

May 8, 2002

Daniel Charbonneau
Senate Special Committee on Illegal Drugs
40 Elgin Street, 10th Floor
Ottawa, ON
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Dear Mr. Charbonneau,

The John Howard Society of Canada welcomes the opportunity to comment on the Senate's Discussion Paper on Cannabis. As you know the John Howard Society is a nation-wide non-profit organization that has long been active in the area of criminal justice reform. We embody a distinctive perspective on criminal justice based on our mission statement: "Effective, just, and human responses to the causes and consequences of crime." We applaud the efforts of the Senate to review current Canadian drug laws and lend our support to those policy changes that will decrease overall harms to society resulting from illicit drugs. By this we mean both the harms related to the misuse of drugs themselves and those resulting from current drug laws.

Before addressing the specific questions listed in the Discussion Paper, we would like to comment on the historical context of this issue. One cannot fully appreciate current Canadian laws on cannabis without a close study of their legislative history. Cannabis was added to the list of prohibited substances in 1923 without ANY discussion in Parliament [\(1\)](#). At that time it was a solution without a problem. In fact, no person was charged for cannabis possession until 1937, and only 270 persons were charged for possession between 1923 and 1965. To put this in perspective, over 30,000 Canadians were charged with possession of cannabis in 2000. If one could conduct a study comparing total costs to society associated with the use of cannabis and the total costs to society of enforcing the prohibition of cannabis use since 1923, we believe that enforcement costs would literally dwarf those associated with use.

The topic of cannabis law reform has moved on and off the official agenda of government in Canada for at least 30 years. The Le Dain Commission extensively reviewed this issue in the late 1960's and early 1970's, and although the Commission split over the exact nature of recommended policy changes, all five members supported the view that the laws in Canada should be softened with regards to simple cannabis possession. For those familiar with the extensive scientific findings of the Le Dain Commission, the current findings of the Senate Committee demonstrate that 30 years of research and experience have largely validated their conclusions on cannabis. We find this encouraging and hope that this fact is brought out in the final report of the Senate Committee on Illegal Drugs.

We will now address the specific questions listed in the discussion paper:

- 1. Do you agree with the research conclusions we have received? What are your reasons and your sources of information?*

Overall, our reading of the literature leads us to many of the same conclusions presented in the Discussion Paper. In particular we are pleased to see the official rejection of the "gateway theory" since this is one of the main arguments used by the enforcement bureaucracy to perpetuate the criminalization of cannabis. A close reading of the history of cannabis law making in Canada shows that it was often based on false or misleading beliefs about the effects of cannabis (i.e., "the dope fiend mythology"). The rejection of

the gateway theory is one more step toward evidence-based rather than myth-based policymaking in Canada.

2. Research evidence we have received to date does not appear to support criminalization and penalization of cannabis. Do you share this view?

Yes. Taken as a whole, the conclusions of the Senate Committee, which are echoed in almost all major studies of cannabis dating back to the late 1800's [\(2\)](#), suggest that current prohibitionist laws do not correspond to the known social or health effects of this drug. Simply put, there is no logical reason to class cannabis with drugs like heroin and cocaine because it is qualitatively different. We support the decriminalization of cannabis in Canada and feel that this policy naturally follows from the evidence.

3. Studies appear to indicate that the current policy approach may cause more harm than good. Do you agree? Why?

We agree with this conclusion for a number of reasons.

First and most importantly, research has shown that the overall use of cannabis by any given society is not related to the type of drug control policies in place. Thus, the US has some of the strictest cannabis laws in the world and also among the highest rates of use. Conversely, the Netherlands has one of the most liberal cannabis policies in the world but the use of cannabis is not high by international standards. If prohibition does not consistently reduce the use of cannabis, the stated goal of the law, then it is essentially a drain on public resources.

Secondly, 1.5M Canadian citizens have criminal records for the possession of cannabis. A famous study [\(3\)](#) conducted in the 1970's in Canada documented the fact that the most prevalent effect of being arrested for cannabis possession was not a reduction in the use of cannabis, but a reduction of respect for the justice system! Thus, the costs associated with prohibition not only include those related to prosecution of 30,000 people a year, but also the social costs of reduced respect for the justice system among affected citizens.

Thirdly, research has shown that the pharmacological effects of cannabis are not likely to lead to crime since it does not increase aggressiveness or risk-taking behaviour. In fact, cannabis has been shown to reduce both. Some violent and non-violent crime is, however, directly attributable to the workings of the black market in prohibited substances, including cannabis (these forms of crime are labelled "systemic" in the literature). From this perspective it is quite likely that irrational drug laws are more to blame for cannabis related violence than the effects of the drug itself. For all these reasons and more, we believe that current cannabis laws create more harm than good.

