

City of Vancouver

Request for an exemption from the Controlled Drugs and Substances Act (CDSA) pursuant to section 56(1) that would decriminalize personal possession of illicit substances within the City of Vancouver

Final Submission to Health Canada

May 28 2021¹

¹ Version - Corrected Table on Recommended Charges

BACKGROUND AND INTRODUCTION

The City of Vancouver has requested urgent action by the Federal government to provide an exemption under 56(1) of the Controlled Drugs and Substances Act (CDSA) that would decriminalize personal possession of illicit substances within the City's boundaries. The City outlined an overview of its exemption model in a March 1, 2021 submission to Health Canada, and further presented on April 8, 2021 a detailed proposal for thresholds for the drugs most implicated in overdose deaths in the City: opioids, cocaine, crack cocaine and amphetamines. This final submission addresses further information that will lay the groundwork for the approval of an exemption by the Federal government. With approval, the City will undertake a rigorous implementation and evaluation process that will engage community organizations to assist in monitoring the impacts of the exemption and advise on changes and improvements on an on-going basis.

A central goal of decriminalization is to reduce the risks and harms that are associated with the stigmatization and marginalization of people who use drugs (PWUD). This exemption represents an opportunity to better the health outcomes for people who use drugs by reducing the impacts of drug law enforcement for simple possession, reducing stigma and promoting access to life-saving health services.

SUPPORT FOR THE CITY OF VANCOUVER EXEMPTION REQUEST

As stated in the March 1 2021 submission, there is growing and widespread support for the decriminalization of simple possession of drugs. As part of the City of Vancouver initiative to seek an exemption under the CDSA, Mayor Kennedy Stewart and City staff have reached out to various constituencies including local host First Nations and the urban Indigenous community. Details of the City's engagement process with a variety of groups and organizations are described further in this submission.

A letter of support from the Musqueam First Nation is pending. Formal letters of support for decriminalization were received from the Squamish First Nation and the Tsleil-Waututh First Nation. A letter of support has also been received from the Metro Vancouver Aboriginal Executive Council. These letters are included as Appendix A.

The British Columbia Minister of Mental Health and Addictions has discussed the City's initiative with the Mayor of the City of Vancouver and expressed support for decriminalization. The Province has also decided to pursue an exemption. Staff of the City and the British Columbia Ministry of Mental Health and Addictions meet regularly to share information and are committed to mutual learning throughout implementation.

The Vancouver Police Department (VPD) and the Office of the Chief Medical Health Officer of Vancouver Coastal Health (VCH) have participated actively to support the development of this application including assigning staff to the Working Group charged with preparing the submission. The City Manager convened an Oversight Group that met bi-weekly to ensure support of these partner organizations. The VPD Chief of Police and the Chief Medical Health Officer of VCH participated on this group with the City Manager.

Formal letters of support were received from organizations advocating for a comprehensive approach to decriminalization. These letters are attached as Appendix B.

It should be noted that some organizations who wrote in support of the City's initiative to seek an exemption subsequently wrote to express specific concerns with certain aspects of the City's model that was detailed in the City's submissions of March 2021 and April 8, 2021. These letters are attached as Appendix C.

The City has received many other letter and email communications supporting the concept of decriminalization. As well, a series of formal roundtables were held to solicit perspectives on the City submissions. These are summarized in a later section of this submission with details of the roundtable discussions included as Appendix D.

THE URGENT NEED FOR ACTION – THE LOCAL CONTEXT

The March 1 submission described the urgent need for an exemption and the readiness of the City to provide leadership in this important public policy shift for Canada. This section provides additional detail on the context for the exemption request and summarizes the readiness to systematically support a policy to decriminalize the simple possession of controlled drugs and substances.

