

PIVOT NEWSWIRE

Legal experts say Conservative crime legislation likely to violate *Charter* rights

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Ottawa - In its new report, ***Throwing Away the Keys: The Human Social Costs of Mandatory Minimum Sentences***, Vancouver-based Pivot Legal Society is calling on lawyers across the country to challenge mandatory minimum sentences for a range of drug crimes on behalf of clients who are struggling with drug dependence.

The new criminal sentencing provisions were introduced as part of the *Safe Streets and Communities Act* (SSCA, also known as Bill C-10 and the "Omnibus Crime Bill"). This "tough on crime" legislation, which came into force last year, has been heavily criticized by human rights groups, public health bodies, Aboriginal organizations and drug policy experts for being too broad, too expensive and for being closely modeled on failed "war on drugs" policies that have devastated impoverished communities in the U.S.

Pivot Legal Society recently completed a year-long study looking at new sentencing provisions introduced as part of the SSCA from the perspective of low-income drug users.

"Incarcerating people who have problematic substance use is an irrational and cruel response to drug-related crime," says Sean LeBlanc, Chairperson of the Drug User Advocacy League. "Punishing those suffering from an addiction helps neither the addict nor society itself. These are health matters, not legal matters and until that is realized, all the problems associated with drugs will continue."

Pivot's report makes the case that this new legislation is likely to have disproportionate negative impacts for people with disabilities (including those living with drug dependence), Aboriginal people and young people who have been involved with the foster care system.

"The federal government's line has been that these sweeping new laws are about catching gang leaders and drug kingpins, but our research points to a different outcome," says lawyer and report co-author Scott Bernstein. "The outcome will be more impoverished people struggling with drug dependence cycling in and out of prison with devastating consequences for their health, their families and for communities. That is why we are urging criminal lawyers to challenge the constitutionality of these laws on behalf of their clients in order to get them off the books. We hope the legal arguments in this report can assist in moving forward these important challenges."

These new “tough on crime” measures not only run the risk of violating the constitutional rights of people who are dependent on drugs, they are likely to have negative effects on public health and on both provincial and federal budgets.

"With the release of its report, Pivot has affirmed many of the concerns I have repeatedly raised about Bill C-10, both in and out of Parliament, said Hon. Irwin Cotler, MP, former Minister of Justice. "I argued that the legislation lacked an evidentiary basis in its pertinent particulars; that it is constitutionally suspect, thereby violating our obligations and inviting future Charter challenges; that the costs remain unknown, thereby breaching our responsibilities for the oversight of the public purse while also burdening the provinces; and that it will increase prison over-crowding while again not improving the safety of Canadians in any way."

Ignoring the experience of the U.S. criminal justice system, Canada's new laws continue to put the marginalized members of our society at risk.

"Mandatory minimum sentencing laws have done far more harm than good in the United States, filling prisons with aging inmates, shifting resources from far more effective ways of reducing crime, and costing taxpayers many billions of dollars annually," said Ethan Nadelmann, executive director of the Drug Policy Alliance. "What a shame that Canadians apparently have no choice but to watch the Harper government boldly follow in the footsteps of the failed U.S. war on drugs."

Today, Thursday, May 30, at 11am EST, Pivot Lawyer and report co-author Scott Bernstein will join former Minister of Justice and current Liberal Justice and Human Rights critic Irwin Cotler and a representative from Ottawa Drug User Advocacy League (DUAL) for a press conference and rally on the steps of the Supreme Court of Canada (301 Wellington St, Ottawa, ON).

The Full Report can be [downloaded here](#).

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