

FROM:

Psam Frank
#305 - 2929 Nootka St
Vancouver BC V5M 4K4
phone: 604-765-1496
email: psamfrank@gmail.com

TO:

attn: Constable Kalsi
Royal Canadian Mounted Police (RCMP)
6355 Deer Lake Ave
Burnaby BC V5G 2J2
Telephone: 604-646-9999
Fax: 604-646-9704

attn: hon. Jean-Yves Duclos,
Canada Minister of Health
attn: hon. Carolyn Bennett,
Canada Minister of Mental Health and Addictions
Health Canada
Address Locator 0900C2
Ottawa, ON K1A 0K9
phone: 613-957-2991
toll free: 1-800-465-7735
email: hcminister.ministresc@hc-sc.gc.ca
email: mhaminister.ministresmd@hc-sc.gc.ca

attn: Sergeant Naismith
Vancouver Police Department (VPD)
2120 Cambie St.
Vancouver, B.C. V5Z 4N6
email: colin.naismith@vpd.ca

Public Prosecution Service of Canada (PPSC)
British Columbia Regional Office (Vancouver)
Robson Court
900 - 840 Howe Street
Vancouver, BC V6Z 2S9
phone: 604-666-5250
email: ppscscoru@ppsc-sppc.gc.ca

attn: hon. Sheila Malcolmson
BC Minister of Mental Health and Addictions
PO Box 9644 Stn Prov Govt
Victoria, BC V8W 9P1
phone: 778-584-3474
email: MMHA.Minister@gov.bc.ca

Honourable and esteemed servants of the People of Canada,

I have previously brought written confessions to the enforcement officers named in this correspondence, in person, at their stations of operation. I confessed to the intention to traffic cocaine, with a constitutional defence that I believe is reasonably consistent with prior precedent, with one previously untested claim regarding fundamental democratic constitutional rights. Descriptions of these two interactions can be found at <http://issociety.org/burnaby-rcmp-response-to-intention-to-traffic-cocaine/> and <http://issociety.org/letter-to-police-re-plans-to-traffic-cocaine/>.

In both discussions with the officers named herein, I was asked my purpose, and I gave a summarized answer that I believed was neither complete nor worded as precisely as I would have liked. I therefore find it reasonable that both officers responded that they believed pursuit of this matter by public officers would be an unsuitable devotion of their time and attention. However, I have now given some further consideration to the most pressing specific purpose for seeking authoritative affirmation of the validity (or lack thereof) of the constitutional defence I have provided, and I am respectfully hoping that this purpose will be considered by the recipients of this correspondence.

In *R. v. Ellis*, 2021 BCPC 28, <https://www.canlii.org/en/bc/bcpc/doc/2021/2021bcpc280/2021bcpc280.html>, Her Honour Judge Flewelling states, at para. 68, that “[t]he public health crisis that was officially declared by the Provincial Health Officer on April 14, 2016, has continued, essentially, unabated. Despite the use of these emergency powers,

additional funding for initiatives to ‘save lives, end stigma and improve access to services for people struggling with addiction’, the sad reality is that the deaths caused by drug overdose continues to escalate.”

In a news release from the BC Ministry of Mental Health and Addictions on July 15, 2021, entitled “B.C. introduces new prescribed safer supply policy, a Canadian first”, <https://news.gov.bc.ca/releases/2021MMHA0035-001375>, the Ministry describes measures, as taken by the BC government to reduce the deaths caused by the epidemic, going back as far as 2015. Nonetheless, in *Ellis*, para. 68, Judge Flewelling states that “in 2016, 992 people died from illicit toxic drugs compared to 1,534 for the first nine months of 2021. If this continues at the same rate and barring continued increases, the province is on track to record over 2,000 deaths by the end of this year”.

While I join British Columbians in gratitude for the BC government’s measures that have averted an estimated 6,100 deaths since 2016 as stated in the Ministry’s news release, I believe that continued increases in deaths, to the point of doubling in five years, provide some reason to remain receptive to the possibility that further government measures to address this crisis will continue to fail to reduce the numbers of these deaths. Therefore it may be prudent to ascribe some urgency to the consideration of effective measures above and beyond those taken by the government. I believe that authoritative affirmation of the validity of my defence for trafficking, and the conditions that it places upon anyone who invokes it to protect their transacting, will provide an additional means to effectively reduce harm caused to users. I believe that concern for the safety and lives of Canadians warrants the attention of public servants who agree that life, liberty, and security of the person, as protected in section 7 of the *Constitution Act, 1982*, are legitimate priorities under the law.

