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If you're involved in criminal justice or mental health services in Canada, you should not miss this important inaugural event

The National Symposium on Mental Disorder and Criminal Justice

Join a distinguished faculty of 20 judges, Review Board Chairs, defence and crown counsel, and mental health and criminal justice experts to explore timely and challenging issues, including:

- Treatment of the mentally disordered accused after *R. v. Swain* and the evolving and expanding role of mental health courts
- The potential implications of *DSM-V* on those eligible for the NCR defence
- Fitness, "forthwith" and pitfalls in the assessment process
- Automatism and toxic psychosis
- Highlights of Bill C-54; will it survive *Charter* scrutiny?

Keynote Luncheon Address

John Kastner, 4-time Emmy award winner, Director and Producer of the documentary, *NCR: Not Criminally Responsible*

Chairs

Joan Barrett, Deputy Director, Crown Law Office - Criminal Ministry of the Attorney General (Ontario)

Riun Shandler, Crown Counsel, Crown Law Office - Criminal Ministry of the Attorney General (Ontario)



DATE & TIME

Friday, February 21, 2014
9:00 a.m. - 4:30 p.m. EDT/EST

LOCATION

Osgoode Professional
Development Centre
1 Dundas St. W., 26th Floor
Toronto, ON

SPECIAL PRE-CONFERENCE FILM SCREENING

NCR: Not Criminally Responsible
Thursday, February 20, 2014
7:00 p.m.
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The National Symposium on Mental Disorder and Criminal Justice

Get up-to-date on
legal and medical
developments

This one-day, ground-breaking program will explore the transformation of the law as it relates to mentally ill offenders in the criminal justice system since the impetus provided by the Supreme Court of Canada's leading decision of *R. v. Swain*. In the twenty-three years post-*Swain*, the law under Part XX.1 has evolved continuously. Future reform, through Bill C-54, is on the horizon and presents new challenges not only for the criminal law practitioner but for all who work with the mentally ill.

Join a faculty of prestigious speakers from the judiciary, Review Boards, the legal profession, academia, and the field of psychiatry from across the country to discuss the key issues, including:

- Bill C-54: Proposed reforms and potential *Charter* implications
- The NCR defence
- The evolving role of mental health courts
- Fitness, "forthwith" and how to avoid the pitfalls in the assessment process
- Automatism and toxic psychosis: whether Bouchard-Lebrun has changed the legal landscape

This symposium is designed to bring together those who work in criminal justice and mental health – lawyers, judges, law enforcement officials, healthcare providers, social workers and others – to explore challenges and solutions to one of the most pressing issues of today. Don't miss this opportunity to network with others facing similar challenges and get up-to-date on evolving legal and medical developments.

Register now by visiting www.osgoodepd.ca, calling 416.597.9724 or 1.888.923.3394, emailing opd-registration@osgoode.yorku.ca or faxing 416.597.9736 (for group registrations).

Keynote Speaker

John Kastner, Kastner Productions Ltd.
"The NCR Issue and the Media"

Chairs

Joan Barrett, Deputy Director, Crown Law Office - Criminal, Ministry of the Attorney General (Ontario)
Riun Shandler, Crown Counsel, Crown Law Office - Criminal Ministry of the Attorney General (Ontario)

Faculty

Frank Addario, Addario Law Group, Toronto

Dr. Hy Bloom, Forensic Psychiatrist, Lawyer
Director and C.E.O. of Workplace.Calm, Inc.
Associate, Central Branch, PSILEX Central
Assistant Professor, Department of Medicine
University of Toronto

Paul Burstein, Burstein, Bryant, Barristers, Toronto

Jamie Cameron, Professor of Law
Osgoode Hall Law School, York University

The Hon. Justice Kenneth Campbell
Superior Court of Justice (Ontario)

Stephen Coughlan, Professor of Law
Schulich School of Law, Dalhousie University

Michael Davies, Foord Davies LLP

Marlys Edwardh, C.M., Sack Goldblatt Mitchell LLP

Curt Flanagan, Crown Attorney
Ministry of the Attorney General (Ontario)

The Hon. Justice Maureen Forestell
Superior Court of Justice (Ontario)