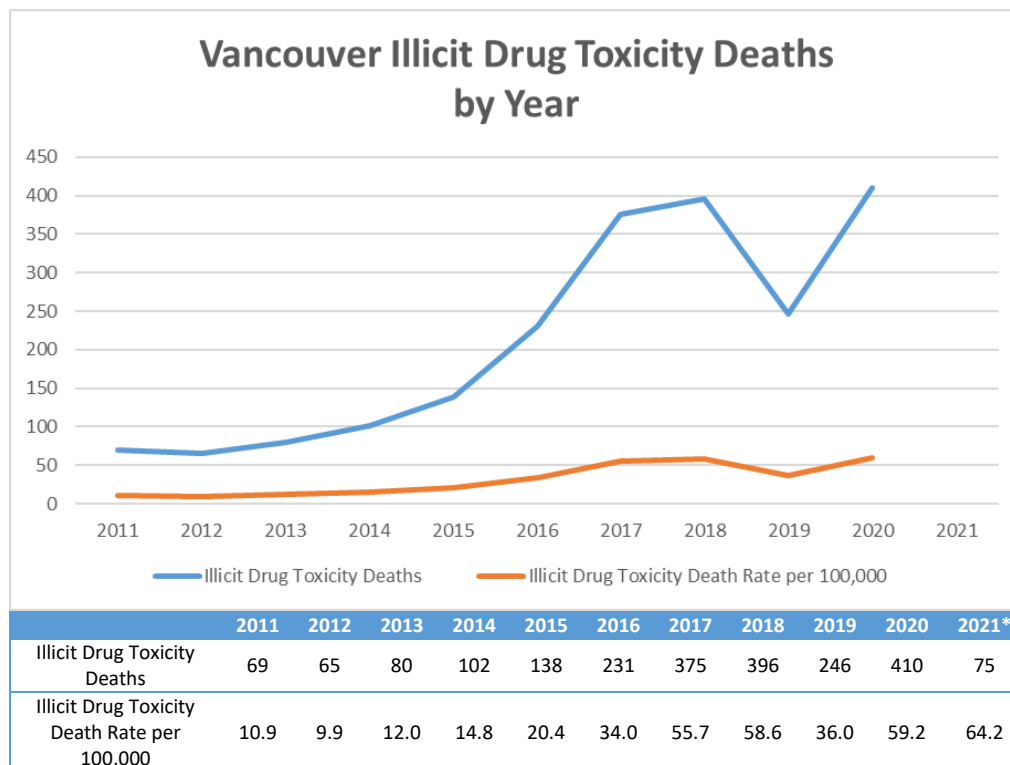
Substance-use Issues in Vancouver

The City of Vancouver has been responding to issues related to mental health and addictions for two decades, recognizing substance-use is an ongoing public health and social justice issue connected to trauma and other social determinants of health such as poverty, homelessness, unemployment, and social isolation. The criminalization of substance-use has had a long-standing impact on people who use drugs, leading to harms such as child apprehension, barriers to employment, economic strain, and stigma that prevents them from accessing services and supports. The City has been working with its partners for years to address this complex health issue and innovate collaboratively in response.

British Columbia's Provincial Health Officer declared a public health emergency on April 14, 2016 due to high rates of illicit drug overdose deaths in British Columbia largely attributed to a drug supply contaminated with fentanyl.

Since the emergency declaration was announced, this drug-poisoning crisis has continued unabated, with particularly severe impacts on residents of our city. 410 people lost their lives to overdose in Vancouver in 2020, which was the worst year on record. The death rate due to illicit drug overdoses in Vancouver that year was 59.2 per 100,000. The figures below summarize this historical trend between 2011 and 2021.

For more information, refer to the full [Coroner's report](#).



*2021 data incomplete

A recent Angus Reid poll showed that [14%](#) of British Columbians reported a close friend or family member had struggled with opioid addiction.

The following table extracted from the BC Centre for Disease Control (BCCDC) [Policy Indicators Report](#) provides an indication of regional health authorities with the highest number of people with injection drug use in BC in 2015. Of those in Vancouver Coastal Health Authority, nearly 12,000 were in the City of Vancouver.

Health Authority	Female	Male	Total
Fraser	7,801	12,570	20,371
Interior	3,549	4,183	7,732
Island	4,166	4,983	9,149
Northern	1,513	1,606	3,119
Vancouver Coastal	5,568	9,632	15,200
Total	22,641	33,127	55,768

First Nations Health Authority data shows that Indigenous peoples are disproportionately impacted by overdose deaths due to the impacts of ongoing colonial policies, such as the residential school system,

and systemic racism in the health care system and throughout society. The extent of the harm, ongoing racism and stereotypes is documented in an 2020 independent report [In Plain Sight](#), authored by former justice Mary Ellen Turpel-Lafond, and commissioned by the BC government. Anti-Indigenous and Anti-Black racism in health care need to be addressed to mitigate risks related to racial inequities in accessing treatment and supports related to substance use and overdose.

According to data from the [First Nations Health Authority](#), from January to May 2020 First Nations people died from overdose at rate 5.6 times higher than other BC residents, and these data shows the rate is increasing. Indigenous women are further impacted due to the intersections of sexism and racism, with First Nations women dying from overdose at 8.7 times the rate of other women in BC. Additionally, [BC Corrections data reports](#) that Indigenous people comprise 29.7% of adults in correctional centres and 25.8% of people under community supervision, despite making up only 5.9% of the adult population in BC. In recognition of these systemic inequities, the City is working with Indigenous partners including the three local First Nations in Vancouver – Musqueam, Squamish and Tsleil-Waututh Nations, as well as other Indigenous leaders from local non-profit organizations and the First Nations Health Authority, to address issues related to criminalization and substance-use and its impact on Indigenous people.

[Overdose patterns](#) studied by the BCCDC, show that there were 36,576 drug- related overdose episodes in the province between 2015 and 2017. Of these overdose episodes, 3,604 (9.9%) were fatal. Taking population into account (non-fatal overdoses per 100,000 residents in B.C. in 2017) Vancouver Coastal Health had the highest number at 234.9 overdoses per 100,000 of any of the health authorities in the Province.

The most recent data on overdoses in Vancouver Coastal Health is available through their overdose surveillance system. The [March 21 – 27, 2021 report](#) shows that there were:

- 120 overdoses involving illicit drugs/unknown substances
- 45 overdose events were recorded at Insite and Overdose Prevention Sites.

Additional data trends, overdose reports, and infographics analyzing the overdose situation in BC can be found at the [BCCDC website](#).

Strained Emergency and First Responders

In 2020, Vancouver Fire Rescue Services members responded to 4,148 overdose calls, while paramedics attended 8,144 overdose calls. Additionally, over 1,250 overdose events were recorded at overdose prevention sites within the City of Vancouver – most of these successful interventions were facilitated by peer first responders working at the sites.

From 2016-2020, overdose calls have steadily been taking up a larger proportion of all incoming emergency calls – it now represents approximately 10% of all incoming calls. In April 2021, a record number of overdose calls were received (750), resulting in about 25 calls a day over a 24 hour period.

The City recognizes the heavy toll that the crisis has taken on outreach teams and peers working on the front lines managing overdoses and the compounding demands created by the COVID-19 pandemic.