If my defence to trafficking is respected, then some very stringent conditions upon my commerce in drugs and substances prohibited under federal legislation shall apply, as included in the constitutional defence I have provided. These include the requirement that every unit of any drug or substance that I transact must be tested by an accredited public drug testing facility, and I must provide these reports to a committee created for the purpose of adjudicating my adherence to these conditions. Furthermore, each client with whom I transact must provide a notarized affidavit stating whether they are living in conditions of poverty, emotional vulnerability, or financial dependency. If any such client affirms any of these conditions then I am required to rely on consultation with an accredited addictions counsellor to dictate the quantities of drugs or substances to be sold and to adjust my prices if so instructed by the counsellor as per the financial well being of the user. The client’s affidavit must also state the extent of the client’s previous experience with the drug or substance. If the client’s previous experience is minimal, then I am required to consult with four contacts provided to me by the client to verify that the client adheres to maximum dosages prescribed by the Health Ministry of Canada and is thoroughly informed of the dangers of any such drug or substance based on public information about its usage. The full set of conditions that I must adhere to are described in the designated *Charter of Commerce for controlled drugs and substances otherwise prohibited by Crown*

legislation, which can be found at <http://issociety.org/wp-content/uploads/Commerce-Charter-drugs-and-substances.pdf>.

Any other person in Canada who engages in the practice of transacting in prohibited drugs or substances, and wishes to invoke the same constitutional defence that I am providing so as to be secure from intervention in their transactions by authorities, must satisfy these same conditions for the defence to be valid. It is my belief that any such person who agrees to these conditions will be providing an effective prevention method so that their clients may receive a safe supply, providing greater assurance that the detrimental impacts commonly seen in the opioid epidemic are reduced.

If people who are willing to agree to the conditions of this constitutional defence are able to conduct their transactions with no concern for intervention by authorities except to assure that they are responsibly and accountably upholding the specified conditions, then it may become much more difficult for people who do not uphold these conditions to find clients. This may reduce the occurrence of drugs tainted with toxins unknown to buyers being sold to them and endangering their lives. Due to the possibility that it may accomplish this, I believe that it is not a misuse of public officers' time and attention to request direction from the Public Prosecution Service of Canada (PPSC) as to whether I should be prosecuted for the \$2,000 worth of cocaine in my possession that I have plainly informed two officers I have the intention to traffic.

I am presently conducting an auction for 1.18g of the cocaine in my possession, roughly \$100 worth. The details of the auction may be found at <http://issociety.org/cocaine-auction/>. I am willing to provide this cocaine to an officer as evidence to be used in any prosecution for my conduct in accordance with the *Controlled Drugs and Substances Act* (the "Act" herein); I would then use my constitutional defence to test whether courts will affirm its validity.

An alternative option available to the Crown, instead of initiating prosecution for my conduct, is for the Governor General in Council, under the advisement of the Attorney General as Her Excellency's official legal advisor, to direct a constitutional reference question to the Supreme Court of Canada (SCC), evaluating my untested claims regarding democratic rights. I have previously sent correspondence to the Attorney General of Canada requesting constitutional reference questions to be referred to judicial authorities. This correspondence may be found at <http://issociety.org/wp-content/uploads/Attorney-General-federal.pdf>.

I believe that these are the only two available methods for my defence to be adjudicated: a constitutional reference question or else a defence to a prosecution for contravening laws that appear based on a reasonable interpretation of the Constitution to be "of no force or effect" as per section 52 of the *Constitution Act, 1982*.

Due to the requirement in section 1 of the *Constitution Act, 1982* that all limits on liberties be "prescribed by law", it may be found unconstitutional and malicious to prosecute me for my conduct without first employing any other available means to determine the validity of my defence, so that I am aware of what the law prescribes before I continue this conduct, and so that I have the opportunity to cease and desist if the courts determine my defence to be invalid.

Not only do I believe that I have the right to have the law prescribed for me when there is a question as to its definitive interpretation, but I believe this is also the right of anyone who transacts in drugs and might consider reducing harms and loss of lives in their community by agreeing to the conditions specified in this constitutional defence and in return having the security of knowing that their conduct will not be threatened with any form of action against them by authorities. My most concise reasoning for asking public officers to request direction from the PPSC, as to whether I should be prosecuted for the conduct I have confessed to, is based on the possibility of incentivizing people who transact in such drugs to agree to responsible and accountable conditions that may substantially reduce the possibility of harm to their customers.

