

STANDING COMMITTEE ON HEALTH



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

COMITÉ PERMANENT DE LA SANTÉ

Tuesday, November 14, 2017

The Honourable Minister Ralph Goodale, P.C., M.P.
Minister of Public Safety and Emergency Preparedness
Public Safety Canada
269 Laurier Avenue West
Ottawa, ON K1A 0P8

The Honourable Minister Ginette Petitpas Taylor, P.C., M.P.
Minister of Health
Health Canada
70 Columbine Driveway
Ottawa, ON K1A 0K9

The Honourable Minister Jody Wilson-Raybould, P.C., M.P.
Minister of Justice and Attorney General of Canada
House of Commons
Ottawa, ON K1A 0A6

Dear Ministers,

The House of Commons Standing Committee on Health (Committee) recently completed its study of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts. As you are aware, the Committee heard testimony from a wide variety of witnesses during our week of hearings (11 to 15 September 2017), and completed clause-by-clause examination of the bill on 3 October 2017. The bill was reported back to the House of Commons with amendments on 5 October 2017.

The following letter was adopted by a majority of the members of the Committee. It highlights a number of subjects that were raised by witnesses during those meetings that are neither addressed by the bill as introduced nor as amended by committee. We encourage your thoughtful consideration of these various matters, which are outlined below.

The Need for a Public Education and Awareness Campaign

The Committee heard consistently from witnesses that a public education and awareness campaign is necessary to ensure that Bill C-45 does not result in increased rates of cannabis use among Canadians, particularly among youth and young adults. As noted by many witnesses, Canadian youth have the second highest rate of cannabis use in the world, with 21% of Canadians between the ages of 15 and 19 reporting cannabis use in the last year. According to witnesses, high usage rates among Canadian youth can be attributed in part to myths and misconceptions surrounding the use of cannabis. In particular, youth perceive the drug as posing minimal health risks and harms,

particularly with respect to cannabis use and driving. In addition, the Committee heard that youth and young adults are turning to cannabis to cope with stress and anxiety they face in their daily lives, as well as to self-medicate for undiagnosed mental or emotional health disorders.

The Committee heard that in the absence of a comprehensive, evidence-based approach to preventing the use of cannabis by youth, which includes a public education and awareness campaign, the legalization of cannabis risks normalizing its use among youth. Witnesses suggested that a public education and awareness campaign should be proactive, well-funded and provide:

- evidence-based information on the risks of cannabis use that empower youth to make informed decisions regarding their health and life goals;
- training, resources and tools for parents, educators, health care providers, coaches and youth allies to support an open dialogue with youth on cannabis use; and
- harm-reduction strategies to reduce the health risks and harms associated with cannabis use.

In order to be effective, the Committee heard that the public education and awareness campaign should begin prior to the legalization of cannabis. In addition, witnesses said that federal funding for public education and awareness initiatives on the use of cannabis needs to be increased from the \$9.6 million currently budgeted to be either on par with funding provided through the Federal Tobacco Control Strategy (\$38 million per year) or amounts provided for public education and awareness in other jurisdictions where cannabis has been legalized.

Given the critical importance of the role of public education and awareness in addressing high rates of cannabis use among Canadians, the Committee recommends that the federal government implement a comprehensive, evidence-based public education and awareness campaign that would begin prior to the entry into force of Bill-C 45. Furthermore, the Committee believes that the federal government should increase its funding of public education and awareness initiatives related to cannabis use to levels in line with the funding provided for tobacco use under the Federal Tobacco Control Strategy.

Establishment of Metrics and Baseline Measurements to Evaluate the Success of Bill C-45

The Committee heard from witnesses that a key component for the successful implementation of Bill C-45 is the establishment of metrics that evaluate whether or not the bill is meeting its objectives. Given the public health and safety objectives of the bill, Dr. Sam Kamin, Professor of Marijuana Law and Policy, University of Denver indicated that relevant metrics to monitor the impacts of the bill could include rates of cannabis consumption of youth, vulnerable groups, and adults; rates of impaired driving related to cannabis use; and the relationship between cannabis use and the use of other psychoactive substances. Other witnesses emphasized that baseline data in these various areas should be collected prior to the implementation of Bill C-45 in order to be able to evaluate its impact properly. Finally, the Honorable Anne McLellan, Chair of the Task Force on Cannabis Legalization and Regulation, explained that careful and close monitoring of the implementation of the legislation will be necessary to respond to any unforeseen challenges arising from the legislation and adapt to them if necessary.

The Committee agrees with these witnesses and therefore recommends that the federal government establish a monitoring and surveillance system to evaluate the impact of Bill C-45 on public health and safety.