Additional funding will be needed to sustain the mental health of emergency service providers and peer first responders.

Harm Reduction Programs

To address the harms associated with substance-use, the BC Government has introduced some of the most far-reaching programs of any jurisdiction certainly in North America. In Vancouver, this has meant expanded harm reduction and treatment services, which are described in more detail later in this submission in the section on the health care response pathway.

- The [Vancouver Coastal Health website](#) provides an overview of its services
- The BCCDC 2019 [Policy Indicators Report](#) provides considerable additional data on harm reduction supports

Possession Charges and Drug Seizures

The VPD approach to substance use has moved Vancouver toward de facto decriminalization of simple possession, which has led to a decrease in the number of simple possession charges in BC over the last number of years (see table below).

Data on Charges Recommended for Simple Possession

Year	# of charges for simple possession
2008	476
2009	224
2010	141
2011	90
2012	65
2013	70
2014	48
2015	65
2016	43
2017	30
2017	21
2019	16
2020	10**

*Source: Vancouver Police Department: Charges Recommended by VPD for Possession of a Prohibited / Controlled Substance [where no other charges recommended] ** January – June 2020

Although police seldom lay charges for simple possession, they do sometimes confiscate illegal drugs in the interests of public safety. The City of Vancouver proposal for an exemption incorporates a volume threshold such that below the threshold people would neither be charged for simple possession nor would they have their drugs confiscated if there is no evidence of other charges such as trafficking. Current data on illegal seizures must be interpreted with caution because of weighing and reporting procedures, but data on seizure volumes for three of the drugs of concern to the requested exemption are shown below.

Drugs or illicit substances seized by the Vancouver Police Department from May 17, 2019 to June 9, 2020	Number of drug items seized	Percentage of all seizures of drug
Opioids Seizures under 2 grams*	522	50%
Cocaine Seizures under 3 grams*	501	69%
Amphetamine Seizures under 1.5 grams*	234	41%

*Threshold amount proposed in the City of Vancouver exemption request

Source <https://vpd.ca/police/assets/pdf/foi/2020/seized-illicit-substances-may-17-2019-to-june-9-20.pdf>

As part of the implementation plan, confiscation data will be improved and monitored to ensure that there are no unintended consequences regarding police interactions with people who use drugs after decriminalization.

Readiness for Decriminalization in Vancouver

The history of Vancouver as a leader in substance-use policy was addressed in the City of Vancouver Preliminary Submission:

- *The Four Pillars Framework for Action: A Four Pillar Approach to Vancouver's Drug Problems Preventing Harm from Psychoactive Substance-use*
- City Council endorsement of the Vienna Declaration in 2010
- *The Mayor's Overdose Emergency Task Force*
- The Vancouver Police Department (VPD) initiatives

The Angus Reid study referenced above demonstrates that there is wide-spread support for a public health approach to substance-use in the Vancouver metro area.

The Vancouver Police Department (VPD) has a long history of being a leading and progressive police agency on substance use. In the early 2000s, following the City's adoption of the Four Pillar Strategy, the VPD revised its policies and procedures related to substance use. In 2003, the VPD was a supportive partner in the opening of the first sanctioned supervised drug injection site in North America. Then, in 2006, the VPD became the first police agency in Canada to cease attending overdose calls as a matter of routine – respecting the potential barrier to accessing health services that can result from having police attend every overdose incident.

In 2017, in response to the emergence of the opioid crisis, the VPD publicly advocated for expanded opioid assisted therapy programs and additional investment in addiction treatment in the report *The Need for Treatment on Demand*. Following up on this report, in 2019, the VPD released its report *A Journey to Hope*, which documents the VPD's progressive actions and its work with health and government partners to combat the harms caused by the ongoing opioid crisis.

In July 2020, City Council also passed a [motion on the decriminalization of poverty](#) that aims to redirect funding currently going to police and the criminal justice system to address issues such as homelessness, sex work, mental health and substance use, towards community-based services that are better equipped to address these systemic issues. The first report to Council on April 2021 included the results of a jurisdictional scan and a plan to engage a panel of community members and organizations in

developing recommendations for de-prioritizing policing as a response to issues related to poverty, including drug use, and investing in community-based initiatives. The City's work in decriminalizing poverty aligns with and supports the goals of decriminalizing substance use and providing supports and services to people who use drugs and who are impacted by the overdose crisis.

In addition, the City has undertaken many initiatives that would support an alternative pathway for people who use drugs (see highlights below). Despite this, many individuals who use drugs do not seek treatment for fear they will be subject to criminal prosecution. Stigma and shame associated with drug use are commonly cited reasons why people choose to hide their drug use and use alone or in non-public places. A [study of British Columbia drug users](#) in 2018 showed that 14% of drug users report stigma/hiding drug use as a reason to use alone.

