

## **Bill C-10 Hearing – Nicholas Bala – Oct. 25, 2011, 8:45am (addressing Part 4 only)**

**Who am I:** law professor & father of 4 children. For past 30 years research & teaching, focus on children & law: children as victims, subject of litigation between parents & youthful offenders. Also volunteer with youth in trouble with law in Kingston. Have been observer of Canadian responses to youth crime, going back to JDA, YOA, YJCA – some impact on policy & legislation, as well as interpretation of the law + education of lawyers, judges, probation officers

### **My 15 year old daughter Elizabeth asked me what hope to accomplish today:**

Not optimistic about process that rushes and combines youth and adult matters, but as set in my brief propose some changes to Part 4 of Bill C-10. I am also here “bear witness” for many who work with young offenders and cannot speak or are not invited, also for youth and their parents, and for tax payers & citizens who want a safer society & society. Help set some markers for future assessment

**Bill C-10:** My concern about “politicization of responses youth crime” and responses that are driven by ideology rather than research ~~or~~ on-the-ground experiences of those who work with youth -> YCJA in effect since 2003, some amendments needed, as identified by Justice Nunn. One important amendment of “violent offence” to include conduct that endangers self or other; I support proposed amendment to s.2, so some amendments are sound.

Some will have negative procedural effects; though likely to further slow down process but no effect on outcomes.

Others potentially negative substantive effect on youth & society, with possibility of increased court & custody costs & no reduction in youth crime. Indeed, some may lead to more offending.

Bill C-10 Part IV of Bill C-10 – extensive review in my brief, happy to answer questions, but here:

- Most not directed at most serious offenders, biggest impact of Bill C-10 on likely to be on less serious offenders, especially non-violent.
- S. 38 Deterrence & denunciation: good politics but unwise -> unfortunately most youth who are committing offences are not thinking of consequences of their acts -> lack of judgement & forethought. Will not deter through sentencing. But can rehabilitate; squandering opportunities for socially productive intervention

- s.29 Pretrial detention – important role for some violent offenders, but Bill C-4 was much preferable to Bill C-10- introduced a new provision that may allow for significant increase in pre-trial detention for youths charged with non-violent offences.
- S. 75 allowing publication of identifying information for *any* “violent offence”- do not enact

Real problems in youth justice system: Lack of support & engagement for victims, delay, lack of resources for prevention, rehabilitation & restorative justice and community based responses to youth crime. Inappropriate use of custody for some less serious youth offenders both costly and may lead to more crime as vulnerable youth in custody drawn into gangs. We need to use scarce resources responsibly and wisely, and I worry that Bill C-10 will squander resources.

It could have been worse

- No change to s. 39(1) custody gateways
- Judicial discretion remains – no minimums No real change to adult sentencing – no presumptive sentences

What will happen if enacted?

- Depends on provinces, police, prosecutors & judges
- Bala’s predictions
  - Increasing in variation by jurisdiction
  - Some increases in custody and especially pre-trial detention, especially for non-violent offences, administration of justice
  - Increased cost & delay but no increase in public safety
  - But also some “push back” – those actually dealing with youth justice will tend to ignore

I hope to be around in 4 or 5 years when we’ll see the effects of these legislative changes. It would be great if the government is right and that this bill will result in a safer society, but that would be contrary to all research, professional wisdom or reasonable expectations. I fear that we will have a more costly and less effective youth justice system. But will have to live through that social policy experiment.