

# Article review on canada vs. united states

[Law](#), [Criminal Justice](#)



## **Introduction**

In America, the courts have affirmed increased acceptance of psychologist since 1940s. In Canada however, only a physician conduct court ordered assessment of fitness to stand trial and criminal responsibility (Viljoen, Roesch & Zapf, 2003). The traditional trend is changing from reliance on medical personnel to psychologists as it is in America and Australia.

Establishment of test for fitness to stand trial was to ensure fair and appropriate treatment for people with mental disorder. Fitness means, one must understand the nature of the charges and legal proceedings and have the ability to communicate with the counsel (Viljoen, Roesch & Zapf, 2003). In Canada, insanity defense refers to a state of insanity at the time of crime, however, in America, the insanity states are during the trial proceedings. If the defendant is unfit, the trial is suspended until sanity is restored.

## **America.**

Psychology was largely restricted to test interpretation but late permitted beyond test interpretation. In 1940, psychologists for the first time gave their expert opinion on the defendant mental state (Viljoen, Roesch & Zapf, 2003). This was the break through as from then psychology gained prominence in courts. Psychologists were included in the courts but not in the same capacity as psychiatrists. However, in 1984, legal changes occurred that recognized both psychology and psychiatrists as mental health experts (Viljoen, Roesch & Zapf, 2003).

## **Canada**

Canada legal structure provides for fitness tests to be steered by physicians. Where psychologists are used, psychiatrists include their findings in their reports. There is no legal provision that explicitly prohibits psychological assessment as long as a physician has conducted a court ordered assessments. Canadian courts have also expressed concern over the psychologist's ability to diagnose mental disorder (Viljoen, Roesch & Zapf, 2003).

## **Conclusion**

The debate on who to conduct and evaluate fitness and criminal responsibility has gone on for some time. America has embraced psychologists in their court system but Canada is yet to. This is because Canada is less litigation-oriented; no comparable cases in Canada like those that allowed the recognition of psychology in America and majority of the provinces require doctoral training (Viljoen, Roesch & Zapf, 2003).

## **References**

VILJOEN, J. L., ROESCH, R. & ZAPF, P. A. (2003). The Role of Canadian Psychologists in Conducting Fitness and Criminal Responsibility Evaluations. *The role of psychology in court evaluation* 1, 369-381. Retrieved from [http://www. researchgate.net/publication/232487374\\_The\\_Role\\_of\\_Canadian\\_Psychologists\\_in\\_Conducting\\_Fitness\\_and\\_Criminal\\_Responsibility\\_Evaluations](http://www.researchgate.net/publication/232487374_The_Role_of_Canadian_Psychologists_in_Conducting_Fitness_and_Criminal_Responsibility_Evaluations)