- Following the announcement of the public health emergency, the City instituted a 0.5% property tax to fund community-based initiatives to respond to the crisis. This included providing an additional medic unit for Fire and Rescue (detailed below), and funding for community non-profit overdose response programs.
- Recently the City installed three temporary washroom trailers to support hygiene services for those who are at high risk of overdose, race- and gender-based violence, other forms of physical violence, and the compounding impacts of health inequities in a dual public health emergency. To increase safety, the bathrooms are monitored by peers from WISH, RainCity Housing and the Overdose Prevention Society, and have overdose response and prevention programs in place. These low barrier employment opportunities for peers also support mental health and wellness for people using substances, including adherence to treatment and access to services.
- Supported Vancouver Coastal Health to launch a mobile overdose prevention van which has operated in the Downtown South and Commercial Broadway areas.
- Worked with the local community to create a short film that promotes the need for decolonized approaches to substance-use and decriminalization in the DTES. (Video: [Downtown Stories](#))
- Allocated funding for a dedicated position at Vancouver Fire Rescue Services (VFRS) to operate the Combined Overdose Response Team. The Captain of Strategic Health Initiatives oversees the Team and other programs designed to reduce overdoses.
- Worked to expand safe supply access, including advocating for changes to prescribing guidelines, especially during the pandemic.
- Provided a City owned space for an Overdose Prevention Site (OPS) in the Downtown South neighbourhood to reduce the risk of people using alone.
- Created a new VCH-funded overdose prevention space at 99 East Pender that will include an existing smoking tent along with overdose prevention response and a washroom trailer.
- Supported two health clinics by developing service access planning and creating a temporary overdose prevention site at St Paul's Hospital.

- Developed an emergency response plan for people with alcohol dependencies in case pubs are forced to close during the pandemic.
- Built on a partnership between VFRS and VCH created in 2019 that connects high-risk users with support services by bridging existing gaps between prehospital, acute, and continuing care.
- Provided naloxone, anti-stigma, harm reduction and cultural safety training to security staff who were working at cooling centres during the summer.
- Developed the Medic 11 program in late 2020, strengthening the ability to provide vital services to vulnerable citizens in the Downtown East Side and Strathcona Park. It allows other fire suppression apparatus to be available for fires, motor vehicle incidents, and rescue calls.
- Continued to develop more supportive housing across Vancouver to ensure that people who are experiencing homelessness can move into safe homes with wraparound services. Every supportive housing building that the City develops is run by an experienced non-profit housing society with staff on-site 24/7 to support residents and manage the building. Residents also have access to life skills training and connections to supports and other services they may need. Since 2017, the City and BC Housing have partnered to create more than 1,000 supportive housing units in Vancouver and recently announced an MOU to create another 450 in the coming years.
- The Vancouver Community Action Team (CAT), co-chaired by the City and Vancouver Coastal Health, represents approximately 25 organizations and people who use drugs who are working on or are affected by the drug poisoning crisis. The CAT, which has received three years of funding from the Province, is working on initiatives to raise awareness of the crisis, destigmatize substance use, advocate for change to drug policy and the addictions treatment system, and support groups who are responding to the crisis. Last year the CAT also issued grants to seven community-based projects. Examples include:
 - SRO Collaborative (SRO-C) received \$12,160 to deliver a pilot project called Uya'am Gaak which will further Indigenize the group's overdose response work in private SROs in the Downtown Eastside (DTES) and South Granville.
 - Street Saviours Outreach Society received \$5,000 to create five short videos documenting the stories of their volunteers with lived experiences. The videos will be shared in high schools and universities to help address stigma and discrimination towards people who use drugs, as well as to challenge the stereotypical narratives of drug use.
 - Metro Vancouver Aboriginal Executive Council and the Urban Indigenous Task Force received \$8,000 to develop a mentorship program that collaborates with Knowledge Keepers and connects them to Indigenous Peer "mentees" with lived experience. Peers will be actively engaged in culturally appropriate teachings and safe spaces to provide a sense of belonging, promote cultural connection and the restoration of identity.

- The Vancouver CAT also collaborated to develop Vancouver's Safe Supply Statement, publicly available on the City's website: <https://vancouver.ca/people-programs/safe-supply-statement.aspx>

The City has a comprehensive range of initiatives to support people who use drugs. The solid foundation of government and health supports, and harm reduction initiatives will help ensure the success of the proposed exemption.

THE VANCOUVER EXEMPTION MODEL

The City recognizes the need to decriminalize substance use effectively and safely. There is a growing body of reports documenting various international models for doing so. The March 1, 2021 submission by the City proposed such a model for Vancouver. The City recognized that thresholds are expected in order to strike a balance between eliminating charges for the personal possession of drugs with addressing public safety concerns associated with individuals possessing large amounts of drugs.

The model is summarized below:

1. Threshold volumes are set, below which adults will not be charged for possession and their drugs will not be confiscated when there is no evidence of drug trafficking.
2. Individuals in possession of a volume of drugs below the threshold may be given a voluntary referral to a health care resource – the VCH Overdose Outreach Team (OOT).
3. The threshold volume is only a floor as police will continue to use their discretion above the threshold to avoid possession charges and divert individuals to the health care pathway.
4. There are no administrative or other penalties for individuals in possession of a volume of drugs below the threshold when there is no evidence of another offence such as trafficking.
5. Thresholds will be guided by on-going surveys of drug use in Vancouver.

The introduction of an exemption model to decriminalize possession of drugs is ground-breaking in Canada. As such, we acknowledge that there may be risks associated with this initiative. Throughout the process of developing the model and setting thresholds, it was clear there are many divergent opinions, concerns and potential risks associated with implementation. To manage this, the City has incorporated into its model three additional components that are described in this third and final submission:

1. A risk registry identifying risks associated with the model and risk mitigation strategies.
2. An Implementation and Evaluation Committee will be created with broad representation to monitor implementation, risks, and outcomes and to advise the City and Health Canada on changes to the model.
3. An evaluation plan that includes short term and long-term indicators of success.

