

# Voluntary Committee of Lawyers

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## Founding Committee

**George E. Bushnell, Esq.**  
*Past President, ABA  
Detroit, MI  
(1925 -2002)*

**Hon. A. Leon Higginbotham, Jr.**  
*Fmr Chf Judge, US Ct of Appeals, 3rd Cir  
New York, NY  
(1928-1998)*

**Hon. Nicholas deB. Katzenbach**  
*Former U.S. Attorney General  
Princeton, NJ*

**Theodore W. Kheel, Esq.**  
*Battle Fowler  
New York, NY*

**Hon. Elliot L. Richardson**  
*Former U.S. Attorney General  
Washington, DC  
(1920-1999)*

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The Voluntary Committee of Lawyers (VCL) is an association of lawyers and judges who share grave misgivings about the wisdom and consequences of the perpetual War on Drugs in the United States. The VCL is promoting, both within the legal profession and beyond, an informed and honest examination of the costs of current U. S. drug policies in economic, political and social terms, and of the need for fundamental reform of those policies in order to reclaim our cherished institutions of liberty and justice.

The VCL is modeled after a group of the same name that played a leading role in the repeal of National Alcohol Prohibition in the early 1930's, and like its predecessors, it seeks to work quietly through local bar associations and other legal groups to foster debate about drug policy in professional communities that wield considerable influence in local, state and national policymaking processes. The VCL is currently working actively with local bar associations in Vermont, New York, Georgia, Oregon, Hawaii and other states, and with national legal groups, to help them activate their memberships on drug policy issues, to adopt resolutions, to form partnerships with medical and other professional groups and to gain a greater voice in the debate over drug policy.

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# ***VOLUNTARY COMMITTEE OF LAWYERS***

## **History and Background**

The modern Voluntary Committee of Lawyers was incorporated in 1996, established through its Founding Committee, including former U.S. Attorneys General Elliot Richardson and Nicholas Katzenbach, former American Bar Association President George Bushnell, former Third Federal Circuit Chief Judge A. Leon Higginbotham and the celebrated labor lawyer Theodore Kheel. The modern VCL was inspired by the group of the same name, organized in 1927 by a group of prominent Wall Street lawyers who sought, in their own words, “to preserve the spirit of the Constitution of the United States by bringing about the repeal of the so-called Volstead Act and the Eighteenth Amendment.” The former VCL grew to over 3000 members, working with bar associations across the country to build the legal infrastructure, through state constitutional conventions, which were required for the successful repeal of the 18<sup>th</sup> Amendment and the ratification of the 21<sup>st</sup> Amendment. The VCL also drafted the Democratic Party platform statement for the 1932 Presidential nominating convention, which read:

*... WHEREAS, the direct results of attempted enforcement have been to imperil the liberties of the people, to finance organized crime, to plunge politics into corruption, to clog the courts of justice, to fill the prisons, and to subject important communities to a rule of conduct which they disapprove and strenuously resist, so that large sections of the electorate have come to regard the Federal Government as a hostile and alien power.*

On the heels of the publication of the City Bar of New York’s *A Wiser Course: Ending Drug Prohibition* in late 1994, the modern VCL began working with other bar associations in New York, including Monroe County (Rochester) and New York County, to form special committees to study drug policy and to adopt resolutions for drug policy reform, and to sponsor public forums on drug policy. A Legislative Models Committee was established to collect and review legislation at all levels of government related to drug control and regulation.

In 1997 the VCL drafted an open letter on the need for drug policy reform, garnering the signatures of judges and lawyers across the country. The VCL continues to circulate and publicize the open letter, which, like the former VCL’s statement, reads in part:

*We unanimously observe that neither drugs nor drug abuse have been eliminated nor appreciably reduced, despite massive spending on interdiction and harsh punishments. Attempts at enforcement have clogged the courts, filled the prisons with non-predatory offenders, corrupted officials at home and abroad, bred disrespect for the law in important communities, imperiled the liberties of the people, burdened the taxpayers, impeded public health efforts ... and brought the nation no closer to abstinence .... We conclude with alarm that the war on drugs now causes more harm than drug abuse itself.*

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## **Prototype Drug Policy Reform Project – Seattle, Washington**

In 2001 the work of the King County Bar Association (KCBA) in Seattle, Washington was brought to the VCL's attention. The KCBA Drug Policy Project has been educating the public and public officials on drug policy issues, creating and building a broad coalition of professional and civic organizations for drug policy reform and successfully promoting drug law reform in Washington State. After the release of its landmark report and its hosting a public forum in late 2001, the KCBA sat at the negotiating table to draft a sentencing reform bill that was enacted in the 2002 session, dramatically reducing sentences for drug offenses, giving sentencing judges more discretion and funding treatment programs in lieu of incarceration.

