24-year-old recent graduate of Harvard University who will be known in the case as D.C., has been forcibly injected with medications.

Sarah, a 24-year-old woman who went to a BC hospital voluntarily with her mother to seek help with her feelings of depression, was also involuntarily detained. After being forcibly medicated for a month, she escaped from the hospital and a warrant was issued for her apprehension by police. Sarah fled BC and turned herself into a police station in Calgary, where the police refused the BC hospital's request to apprehend her. She is now living as a 'psychiatric refugee' from BC's law in Ontario, where the law upholds patients' consent rights.

"Being forcibly medicated is terrifying and dehumanizing," says Sarah. "My clothes were stripped off me and I was pinned down by 4 male security guards while someone injected a needle into my backside. I was not given any say in my treatment, and even my mom was not allowed to make decisions for me. I've learned how to manage my depression with cognitive behavioural therapy and support from my family. I want to be able to direct my own treatment and recovery."

"Many people delay seeking or don't seek mental health care because they fear being involuntarily detained under the *Mental Health Act* and losing all control of their treatment," says Laura Johnston, one of the Community Legal Assistance Society lawyers for the plaintiffs. "This law equates having mental health problems with being mentally incompetent to make decisions. That assumption is inaccurate and based on prejudice that has no place in Canadian law."

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The individuals quoted in this release and others are available for interview.

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About:

The Community Legal Assistance Society has been providing free legal services to marginalized British Columbians since 1971 in the areas of mental health, human rights, housing, income security, and workers' rights. We have assisted tens of thousands of British Columbians over the years through law reform, test case litigation, systemic advocacy, delivery of public legal education, summary advice, workshops and representation of clients before administrative tribunals and the courts.

The Council of Canadians with Disabilities is a national human rights organization of people with disabilities working for an inclusive and accessible Canada. Founded in 1976, the Council of Canadians with Disabilities consists of nine provincial member groups, seven national disability organizations and one affiliate member. Its mandate includes law reform, policy development, and test case litigation in support of persons with disabilities.