The City of Vancouver is aware, as was clearly articulated in its original Four Pillars approach, that there are many other policy initiatives that are necessary to address the overdose crisis in Vancouver. The proposed model is just one component of a multi-prong approach (e.g., safe supply, housing, income security) that is needed to reduce the potential harms associated with substance use.

EXPECTED IMPACTS AND OUTCOMES

The City of Vancouver Preliminary Submission presented a logic model for decriminalization in Vancouver – shown below. It must be stressed that immediate impacts are more limited than longer-term impacts that will occur from a multi-prong approach to reduction in stigma and improved health and social equity of people who use drugs (PWUD).

Purpose Statement: End the criminalization of people who use drugs for simple possession recognizing that drug use can be potentially harmful

INPUTS	OUTPUTS	OUTCOMES	MID-TERM IMPACTS	LONGER TERM IMPACTS
Section 56(1) Exemption	Schedule of threshold amounts	Reduction in CJS interactions		Reduction in overdose deaths
Set minimum threshold	Guidelines and training	Increase in referrals to health care system	Increased use of police resources on other priorities	Reduced stigma
Support front line decision-makers	Referral resources	Increase in use of safe supply options	Reduction in drug associated public disorder	Reduced problematic substance abuse in population
Provide alternate (i.e. diversion) pathway	Point of access of health care support	Reduction in street level violence		Improved integration of PWUD in social and economic spheres
		Reduction in property crime		

The most immediate anticipated impacts of the Vancouver decriminalization model are:

1. Reduce the reluctance of PWUDs to seek health and social supports for fear that they may encounter criminal sanctions if they reach out for support.
2. Reduce possession charges and seizures of drugs intended for personal use to prevent harms such as property crime, survival sex work, withdrawal, drug debts, and unsafe purchases created by efforts to replace seized drugs and prevent withdrawal.
3. Improve health care connections for people at risk of overdose by referring them to an Overdose Outreach Team (OOT).
4. Increase public understanding that substance use is not criminal in nature.

Performance measures for these have been incorporated into the evaluation plan presented later in this submission.

As noted earlier, a risk registry has been developed to identify risks and mitigation strategies. This will be closely monitored as part of the evaluation. Several indicators associated with items in the risk registry are shown below. The full risk register is included later in this submission.

Risk Issue	Measures
May encourage substance use with removal of criminal deterrent	Overall rates of substance use Substance use among youth
Poor uptake of voluntary referrals	Increased referrals to OOT
May encourage people to shift drug patterns to align with drugs defined by the threshold	Drug use reported by users Drugs implicated in overdoses
May encourage consumption of drugs in public space	Complaints and perceptions of public drug use
A threshold that is set below typical drug use patterns could leave those with the highest levels of substance use (and most at risk of harm) subject to drug seizures and police discretion	Drug seizures and drug charges
Inequitable application of threshold by race, gender, ethnicity, age, sexual orientation Inequitable use of discretion with people found to be in possession for personal use above threshold amounts	Profile of drug related arrests and charges for possession
Insufficient capacity to accept all referrals to health	Wait times and waitlists for OOT Perception of access to OOT

Sources for this data include VCH program statistics, Vancouver Police Department PRIME data, longitudinal surveys of local PWUDs, and focus groups with PWUDs. These are detailed in the Evaluation Plan section of this submission.

Currently, Canada has no domestic examples of decriminalization to guide the model to be implemented in Vancouver. Success in creating the desired impacts and outcomes depends on the on-going monitoring and evaluation of the model, and a close working relationship with local and provincial health partners, drug users, drug policy advocates, justice system and Health Canada. Vancouver will create a decriminalization Implementation and Evaluation Committee initially reporting to the current project Oversight Group composed of the City Manager, the City's General Manager of Arts, Culture and Community Services, the Chief Medical Health Officer of Vancouver Coastal Health and the Chief of the Vancouver Police Department. A final make-up of the Committee will be reviewed. This Committee will meet regularly with a mandate to monitor and evaluate the impact of decriminalization in Vancouver.

The Committee's key objectives are listed below:

Evaluation

1. Provide guidance to the evaluation team on performance measures and information requirements including advice on questions to be included in surveys.
2. Advise the City on data collection necessary to measure impacts of decriminalization on PWUD's and others, with a focus on equity.
3. Review relevant data collected from VPD related to key performance indicators such as possession charges, trafficking charges, drug seizures.
4. Review data from the Overdose Outreach Team on number of referrals, program outcomes, capacity issues and patient experience.
5. Discuss findings of the evaluation process and report on progress towards the performance measures set out for the Vancouver decriminalization model.

Implementation

1. Facilitate the development and implementation of policies and procedures which support the safe and equitable implementation of the decriminalization model in Vancouver.
2. Identify issues arising from the evaluation for the City, VCH, VPD, and/or other stakeholders.
3. Maintain a risk registry related to implementation of the model.
4. Identify strategies for consideration by the City, VCH and VPD and others to respond to concerns raised by key organizations and PWUD's as identified through the Vancouver Community Action Team (e.g., focus groups).
5. Provide regular updates to Health Canada.
6. Recommend potential improvements to the decriminalization model.

The Committee will be made up of experts and key stakeholders involved in implementation, including people with lived experience. Indigenous organizations will also be represented on the Committee, recognizing the disproportionate burden that criminalization presents for Indigenous people.

THRESHOLDS

The City of Vancouver was advised by Health Canada to set thresholds for its decriminalization proposal. The initial focus was on setting thresholds for the drugs commonly found to be involved in illicit drug toxicity deaths reported by the BC Coroner's Service: opioids; powder cocaine, crack cocaine and amphetamines.

