



THE CANADIAN BAR ASSOCIATION
L'ASSOCIATION DU BARREAU CANADIEN

June 27, 2008

Mr. Art Hanger, M.P.
Chair, Justice and Human Rights Committee
House of Commons
180 Wellington Street, Room 622
Ottawa, ON K1A 0A6

Dear Mr. Hanger,

RE: Bill C-25 - An Act to amend the *Youth Criminal Justice Act*

The Canadian Bar Association's National Criminal Justice Section (CBA Section) appreciates the opportunity to comment on Bill C-25, *Youth Criminal Justice Act* (YCJA) amendments. The CBA Section includes prosecutors, defence counsel and academics from every province and territory in Canada. We do not support passage of Bill C-25 at this time.

Since Bill C-25 was tabled, the Government has announced its intention of conducting a comprehensive review of the YCJA. We believe that the appropriate time for considering amendments to the YCJA would be after the comprehensive review of the legislation is complete, rather than before. The CBA Section welcomes the opportunity to participate, and believes that the review could assist in ensuring that this important legislation will be more clearly interpreted and applied more uniformly across the country. Piecemeal reform of the YCJA, which many see as already quite complex, should be avoided.

The significance of the comprehensive review of the YCJA is further highlighted by the important recent decision of the Supreme Court of Canada in *R. v. D.B.* [2008] SCC 25, which deals with the constitutionality of the presumptive offences under the YCJA. The fact that the SCC clearly recognized a presumption of diminished moral culpability of youth underscores the need for very careful consideration before introducing sentencing principles of denunciation and deterrence to the Act, as is proposed by Bill C-25. The fundamental nature of the DB decision could also call into question large sections of the Act's basic structure, for example, its reliance on "serious violent offences" designations.

In light of the scope and magnitude of the various issues raised by *D.B.*, and the planned comprehensive review of the YCJA, we believe it is premature to proceed with Bill C-25 at the present time. We trust that our comments will assist in your Committee's study of the Bill.

Yours very truly,

(Original signed by Tamra L. Thomson for Greg Del Bigio)

Greg Del Bigio
Chair, National Criminal Justice Section