Lyle Hillaby, Crown Counsel, British Columbia
Ministry of Justice and Attorney General

Dr. Philip Klassen, Vice-President Medical Services
Ontario Shores Centre for Mental
Health Sciences

Janet A. Leiper, Barrister, Alternate Chair
Ontario Review Board

Justice Richard Schneider, Chairman
Ontario Review Board

Ian D. Scott, Former Director, Ontario Special
Investigations Unit

Dr. Sandy Simpson, Chief of Forensic Psychiatry
Clinician Scientist, Clinical Research, Research
Program, Centre for Addiction and Mental Health
Head, Division of Forensic Psychiatry, University
of Toronto

The Hon. Justice Gary Trotter
Superior Court of Justice (Ontario)

Bernd Walter, Chair, B.C. Review Board
B.C. Human Rights Tribunal

- 8:15 Registration and Continental Breakfast**
- 9:00 Welcome, Introduction and Overview from the Chairs**
- 9:15 Treatment of the Mentally Disordered Accused after *R. v. Swain* and the Evolving Role of Mental Health Courts**

Marlys Edwardh, C.M., Sack Goldblatt Mitchell LLP

The Hon. Justice Richard Schneider
Chairman, Ontario Review Board

Dr. Sandy Simpson, Chief of Forensic Psychiatry, Clinician Scientist, Clinical Research, Research Program, Centre for Addiction and Mental Health; Head, Division of Forensic Psychiatry, University of Toronto

Part XX.1 of the *Criminal Code* was enacted more than 20 years ago in the wake of the Supreme Court of Canada's decision in *Swain*, and Canada's response to the conundrum posed by mentally disordered accused who intersect with the criminal justice system continues to evolve.

This distinguished panel will debate and discuss the more significant changes to the criminal justice regime governing the mentally disordered offender, including the expansion of mental health courts and whether the effects have been positive or negative.

- 10:15 Not Criminally Responsible**

The Hon. Justice Maureen Forestell
Superior Court of Justice (Ontario)

Paul Burstein, Burstein, Bryant, Barristers

Lyle Hillaby, Crown Counsel, British Columbia Ministry of Justice and Attorney General

Dr. Philip Klassen, Vice-President, Medical Services
Ontario Shores Centre for Mental Health Sciences

The "not criminally responsible" by reason of mental disorder verdict remains controversial despite being in the *Criminal Code* since its inception. This panel will discuss:

- Implications of the NCR verdict
- As defence counsel, when should consideration be given to leading an NCR defence and whether the decision of *R. v. Szostak*, 2012 ONCA 503 assists in this determination?
- While NCR is a legal concept, what role do the experts play and how can counsel control the influence of the expert?
- What happens when NCR is raised after the jury has been discharged?
- What to do if the Court raises NCR on its own motion?
- What to do if the record supports NCR but your client insists on pleading guilty and being sentenced in the normal course?
- Avoiding potential pitfalls with "consent" NCR verdicts
- Is there any duty on the court to conduct an inquiry into the voluntariness or informed nature of plea akin to s.606 of the *Criminal Code*?
- Potential implications of the new *DSM-V* provisions on those eligible for the NCR defence

Note: There will be a refreshment break at 10:45 a.m.

- 11:30 Fitness, "Forthwith" and Pitfalls in the Assessment Process**

The Hon. Justice Gary Trotter, Superior Court of Justice (Ontario)

Curt Flanagan, Crown Attorney, Ministry of the Attorney General (Ontario)

Michael Davies, Foord Davies LLP

- **The Taylor Test:** The test for fitness is well settled and serves as the uniform standard for assessing claims of mental incompetency in all aspects of criminal proceedings, but is it the right one? Does it capture all accused who are not competent to conduct their own defence or instruct counsel to do so? What are the arguments for and against retaining the *Taylor Test* and what's the alternative? What are its implications when the accused suffers from *Fetal Alcohol Spectrum Disorder* or some other mental disability from birth?
- Taking instructions from an Unfit Accused
- "Forthwith" orders: their impact on stop-overs in jails and/or police holding cells
- Getting hospital "consent"
- Appointment of *amicus* at assessment stage
- What is a "protected statement"?
- Ways defence counsel can protect the accused
- Are the "permanently unfit" provisions being used?
- What to do if the police arrest an accused in breach of an assessment order