Opioids, Powder Cocaine, Crack Cocaine, and Amphetamines

Several principles guided the threshold setting for these drugs.

- Thresholds will be binding to reduce police discretion (no arrests, drug seizures or administrative penalties) for personal possession below the threshold where there is no evidence of trafficking.
- Thresholds will be a floor such that above the threshold the police and the justice system are guided, as is the case now, by explicit guidelines that seek to avoid criminalizing people who possess drugs for personal consumption.
- Thresholds will be informed as much as possible by local research regarding drug use and drug possession patterns (using longitudinal studies in Vancouver).
- Threshold amounts will be sufficiently high to provide significant coverage of personal drug use.
- The volume set as a personal use threshold should account for a multiple day supply of drugs.

The full method for arriving at proposed thresholds for heroin, powder cocaine, crack cocaine and amphetamines is included in the City of Vancouver April 8 submission along with the limitations associated with the approach. Three longitudinal studies that collect information from drug users in Vancouver on their drug use are a central feature of the method. A major concern with the method is the time period of the data collection, which only reflects use patterns up to the end of 2018. Personal use reports from the studies lag changes that have likely occurred in drug use due to increase toxicity, changing drug tolerance, and drug use patterns in the community. Because of this and other limitations, the City is committed to monitoring the thresholds and reviewing them as better data and an evaluation of the impacts of the proposed thresholds become available.

Establishing thresholds means that there will be some individuals who remain at risk of criminalization because their drug use exceeds the thresholds. The City's proposed model establishes the thresholds as a floor and the goal is to avoid criminal charges for possession for those above the threshold as well. The guidelines established by the Public Prosecution Service of Canada offer an additional layer for considering decriminalization in relation to those who may possess drugs for personal use above the threshold. These guidelines stipulate that criminal sanctions are intended for the most serious public safety concerns and alternative measures and diversion from the criminal justice system should be pursued for simple possession cases. They reinforce the understanding of the police and prosecutors that criminal sanctions, as a primary response, have a limited effectiveness as a deterrence and as a means of addressing public safety concerns given the harmful effects of criminal records and short periods of incarceration.

The on-going longitudinal studies provide a sound basis to re-examine the validity of the threshold volumes over time. In addition, a comprehensive risk registry was developed to monitor the potential risks associated with these thresholds and recommend adjustments. Key indicators on the potential outcomes associated with the introduction of thresholds as a floor will also be built into the evaluation of the City of Vancouver decriminalization model.

The City of Vancouver's proposed thresholds submitted on April 8, 2021 are shown in the table below. The table presents the recommended volumes for possession of these drugs for personal use below

which individuals will not be arrested, charged or have these drugs confiscated when there is no evidence of trafficking.

Substance	Proposed Threshold Volume
Opioids*	2 grams
Cocaine	3 grams
Crack Cocaine	10 rocks** (1 gram)
Amphetamine	1.5 grams

*Opioids = heroin, fentanyl, and other powder street opioids; **1 rock = one point, 0.1

Additional Thresholds

Following the development of these thresholds, consideration was given to other drugs that might require thresholds. This submission focuses on two additional categories of drugs:

- Prescription drugs diverted to the illegal market
- Drugs used more intermittently such as hallucinogens/psychedelics sometimes termed “party drugs”.

Three considerations are important for these drug thresholds:

- Consistency in approach with the first group of drugs (e.g., broad coverage of different users; multiple day/use supply)
- Caution to avoid incentivizing drug users to migrate to substances associated with greater harms and risks
- Simplicity to communicate the threshold to a wide range of audiences

Thresholds for Diverted Prescription Drugs

It is not uncommon for medication prescribed for substance use disorders to be diverted to the illegal drug market. Large quantities of prescription drugs pose a considerable risk of death, particularly when mixed (e.g. consuming benzodiazepines with opioids). Compared to illicitly manufactured street drugs, the risks of drug toxicity death is lower for pharmaceutical drugs where the content, purity, and dose of the substance is known to the user. Threshold levels for pharmaceutical drugs should therefore be high enough that they can represent a disincentive for people to consume toxic street drugs.

Unfortunately, there is a lack of systematic local survey data collected on drug use patterns for illicitly obtained prescription drugs. The proposed thresholds for the possession of diverted pharmaceutical drugs are based on a survey of local addiction physicians and Vancouver Coastal Health addictions program staff who are familiar with the range of medication amounts commonly prescribed. These clinicians provided information on daily prescribing practices for substance use disorders and the dispensation of prescriptions (i.e., daily pick-ups, carries). This information was used to generate an estimate of what people may possess for purposes of personal use. Risks associated with diversion, including the potential for medications to be diverted to individuals with low tolerance, were identified and have been incorporated into the risk register.

The proposed thresholds are shown in the table below.

Substance	Proposed Threshold
Dilaudid	2g
Kadian	7.5g
M-eslon	7.5g
Oxycodone	2g
Methadone liquid	1g
Suboxone	120mg
Clonazepam	80mg
Diazepam	400mg
Ativan	80mg
Prescription stimulants	500mg

As with the first thresholds proposed for opioids, powder cocaine, crack cocaine and amphetamines, the City of Vancouver requests that individuals found with amounts of these drugs under the threshold without a valid prescription from a medical practitioner be exempt from Section 4(1). of the CDSA.

