

LIBERAL BIENNIAL CONVENTION 2012 POLICY SESSION REPORT

Name of session: Justice

Moderator: David Bertschi, former candidate

Caucus Reps: Irwin Cotler M.P.

Panellists: Nicole Dufour, lawyer, Research and Legislative Service at the Barreau du Quebec; Catherine Latimer, Executive Director, John Howard Society

Rapporteur: Hon. Geoff Regan, PC, MP

NPEP REP: Sean Sutherland

Approximate number of delegates/observers in attendance: 85

Key points raised by panelists:

Catherine Latimer: Bill C-10 is an example of what results when you respond to public fear, misperception, and anti-prisoner populism without a principled and evidence-based assessment. Regarding useful quantitative evidence, it is difficult to find proper international or even provincial comparisons. On the legislative front, many criminal law amendments fail to meet their stated policy objectives (ie “Truth in Sentencing” – unlikely to have “unclogged” the courts nor reduced problems in remand).

In a post 9/11 world, “protecting the public” trumped “justice” and “humanity” leading to questionable detentions, intrusive procedures, and worse. Increasingly, anti-prisoner populism is leading to tolerance for punishments that are mean-spirited, inconsistent with rights, and lacking in humanity, for example, the U.S Supreme Court found the California prison system to have overcrowding that amounts to cruel and unusual punishment at occupancy rates that are much less than current Canadian remand and provincial prison rates. Problems in the justice and corrections infrastructure will only worsen if Bill C-10 is brought into force. Concerned with prison crowding; pre-trial detention rates; access to justice; disproportionately harsh penalties; Mentally-ill and cognitively impaired people falling through cracks into the prison system; and inadequate program support for crime prevention, rehabilitation and reintegration.

Nicole Dufour: Speaking on behalf of the Barreau du Quebec, which represents 24, 000 lawyers across the province. C-10 is incompatible with human dignity and with public safety because it focuses on punishment instead of rehabilitation or addressing root causes, and flies in the face of the best evidence about the decline in crime rates. The Barreau is most adamantly opposed to mandatory minimum sentences which they believe greatly diminish judicial discretion. The Barreau also believes that prison should be a last resort in our judicial system, and that anyone who is incarcerated must be properly rehabilitated – she pointed out that 97% of offenders who received pardons do not re-offend.

She also presented the Barreau’s strong opposition to the young offenders provisions in Bill C-10, saying they mark a departure from Canadian policy dating from 1908 that upholds publication bans on the

identities of young offenders. The Barreau believes that lifting publication bans can stigmatize young offenders and affect their ability to reintegrate into society.

Key points raised by Caucus rep:

Reiterated the Caucus' strong opposition to the Omnibus crime bill.

Key points raised by NPEP rep on member feedback and online resolutions:

Raised a number of resolutions including marijuana.

Highlights of Q and A session:

Legalization of Marijuana - "Kids can beat an addiction, but they can't beat a conviction." "This country doesn't need more prisons, it needs less criminals."

Cotler: Previous Liberal government introduced decriminalization, but full legalization was controversial even within the party. When it comes to evidence on the issue, there is evidence that can move us towards decriminalization, even legalization, but there is evidence that argues against.

Catherine Latimer: Marijuana convictions cause people to lose their liberties for indulging in an act that doesn't really hurt anyone.

Public appetite for harsh sentences: Judicial discretion must be maintained. The best defense against "anger-based vengeance" is evidence.

Bill C-10: This legislation will give us more crime, less justice, at greater costs, with less opportunity for rehabilitation for the offender, with less protection for the victim and with less protection for society as a whole. The government failed to consult with provinces, account for the costs, and ignored red flags about constitutionally suspect elements, such as mandatory minimum sentences and prison overcrowding.

Resources for the Judicial System:

Downloading of services is a big problem. Quebec has shown that their system of social services can prevent crime and reduce recidivism. Mandatory minimums have a crushing effect on system, pre-trial detention.