4. Do you think that penal prohibition is the right way to define what is allowed and what is not for youth?

We believe that strict punishment is not always the best way to get youth to modify their behaviour. Besides the "rebel" syndrome mentioned in the question, there is also the fact that deterrence is more closely correlated with the surety of punishment rather than its severity. The prevalence of undetected cannabis use among youth makes the assumption of effective deterrence questionable in this case. We would like to see "reality-based" drug education and other less punitive forms of prevention take the place of penal prohibition of cannabis in Canada. Different people use drugs for different reasons. Some people use drugs to cope with problems. Others use them to expand their consciousness, others to overcome personal issues like shyness. Some use them recreationally or experimentally. We believe that a prohibitive approach to curbing drug use by young

people does not do a good job of distinguishing between problematic and non-problematic use, and should therefore be rejected in favour of more flexible education-based approaches to the prevention of drug misuse.

5. Should public policies aim to prevent use or minimize the negative consequences of use?

The John Howard Society of Canada firmly believes that public policy should focus on minimizing overall harm to society rather than preventing drug use at all costs. The strict prohibitionist approach to illicit drugs implicitly assumes that drug users must cease all drug use in order to turn their lives around. We believe this assumption is based on an overly simplistic view of addiction, and suggest that it is often more effective to assist people in turning their lives around first, and then work on their addiction problems as their lives become more normalized. Canada has followed the strict prohibitionist approach to illicit drugs for nearly 100 years and we agree with most non-enforcement experts on drug policy that the harms derived from drug prohibition probably now outweigh those associated with drug use in Canada. We have included our official statement on harm reduction to further clarify our position on this issue.

6. Studies indicate that more liberal policy approaches have little effect on actually increasing or decreasing use patterns of cannabis. Do you agree? Why?

Our read of the literature also confirms this finding. We think that drug use is a symptom of deeper problems in our societies rather than a stand-alone problem. What becomes obvious to us in looking at these data is that current public policies around drugs are focused on managing the symptom of drug abuse rather than the underlying causes of this world-wide phenomena. In other words, it matters little in terms of overall drug use whether a country takes a prohibitionist or liberal approach because neither of these approaches is getting at the root cause of the problem. Although different people suggest different "root" causes for drug use, [4](#) we simply suggest that ALL drug policy in the world is misdirected to some degree because it is addressing a symptom rather than a cause. The obvious question to ask and direct resources at attempting to answer is: "What is the root cause of problematic drug use?" Perhaps this question relates to the need to re-conceptualize drug use as a health rather than a criminal or moral issue. We would like to see significant resources directed at identifying the root cause of problematic drug use in Canada.

7. If Canada was to adopt a different, more liberal approach to cannabis, should it take into account the reaction of the USA? What would that reaction likely be?

The US has consistently taken an extreme prohibitionist approach to illicit drugs and has used its disproportionate influence in international policymaking environments to create prohibitive international conventions such as the Single Convention (1961) and related agreements. We believe that Canada has both the right and the obligation to choose its own path with regards to cannabis policy and should therefore choose according to what it feels is right for Canada. The John Howard Society of Canada believes that decriminalization is the best policy for Canada at this time. It is interesting to know that historically speaking, the US and Canada have agreed more than disagreed in their response to illicit drugs, but this is beginning to change. One sign of this change is Canada's decision to allow for the medical use of cannabis in 2000; a policy that the US federal government has staunchly opposed to the point of raiding medical cannabis suppliers in states that have approved that policy option in state referendums.

8. Some politicians have already indicated that the present policy regime would not change whatever the conclusions of the Committee or others. What, if anything,

should be done to advance this kind of debate? What role should the Senate play?

We believe that the reform of cannabis policy in Canada is indeed enhanced by the Senate's work on this issue particularly since it has officially endorsed the scientific critique of the gateway theory. The next logical step in the process would be to have the Government sponsor a bill on decriminalization. Interestingly enough, a private member bill that proposed the overt decriminalization of cannabis was narrowly defeated in Parliament just a few days before the Senate released this Discussion Paper. Perhaps if the Government itself proposed a reform bill, it might finally get through the political juggernaut and Canada will finally begin the move toward more rational cannabis policy. Our opinion is that we already have enough studies suggesting that cannabis policy in Canada should be reformed. What is needed now is someone with the political will to take up this issue and get it through Parliament. What is perhaps most interesting in the case of the Private Member bill that was defeated last month is that it was sponsored by an Alliance MP. We take this as evidence of reasonably widespread support for decriminalization across the political spectrum in Canada. The time appears ripe for change

. We hope that these answers are useful to the Committee as it completes its study of Canadian cannabis law and makes its suggestions for reform. Please don't hesitate to contact us if you should require further elaboration.

Sincerely,

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1 For a fascinating account of how cannabis was added to the schedule in 1923, see: Giffen et al. (1990). Panic and Indifference: The Politics of Canadian Drug Laws, Toronto: The Canadian Centre on Substance Abuse, pp. 179-182.

2 Several major scientific investigations of cannabis dating back to 1894 are available at: <http://www.drugtext.org> under the heading of "Reports."

3 Erickson, Patricia (1980). Cannabis Criminals: The Social Effects of Punishment on Drug Users, Toronto: ARF Books.

4 One version is offered in this source: Alexander, Bruce (2001). "The Roots of Addiction in Free-Market Society." Available at: <http://www.cfdp.ca/roots.pdf>