Psychedelics, and Event Drugs

The City of Vancouver considered thresholds for drugs that can be categorized as hallucinogens or psychedelics and are listed in the schedules to the CDSA. These drugs are sometimes referred to as “party drugs”. They tend to be used for recreational purposes. There is little systematically collected evidence available regarding public safety issues associated with illegal use (i.e., minimal drug seizures, overdoses, addiction).

Two sources of information were used to help inform consumption patterns for these drugs: anecdotal information from individuals and organizations knowledgeable about use of hallucinogens/psychedelics and the EROWID database of psychoactive drugs². Because adequate local data is not available, thresholds established recently in Oregon were also considered recognizing that the first round of thresholds established for Vancouver are higher than Oregon.

Potential risks associated with these drugs were discussed with Vancouver Coastal Health and the Vancouver Police Department. There are some overdose risks associated with these drugs, particularly in the case of GHB, which is often self administered, but has also been known to be used in cases of sexual assault. The latter risk is not likely to be pre-emptively dealt with through possession charges and police do not think this issue will be affected by establishing thresholds for personal use. The thresholds selected tried to balance what was known about typical dosage and patterns of use while not

² This latter database was recommended by the Multidisciplinary Association for Psychedelic Studies (MAPS) Canada. MAPS Canada is a non-profit organization committed to planning, conducting and publishing scientific research and education on the beneficial uses of psychedelic medicines.

incentivizing use of riskier substances with higher thresholds. The potential risks for overdoses and other public safety issues associated with these thresholds will be closely monitored.

The following table specifies the proposed thresholds for consideration by Health Canada.

SUBSTANCE	PROPOSED THRESHOLD
MDMA	2g
LSD	30 units
Psilocybin Mushrooms	20g
Ketamine	3g
GHB	5g

As with the first thresholds proposed for opioids, cocaine, crack cocaine and amphetamines, the City of Vancouver requests that individuals found with amounts of these drugs under the threshold be exempt from Section 4(1) of the CDSA.

HEALTH CARE PATHWAY

One of the main objectives of the City's application is to decrease stigma associated with substance use and encourage diversion of people at risk of overdose from the criminal justice system and towards appropriate health and social supports. The March 1 submission describes the alternate pathway designed to support the exemption. This entails the option for voluntary referral by police to the VCH Overdose Outreach Team (OOT) when they encounter a person with a quantity of drugs below the threshold who desires treatment or supports. The protocol will be for the police to give a business card with contact information to the person rather than apprehending them for possession or seizing their drugs. VCH has expanded its OOT capacity and hours to facilitate access to this service. If an individual is apprehended for an offence unrelated to drug possession but is found to have drugs below the threshold, these drugs will be held by the VPD pending the release of the individual.

Above the threshold amount, police will continue to have discretion and be encouraged to divert individuals found with a quantity of drugs above the threshold to the health care pathway. The Vancouver Police Department currently makes efforts to divert people they apprehend to substance use programs and avoids charging individuals for simple possession of drugs.

Opioid use disorder (OUD) is a chronic, long-term, relapsing condition requiring long-term multi-faceted treatment and support. Capacity building across the system of care needs to be done to support people to access support when they most need it, and to remain engaged in treatment over the long-term. To respond to the immediate risk of overdose, Vancouver Coastal Health is striving to ensure that individuals at high risk of overdose have access to low barrier, responsive pathways into the system of care. This includes the development of a dedicated outreach team, along with rapid access to treatment, and the on-going development of new and novel forms of opioid agonist treatment (OAT) to support people at risk, including programs that offer safer forms of pharmaceutical-grade opioids to people who rely on the dangerous, illegal supply.

VCH is expanding its OOT capacity and has a comprehensive range of wrap around services to support individuals accessing the health system through the Overdose Outreach Team. The following outlines the current state of health system readiness to accept new patients, describing the different treatment and pharmaceutical alternative options to the poisoned drug supply available locally in Vancouver, and the outreach supports in place to facilitate referrals and retention to these services.

Overdose Outreach Team (OOT) Model and Capacity

Operating since May 2017, the OOT's mission is to promote the well-being of people who use drugs by providing navigation and linkage services in a trauma-informed, culturally safe way in order to simplify access to substance use care, supports and resources. The team serves people who have recently experienced an overdose or who are at high risk of an overdose. The goal is to connect with those who are not connected to care and provide support to people attempting to navigate substance use services, including access to OAT, referrals to withdrawal management services (e.g. home and bed-based detox), referrals to recovery services, and counselling. In addition, the team works to reduce harms for people who are not ready to enter treatment by connecting individuals with primary care and programs offering pharmaceutical alternatives to the toxic drug supply, connections to overdose prevention services and overdose prevention education. The OOT also supports people with core interventions to address determinants of health including income assistance/disability applications, housing referrals, and support to access various other healthcare and social services.

The OOT is comprised of peer support specialists, outreach workers, social workers, nurses, and nurse practitioners. Across the region, the OOT has approximately 24 fulltime outreach staff and is expected to grow to approximately 29 by the end of 2021. In 2020, the OOT received 2700 referrals in Vancouver, the majority coming from emergency departments, supportive housing providers, primary care, or self/family referral. Under the overdose emergency provincial public health order, automated referrals to OOT occur from the region's emergency departments for anyone treated for overdose, along with referrals from first responders, inpatient hospital units, primary care clinics, mental health teams, substance use services, housing and social service providers, and family and friends.