On July 26, 2021, I emailed the PPSC asking to be informed whether any action may be expected in response to my contraventions of the *Act*. A response came two days later, stating that “[t]he PPSC’s role, as mandated by the *Director of Public Prosecutions Act*, is to prosecute offences under federal statutes that are referred to it by the RCMP, other federal investigative agencies, and provincial and municipal police forces”. **The mandate of the PPSC states one of their functions to be “[a]dvis[ing] law enforcement agencies or investigative bodies on general matters relating to prosecutions and on particular investigations that may lead to prosecutions” (emphasis added). If the enforcement officers named herein believe that there is any reasonable possibility that my conduct might ever lead to prosecutions, then I believe that the only communication necessary from them to prompt the PPSC for advice on whether to detain me is to inform the PPSC of their receipt of this correspondence and ask how they should respond, which I respectfully believe to be a marginal devotion of their time and attention.**

If the PPSC affirms that my defence is sufficiently consistent with the Constitution that prosecution is unnecessary, then as God is named in the Constitution, I believe it to be my duty to give my humble gratitude to Canada’s servants of the supreme power(s) of creation for the defence of constitutional rights that prevailing authorities have chosen to undertake as their charge. Alternatively, if the PPSC forms an intention to request that the Attorney General of Canada advise the Governor General to consider the constitutional reference questions I have requested, then I will cease and desist my intentions to contravene the *Act* pending the decision of the SCC as to the definitive validity, or lack thereof, of my claims. Finally, if the PPSC indicates an intention to prosecute, then I shall surrender the drugs in my possession to be used as evidence and I shall gratefully present my constitutional claims to the court in my defence.

If I do not hear back from authorities in response to this correspondence by mid-April then I shall be sending further correspondence indicating a date and time on which I intend to appear at a police station with the \$2,000 worth of cocaine in my possession to ask whether any response shall be taken. I intend to ask an officer for permission to take video of our interaction, in which I shall make it apparent that the officer sees the cocaine and acknowledges that it is in my possession.

If no action is taken toward me in response to this interaction, then I am confident that anyone who transacts in such drugs will have received sufficiently clearly prescribed interpretation of the

law to have confidence that they may invoke the same constitutional defence for their transactions so as to similarly avoid future interventions by authorities, giving them incentive to agree to the conditions specified in the defence.

I shall advise any person, who seeks to invoke this constitutional protection, of a further defence that they may use involving constitutional protection against arbitrary detainment or imprisonment, as protected in section 9 of the *Constitution Act, 1982*. If I have confessed to the intention to traffic with my product in view of an officer, but another person who engages in the same conduct and with the same constitutional defence is detained, then it may qualify as arbitrary.

One further advisement that I shall provide to any such person regards the *Ellis* case mentioned earlier. In *Ellis*, the defendant was in possession of less drugs, in total value, than I am in possession of, and yet her actions resulted in a criminal record and a suspended sentence with obligatory community service. Ms. Ellis “suffers from the myriad of underlying factors that plague those with addictions: a traumatic childhood and adult life marked by domestic violence and trauma, poverty, few resources and unstable housing” (*Ellis*, para. 133) while I grew up in relative affluence, obtaining a university degree financed entirely by my family. Perhaps the only legally significant distinguishing factor is that I have a constitutional defence for my conduct; therefore, it may be presumed that this defence is the reason for abstention from action against me.

I invite Canadian health authorities to note that, as previously mentioned, my constitutional defence specifies that I must require my customers to give their full attention to any information provided by the Health Ministry of Canada before they purchase any drugs or substances from me.

At the time that participants were collaborating to create this defence, our reasoning was that the *Act* designates the federal Minister of Health as having principal relevance to the legislation, and thus the most appropriate source of direction as to what information users may be required to affirm having given their attention to. However, it has become apparent to us that the federal and provincial Ministries of Mental Health and Addictions include relevant subject matter in their mandates, so we shall deliberate upon how to amend our conditions to require the committee that is responsible for administration of licensees for such transactions to consult with both federal and provincial relevant ministries. We remain open to suggestions as to the most appropriate distinction of comparative liaisons with these ministries.

The constitutional defence that I shall invoke if prosecuted for my actions or intentions may be found in Appendix A, starting on page 10, at <http://issociety.org/wp-content/uploads/CIL-Charter.pdf>

Thank you very much for your time and attention.

Psam Frank