

February 14, 2002

The Honourable Senator Pierre Claude Nolin  
Chair, Special Committee on Illegal Drugs  
56 Sparks Street  
Room 206  
Ottawa, Ontario  
K1A 0A4

Dear Senator,

I am writing to express the support of the Canadian Bar Association's National Criminal Justice Section (the CBA Section) for the review currently underway by the Senate Special Committee on Illegal Drugs. We urge your Committee to recommend replacing the criminalization of cannabis with a harm reduction approach.

For some time now, the Section has advocated changing the way Canada deals with cannabis. We take this position because we firmly believe that the existing approach has been unnecessary, expensive, ineffectual and counterproductive. As long ago as 1976, the CBA's governing body recommended the "decriminalization" of simple possession and cultivation of cannabis for an adult's own use and the non-profit transfer of small amounts of the drug between adults.

We believe that the full weight of our criminal law should be reserved for those who genuinely cause harm to others or to society at large. Criminalization is a harsh and extremely costly tool that is appropriate for offences where less drastic measures are inadequate to protect society. Incarcerating cannabis users does not reduce crime or decrease drug use, nor does it improve health. It does absorb significant public dollars that could instead be dedicated to more productive objectives, including combating criminal activities that cause serious harm. Prohibiting cannabis also creates a black market that actually fuels other types of criminal behaviour.

In our view, drug use that causes no evident harm to others or to society as a whole should be considered a health and social policy issue, rather than a criminal law matter. While government has responded to recent developments in the jurisprudence [for example, *R. v. Parker* (2000), 188 D.L.R. (4<sup>th</sup>) 385 (Ont.C.A.)] by regulating possession and use of marijuana grown for

medical purposes, this does not address the more pressing underlying need to decriminalize cannabis. Regulations and existing laws adequately protect the public interest, for example, by prohibiting impaired driving or controlling sales to minors. Canada's drug policies should focus on a national concern for health, through prevention, treatment and reducing the actual harm caused by drug use.

Having reviewed the Order of Reference for the Committee, I note that the various briefs submitted to the Senate Committee on Legal and Constitutional Affairs during consideration of Bill C-8, *Controlled Drugs and Substances Act* have been referred to your Committee. You will have already received a copy of the CBA Section's submission in response to that Bill, which provides greater detail as to our position.

I wish you all the best in your study of this important issue, and look forward to your Committee's Report. Thank you for your attention to the views of the Section.

Yours truly,

A handwritten signature in black ink, appearing to read 'HPM', with a large, stylized flourish on the left side.

Heather Perkins-McVey  
Chair, National Criminal Justice Section