As a part of its Drug Policy Project, the King County Bar Association has established links with the Washington State Bar, Medical and Pharmacy Associations, the Washington Society of Addiction Medicine, Physicians for Social Responsibility, the League of Women Voters and ten other professional and civic organizations, some of whom have adopted their own progressive drug policy resolutions. The growing partnership of lawyers, doctors and other professionals is a key element in the KCBA Drug Policy Project's reform strategy to broaden support among "establishment" organizations to influence public officials, the media and other opinion shapers of the need to effect meaningful drug policy changes.

The KCBA Drug Policy Project has numerous initiatives currently underway, with dozens of busy professionals volunteering their time in issue-oriented working groups and task forces. The groups are conducting research, issuing white papers, proposing legislative and administrative changes and seeking public and media attention for the proposals. Principal among these working groups is its Legal Frameworks Group, which is seeking to craft a new, state-level regulatory structure for controlled substances. In such a system, revenue from taxation would cover the cost of regulation and contribute to the cost of addiction treatment and drug abuse prevention. In addition, replacing the punitive system with a regulatory system would create a different incentive structure to encourage treatment. The Legal Frameworks Group intends to fashion a fiscally responsible system that carefully balances the exercise of individual civil liberties with the effective preservation of public order, while also providing compassionate treatment to those in need. As a guide, the group is looking towards Washington State's current alcohol control policy, as articulated in the following statute:

*It is the policy of this state that alcoholics and intoxicated persons may not be subjected to criminal prosecution solely because of their consumption of alcoholic beverages but rather should, within available funds, be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. R.C.W. 70.96A.010.*

# ***VOLUNTARY COMMITTEE OF LAWYERS***

## **Current Initiatives**

The VCL has been aggressively reaching out to bar associations and other legal groups across the country, meeting with initial success. The VCL is now well positioned to assist bar associations across the country in providing a forum for discussion of drug policy issues, and to assist bar associations in taking official positions on drug policy and working with state and local legislatures to enact meaningful reforms. Soaring budget deficits on the state and local levels and increasingly draconian practices by the current federal administration provide many opportunities to shift the views of opinion leaders, public officials and the public at large and to effect legal reforms.

## **STATE AND LOCAL BAR ASSOCIATIONS**

**King County (Seattle) Bar Association.** The VCL's West coast office is located in the King County Bar Association offices in Seattle. The KCBA Drug Policy Project is serving as a model that may be adapted or replicated in part or as a whole in other parts of the United States, hopefully bringing about further reductions in sentences for drug offenses, the diversion of drug law violators away from prison and jail and shifts in law enforcement practices. The VCL has launched an aggressive campaign to work with other local and state bar associations, including:

**Association of the Bar of the City of New York.** The VCL has been continually involved with the City Bar of New York since the late 1990's and is now consulting with it on a project to develop a specific legislative proposal creating a new, state-level drug control structure and system. This work is being conducted by the ABCNY's Committee on Drugs and the Law, whose members are corresponding regularly with participants in the Legal Frameworks Group of the King County Bar's Drug Policy Project – an East-West collaboration.

**Vermont Bar Association.** The VCL has cultivated the active interest of the Vermont Bar Association in drug policy issues. The VBA wields influence with the state legislature and is now forging a stronger partnership with the Vermont Medical Society and other professional groups. The VBA worked closely with the VCL to present an all-day drug policy conference in Montpelier in May of 2004, just as the state legislative session was concluding. Leading legislators, judges and other public officials, along with lawyers and medical experts attended and participated in panel discussions, intended to be a first step towards raising awareness of drug policy issues among opinion leaders in Vermont. Follow-up efforts will focus on getting the VBA and other state professional organizations to consider adopting resolutions in favor of drug policy reform and work with the state legislature to enact those reforms.

**Savannah Bar Association.** The VCL is working with the immediate past president and the president-elect of the Savannah Bar Association and several of its members, who are interested in pursuing drug policy reform work through the bar association. While in Savannah, the VCL Executive Director had the good fortune to meet with a Georgia Supreme Court Justice, a number of Chatham County judges who have started their own diversion courts and are very interested in reducing incarceration for drug offenses, the Chatham County prosecutor and the prominent state representative from Savannah, who is currently chair of the Georgia House Judiciary Committee and is very interested in drug law reform. Each of those contacts continues to be developed.

