

Michael Crystal

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## Submissions to the Senate constitutional and legal affairs committee on Bill C-224

Chairman Runciman, Deputy Chairman Baker and Honourable Senators:

Thank you very much for the opportunity to speak with you this morning about Bill C – 224; the proposed Good Samaritan Drug Overdose Act. It is always a privilege to appear before the learned committees of the Senate and this occasion is made all the more special by the presence of my 14-year-old son, James, who belongs to a cohort which is very much the interest of this proposed piece of legislation.

I speak to you today as a private citizen, father and criminal lawyer who has practiced for 25 years in the criminal justice system and has seen the ravages of opioid addiction up close.

The images still haunt me - the 16-year-old client in North Bay, who walked down a public street with his father's loaded shotgun and into a drugstore demanding oxycodone or the corrupt pharmacist who provided free fentanyl patches to my client, a recovering addict, getting him re-addicted in return for future referrals.

Margaret Atwood in her poem MARRYING THE HANGMAN, wrote to live in prison, is to live without mirrors. To live without mirrors is to live without the self. Bill C – 224, is a mirror, it is a reflection on the reality that people who consume controlled substances together, inevitably fail to call 911 when a friend is overdosing, for fear of self-incrimination. Consequently, I submit to you that Bill C – 224 will save lives and that it must pass as is without amendment.

I will now turn to briefly the relative merits and limitations of the Bill.

Firstly, the hall mark of Bill C-224 is that it provides an EXEMPTION FROM POSSESSION OF SUBSTANCE CHARGES. THE EXEMPTION APPLIES TO “to any person who is at the scene upon the arrival of emergency, medical or law enforcement assistance”.

As a piece of legislation providing an exception, the governing principles of statutory interpretation will require that the legislation be strictly construed- at p. 483 of Sullivan on the Construction of Statutes, the author writes- **the courts sometimes suggest that statutory exemptions and exceptions are to be strictly construed, or alternatively, that person seeking the benefit of the statutory exemption or exception must establish clearly that they come within its terms.**

I am led believe to that there may be a proposed amendment to this legislation suggesting that specific language be used to capture and exempt the individual suffering the overdose, I do not

believe such an amendment is necessary notwithstanding the application of the principle of strict construction. In this regard I concur with Paul St-Denis, Senior Counsel, Criminal Law Policy Section, Department of Justice, who testified before the Standing Committee on Health on June 15<sup>th</sup> 2016. In my humble submission it would make no sense to interpret the bill as exempting the 911 caller from criminal liability and not the victim of the overdose. Clearly having the overdose victim pleading with the would be caller not to alert the authorities would defeat the express intention of the bill.

In conclusion, while C-224 may be imperfect and incomplete, it is nonetheless a good beginning and ought to be passed forthwith.

If successful, I am certain further amendments may follow, such as immunity from breach of probation conditions or parole violations. For now, I humbly submit that this legislation comes to us with the blessing of a unanimous vote in the other place and with the promise that the lives of those caught in the throws of an awful addiction might be saved. For those reasons I urge you to pass C-224 without amendment.