Consultations with Indigenous Communities

Indigenous witnesses who appeared before the Committee in relation to Bill C-45 emphasized that their communities are not ready for the implementation of Bill C-45. Ontario Regional Chief, Chief Isadore Day, stated that “there clearly has not been a meaningful engagement” by the federal government with the Assembly of First Nations on the bill. Speaking broadly, Chief Day noted that “[w]e should be participatory in all parts of the process at the front end.”

The Committee heard that with respect to the legalization of cannabis, there are issues relating to jurisdiction, policing, economic development, and most importantly, the health and safety of Indigenous people. As Ms. Clara Morin Dal Col (Minister of Health, Métis National Council) explained on 14 September 2017, “[t]he federal task force on cannabis legalization and regulation spoke to the risks of vulnerable populations. The Métis are a vulnerable population in terms of overall health status. It is therefore important that we be involved as equal partners in the work ahead.”

Chief Day noted that the National Native Alcohol and Drug Abuse Program found “that cannabis is the second most-abused substance after alcohol,” and that “with respect to first nations we definitely need to ensure that any parts of the act that may affect us—that may be modified because of our land jurisdiction, our sovereignty, and the authority of first nations jurisdictions—are going to be part of a separate discussion.”

The Committee recommends that the government undertake improved and ongoing collaboration with Indigenous communities, including providing appropriate support, to ensure that Bill C-45 is implemented in a manner that respects the unique cultural and legal context of different Indigenous communities.

Record Suspensions (Pardons) for Previous Cannabis-Related Convictions

The need for an improved system for record suspensions (pardons) for previous cannabis-related convictions was mentioned by a number of witnesses. In particular:

- “[i]t is in the public interest to have a robust system of pardons” (Michael Spratt, Criminal Lawyer, Abergel Goldstein and Partners, as an individual, 11 September 2017);
- “at some point it should be contemplated that for behaviour which is no longer criminal, it would be in the interest of all Canadians that a pardon be made more readily available” (Anne London-Weinstein, Former Director, Criminal Lawyers' Association, 12 September 2017); and
- the barrier posed by the \$600+ processing fee for an application for a record suspension should be addressed (Michael Spratt).

However, Ms. Kathy Thompson (Assistant Deputy Minister, Community Safety and Countering Crime Branch, Department of Public Safety and Emergency Preparedness) indicated to the Committee that “[t]here are no plans at this time to introduce an automatic pardon” (11 September 2017), and Hon. Ralph Goodale (Minister of Public Safety and Emergency Preparedness) stated,

"[w]e have not arrived at any conclusions yet, but obviously we are examining all of the options and ramifications to achieve the objective the Prime Minister referred to" (19 September 2017).

The Committee agrees with witnesses that an improved system for record suspensions for previous cannabis-related convictions is required, and urges the federal government to address this issue in a timely manner, paying particular attention to the barriers faced by marginalized individuals in applying for a record suspension.

Conditional Sentences for Certain Offences in Bill C-45

Another concern raised by some of the witnesses relates to the availability of conditional sentences for certain offences in C-45. Section 742.1 of the *Criminal Code* states that:

If a person is convicted of an offence and the court imposes a sentence of imprisonment of less than two years, the court may, for the purpose of supervising the offender's behaviour in the community, order that the offender serve the sentence in the community, subject to the conditions imposed under section 742.3.

Section 742.1(c), however, precludes a court from ordering that the sentence be served in the community if the offence, prosecuted by way of indictment, has a maximum term of imprisonment of 14 years or life.

There are a number of offences contained in Bill C-45 for which the maximum term of imprisonment is 14 years, including distributing more than the equivalent of 30 g of cannabis (clause 9(1)(a)(i)) and distributing to an individual under 18 years of age (clause 9(1)(a)(ii)).

The Committee heard that the inability for a court to order a conditional sentence for these and other Bill C-45 offences "is a big concern" (Dana Larsen, Director, Sensible BC, 15 September 2017), and that the 14-year maximum is "totally unrealistic in terms of what goes on on the ground" (John Conroy, Barrister, as an individual, 13 September 2017).

The Committee acknowledges the difficulty posed by the *Criminal Code* provisions that prohibit ordering a conditional sentence where the offence is prosecuted by way of indictment and has a maximum term of imprisonment of 14 years or life. The Committee recommends, therefore, that the *Criminal Code* provisions relating to conditional sentences be reviewed to determine whether these provisions warrant amendment.

We thank you in advance for your consideration of the matters presented in this letter, and look forward to your response.

Sincerely,



Mr. Bill Casey, Member of Parliament
Chair of the House of Commons Standing Committee on Health