**Hawaii Bar Association.** The VCL Executive Director met in Honolulu with the respective chairs of the Hawaii State Senate and House Judiciary Committees, the state attorney general, the House minority leader and other state legislators, a representative from the state Department of Public Safety and the state public defender's office, and also with the current president of the Hawaii Bar Association, who has expressed great interest in drug law reform and indicated his intention to establish a Committee on Drug Policy and the Administration of Justice within the Hawaii Bar. The VCL will be following up on this promising development, helping to arrange CLE-type events and to draft resolution language for the bar leadership to consider, as well as consulting with the bar leadership on reform strategies.

**Michigan Bar Association.** As a follow-up to the VCL's workshop at the National Lawyers Guild 2003 convention in Minneapolis, a member of the Michigan Bar Association Board of Governors contacted the VCL to explore possibilities for introducing a drug policy reform resolution at the Michigan Bar's annual meeting. The VCL has been working closely with this bar leader to draft appropriate resolution language, which will be considered by the entire Michigan Bar in the spring of 2004.

**Oregon Bar Associations.** The VCL is developing a relationship with the leadership of the Oregon State Bar and Multnomah County (Portland) Bar Associations to foster interest in pursuing drug policy and sentencing reform initiatives. The VCL Executive Director met in Portland recently with principals from each bar association, as well as with judges and other opinion leaders interested in such reform..

## **OTHER BAR ASSOCIATIONS**

The VCL Executive Director has met with public officials in **Maryland**, yielding contacts with local bar associations in Prince George's and Baltimore Counties. Other leads come from Travis County (Austin) **Texas** and the state bar associations in **New Jersey, New Mexico, Rhode Island, Montana** and the **District of Columbia**. A partnership of other local bar associations is already being developed in **Washington**, including Snohomish (Everett), Thurston (Olympia), Pierce (Tacoma) and Spokane counties, and in **New York**, the Monroe County (Rochester) Bar Association may also pursue a follow-up effort from its report from the 1990's.

## **NATIONAL LAWYERS' ORGANIZATIONS**

In addition to state and local bar associations, other organizations of lawyers have been made aware of the VCL's activities and have engaged in a number of promising collaborative initiatives.

**National Bar Association.** The most encouraging recent development is from the leadership of the National Bar Association, the African-American bar. The current NBA president has gathered an eminent group of scholars from Howard University, as well as a District of Columbia Superior Court judge, into a special committee to promote drug policy reform and, in a very short period, the NBA has now built a coalition of black professional organizations on a national level. The leadership of those organizations has agreed to sign onto a Memorandum of Understanding formalizing their commitment to pursue drug policy reforms through research, publication and advocacy. The organizations signing on to the MOU form an impressive coalition, including the National Medical Association, the National Dental Association, the National Organization of Black Law Enforcement Executives, the National Association of Black Social Workers, the National Association of Black Psychologists, the National Association of Black Sociologists, the National Association of Black Nurses and the National Historically Black Colleges and Universities. The VCL Executive Director presented to over 50 African-American judges at the NBA Judicial Council in 2004 and has continued very close contact with the principals of the NBA drug policy initiative, which is intended to continue its efforts for a number of years. Key members of the Congressional Black Caucus in the U.S. Congress, as well as Howard University Law School Dean, Kurt Schmoke, are actively engaged in this initiative.

**National Association of Criminal Defense Lawyers.** In 2003 the VCL Executive Director addressed the Board of the NACDL in New Orleans and plans are now in place to recruit key members of the NACDL who are prominent in their local bar associations and who can provide the needed introductions for the VCL. A special workshop is scheduled for the NACDL annual meeting in San Francisco in the summer of 2004, where NACDL members will receive more detailed guidance on how to work with the VCL to cultivate local bar association interest.

**National Lawyers' Guild.** The VCL Executive Director presented a workshop at the NLG annual convention in Minneapolis in 2003 on the topic of how to get local bar associations to take drug law reform positions, and leads developed in Michigan and Philadelphia as a result of that session.

## **OTHER VCL INITIATIVES**

At its July 2003 meeting, the VCL Board of Managers reactivated its Litigation Strategies Committee to assist attorneys and associations, particularly the National Association of Criminal Defense Lawyers, with analysis of recent decisions relevant to drug policy reform. However, the principal purpose and approach of the VCL is to foster reasoned discussion of drug policy issues and to provide a forum, or “safe space” for that discussion, rather than bringing legal actions, filing *amicus* briefs or advocating on behalf of particular pieces of legislation.

The VCL intends to sponsor CLE programs and public forums on drug policy issues. There are a number of opportunities to put together events like these, particularly in those states and localities where bar associations have expressed interest in drug policy reform.

## **CONTACT INFORMATION**

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