



Canadian Psychiatric Association
Dedicated to quality care
Association des psychiatres du Canada
Dévouée aux soins de qualité

CPA SUBMISSION

Bill C-54: The Not Criminally Responsible Reform Act

**Presented by Dr. J. Paul Fedoroff, Board member, Canadian Psychiatric Association and President, Canadian Academy of Psychiatry and the Law
To the Standing Committee on Justice and Human Rights
June 5, 2013**

This legislation is about victims. Looking around this room, I know that some of you will be affected by this legislation. I know this because one in five Canadians is affected by a significant mental health problem. That means that virtually everyone in this room has at least one family member with this problem. In the same way that not every person with mental illness is honoured to have a family member in the House of Commons, most people with mental health problems do not commit crimes. In fact, most violent crimes are committed by people with no mental illness. Bill C-54 will not affect the majority of violent crimes against Canadians because they are committed by criminals who intend to break the law. Even among the people with mental health problems, the small percentage of whom commit crimes, most will not be affected in any way by Bill C-54. The legislation itself acknowledges this fact and states it applies only to a small proportion of accused with mental health problems.

Who are these people with mental health problems which Bill C-54 applies to? They are people with mental illnesses so severe that a judge in a court of law has determined that at the time of the crime, because of their mental illness, they were unable to appreciate the nature or consequences of what they were doing, or to know that what they were doing was wrong.

The Criminal Code of Canada, as in all civilized countries, recognizes that it is an injustice to hold a person responsible for their actions if their mind was so impaired they did not know what they were doing. These people are declared NCR, not criminally responsible, in a court of law by a judge, not a psychiatrist, and are referred to as "NCR accused". Any one of you at this table could have a relative who is declared an NCR accused. I say this with the greatest respect because becoming an NCR accused has nothing to do with your personal character or the integrity or respectability of your family. It has to do solely with having a mental illness that prevents you from knowing that what you are doing is against the law and wrong. This is who Bill C-54 affects.

I began by saying that Bill C-54 is about victims. I and everyone in this room agree victims deserve the utmost in respect and care. Now imagine that your relative with a mental health problem, which they did not ask for, commits a violent offence and is found NCR. Who are the victims? The person who was attacked is, for certain, but also the family members of both the victim and the accused, as well as the community. What will Bill C-54 do for victims? It will not increase victim notification. That already happens always. It will not

delay the speed with which NCR accused are returned to the community. Most NCRs are followed for longer than three years. It will not change the frequency of board reviews. High-risk offenders typically are seen more frequently, and it would seem bad practice to decrease the hearing times.

Here is what Bill C-54 will do. It will increase the burden on the criminal justice system in the process of designating so-called "high risk". It will make it harder to transition NCRs safely back to the community since passes, which begin as escorted and lead to unescorted, assist in assessing true risk. It will risk stigmatizing people with significant mental health problems.

For the sake of all victims, including potentially your own relatives, I hope you will reconsider the merits of this bill carefully.

I will finish with a brief anecdote. Suppose a woman suffers from a delusion that a very severe poison is actually healthy. She gives it to her husband and her husband becomes upset or mildly ill. Now, suppose that same woman with the same delusion gives the same poison to her entire family at a birthday party and kills her entire family and all her children. Suppose another person who is a criminal, who intends to kill people, intentionally poisons someone. Ask yourself, is it just, is it fair to treat all those individuals the same way?

Bill C-54 moves us towards treating a person with a delusion as though they were a criminal.

Thank you.

For a complete transcript see:

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Mode=1&DocId=6209388&Language=E#Int-8058338>