- 12:30 Luncheon**

- 1:00 Special Keynote Address**

John Kastner, 4-time Emmy award-winning Director and Producer of the documentary, *NCR: Not Criminally Responsible* "The NCR Issue and the Media"



Sponsored by Carswell, a Thomson Reuters business publisher of *Mental Disorder in Canadian Criminal Law* by Joan Barrett and Riun Shandler

- 1:45 Automatism & Toxic Psychosis**

The Hon. Justice Kenneth Campbell
Superior Court of Justice (Ontario)

Frank Addario, Addario Law Group

Ian D. Scott, Former Director, Ontario Special Investigations Unit

Dr. Hy Bloom, Forensic Psychiatrist, Lawyer, Director and C.E.O. of Workplace.Calm, Inc.; Associate, Central Branch, PSILEX Central Assistant Professor, Department of Medicine, University of Toronto

- Will self-induced toxic psychosis ever support an NCR verdict?
- What if the psychosis stems from prescribed medication?
- The implications of *R. v. Bouchard-Lebrun*, [2011] 3 S.C.R. 575
- Circumstances in which the trial judge may properly refuse to leave non-mental disorder automatism with the jury
- The extent to which the classification of the mental condition is driven by policy factors and/or the psychiatric evidence tendered
- Practical tips for counsel approaching such cases

- 2:45 Refreshment Break**

Agenda [Cont'd]

3:00 Diversion

Janet A. Leiper, Barrister, Alternate Chair
Ontario Review Board

Jamie Cameron, Professor of Law
Osgoode Hall Law School, York University

Diversion models, both informal and formal, are essential to remove minor matters involving mentally disordered accused from the criminal justice system where it is generally accepted they do not belong. But does diversion really work long term?

- How do the current diversion programs operate?
- What criteria are used?
- What you can do to assist in having your client approved for diversion

3:45 Looking Ahead and Bill C-54: Will it Survive Charter Scrutiny?

Bernd Walter, Chair, BC Review Board
BC Human Rights Tribunal

Stephen Coughlan, Professor of Law
Schulich School of Law, Dalhousie University

The Government of Canada has proposed a number of significant amendments to Part XX.1 of the *Criminal Code* in the *Not Criminally Responsible Reform Act*. Learn the highlights of the proposed changes, the potential implications and insights as to whether or not it will likely survive *Charter* scrutiny.

4:30 Closing Remarks and Program Concludes



CPD Credits

LSUC (ON) CPD: 7.0 CPD Hours (4.25 Substantive, 2.75 Professionalism); **BC/Manitoba/Saskatchewan/NWT/Nunavut/Yukon/Quebec/New Brunswick and PEI:** 6.5 CPD/MCLE credit hours towards professional development requirements; **NSBS CPD:** 7.0 credit hours; **NY CLE Board (on-site participants only):** 7.5 credit hours in the Area of Professional Practice for transitional and non-transitional lawyers. Also eligible for CLE/Insurance Premium Credits Program offered by the **Law Society of PEI** and for Alberta CPD credit with the **Law Society of Alberta**. Questions? E-mail: cpd@osgoode.yorku.ca or refer to the program website.

Registration

Please complete all registrant information.

The National Symposium on Mental Disorder and Criminal Justice

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Early Bird (Prior to January 15, 2014): \$465 plus HST for a total of \$525.45.

Regular Price (As of January 16, 2014): \$525 plus HST for a total of \$593.25.

Group discount: Register 4 members of the same organization at the same time, and receive 25% off each registration fee.

CLA members get 25% off.

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available for both on site and webcast participants. Group registrations are to be faxed in at the same time. Visit www.osgoodepd.ca for details. Please inquire about financial assistance and professional development credits.

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Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

SPECIAL Pre-Conference Film Screening

NCR: Not Criminally Responsible – Thursday, February 20, 2014 at 7:00 p.m.

Osgoode Professional Development Centre

Date & Time

Friday, February 21, 2014

9:00 a.m. - 4:30 p.m. EDT/EST

Please arrive a half hour early for sign-in and material pick-up. Dress is business casual.

Location

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