

DISORDER IN THE COURT: THE USE OF
PSYCHIATRIC TESTIMONY IN THE PREDICTION
OF DANGEROUSNESS

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Preventive detention measures in Canada were implemented in order to protect us from the most dangerous individuals in society. The Dangerous Offender provisions permit the state to imprison an offender indefinitely. In order to justify such drastic action, psychiatric assessments are conducted in an attempt to determine who, among the "worst" offenders, would be most likely to commit a dangerous offence in the future. This paper will review the dangerous offender system in Canada, and in that context, critically reconsider the ability of mental health professionals to predict the risk of future dangerousness. Despite widespread disagreement concerning evaluation methods and the fallibility of the most common assessment tools, sentencing courts rely heavily upon expert opinions. Given this uncertainty, however, psychiatric testimony should be used cautiously, and only as a supplement to the court's own assessment. Recommendations are presented for making the most of current techniques, and to protect those who may otherwise become victims of "disorder in the court."