In 2018, OOT and the Vancouver Police Department established a formal referral pathway to OOT from the VPD. As a part of the City of Vancouver's section 56(1) exemption for decriminalization, OOT would continue to work with the VPD to increase referral volumes. In addition to accepting referrals from the VPD, VCH is working to establish a new social worker position dedicated to supporting justice system stakeholders to implement appropriate, voluntary diversion plans for individuals charged with minor crimes related to struggles with substance use. The new position will work out of the local provincial courthouse at 222 Main Street in Vancouver's Downtown Eastside.

The OOT has the capacity to receive a potential influx of new clients via Vancouver Police Department referral should the City receive a section 56(1) exemption from the CDSA to decriminalize personal possession. OOT has identified a staff position to take the lead on new referrals as part of a potential pilot project and will work to maximize the system of care toward meeting client goals. OOT is an appropriate diversion mechanism for individuals at risk of overdose, and the team welcomes increased voluntary referrals. The capacity within the broader system to receive and robustly support clients, however, will need to be closely monitored as part of any pilot initiative. It will be important to continue to build access and capacity across the continuum of treatment services to ensure that individuals can

receive timely and sustainable care that is appropriate to their needs. OOT's work to connect individuals to appropriate services will provide vital data on system pressure points.

Rapid Access to Treatment

People who are struggling with substance use disorders require timely, low-barrier access to evidence-based treatment, and this has been a cornerstone of VCH's approach for several years. Patients access these services on a walk-in basis and can sometimes be seen and begin treatment on the same day. People can self-refer or be referred by their primary care provider if that provider is not comfortable treating substance use disorders. Once stabilized, those patients often return to their primary care provider who will continue treatment. Examples of this type of service includes Downtown Eastside Connections and the Rapid Access Addiction Clinic at St. Paul's Hospital.

Oral Opioid Agonist Treatment (OAT)

The continuum of care for Opioid Use Disorder (OUD) includes pharmacological (oral and injectable OAT) and non-pharmacological (e.g. psychosocial, cultural healing and wellness) treatment interventions and supports. Opioid Agonist Treatments have proved to be the most effective approach to supporting abstinence from illegal or non-medical opioid use. Medications used for oral OAT include suboxone (buprenorphine/naloxone), methadone, and slow-release oral morphine (SROM). However, there are known limitations to these first-line medications, including intolerance, side effects and long-term retention in treatment.

Injectable Opioid Agonist Treatment (iOAT)

Patients may not benefit from oral OAT medications for several reasons, including persistent cravings and the inability to reach a therapeutic dose. Research shows that many of these patients can benefit from injectable OAT. The primary goal of iOAT is to reduce the risk of overdose and other harms associated with ongoing injection drug use, and improving the overall health and well-being of the individual. Currently there are 7 iOAT programs operating in Vancouver, able to serve approximately 300 individuals. Approximately 90-95% of those spots are filled at any time.

iOAT is offered at the following sites:

- Crosstown Clinic
- Downtown Community Health Clinic
- Kilala Lelum (Urban Indigenous Health and Healing Cooperative)
- Molson iOAT program
- Insite
- Hope to Health Clinic
- Dr. Peter Centre

Eligibility criteria and service delivery models vary from site to site, with some providing iOAT exclusively, and others also offering primary care and other services to participants.

Safer Supply

Some individuals with OUD will benefit from access to oral OAT options exclusively. Higher potency and pharmaceutical alternatives to the illegal supply are also required as a treatment option for others who may not fully benefit from less intensive treatment options.

In general, safer supply programs should include low barrier access to regulated, pharmaceutical-grade opioids for consumption in a variety of settings, and methods of ingestion, and should be accessible to all those who would otherwise access the illegal supply.

Access to pharmaceutical alternatives to the poisoned drug supply such as methadone, slow release oral morphine, hydromorphone or diacetylmorphine still require a prescription from a physician or nurse practitioner.

Safer supply programs are currently offered in a variety of settings by a range of service providers in Vancouver.

Novel Safer Supply Options:

Oral Hydromorphone for Injection - Tablet Based Injectable Opioid Agonist Therapy (TiOAT)

Pioneered by the PHS Community Services Society in partnership with VCH and the BC Ministry of Health, Tablet Injectable Opioid Agonist Therapy (TiOAT) provides participants with prescription hydromorphone tablets which they may crush, cook and inject. Participants may choose to consume their tablets on site, or take their daily doses as carries. The goal of the program is to bring stability to participants, reduce the harms associated with illegal drug use, and improve day-to-day functioning.

TiOAT programs include the Molson TiOAT program, a program at St. Paul's Hospital, and an emerging program at Insite supervised consumption site.

SAFER (Safer Alternatives for an Emergency Response)

SAFER is a new, Health Canada funded program with the mandate to introduce an evidence-generating model of flexible care focused on access to pharmaceutical alternatives currently not available in existing OAT or IOAT programs. SAFER aims to introduce primarily fentanyl options for safer supply, recognizing that higher potency options are needed to adequately meet the needs of some individuals to reduce their severe risk of overdose and death. The program will launch in spring 2021. At full capacity, SAFER will be able to support between 150-200 participants in Vancouver's DTES.

Key Future Investments

The 2021/22 provincial government budget also provided additional funding for several new and expanding initiatives, including, but not limited to:

- Increased withdrawal management capacity: inpatient detox redesign, and additional supports to address complex patients through increased bed capacity; new funding for youth detox options; increased capacity for virtual care for outpatient and home-based detox
- Increased supportive recovery treatment capacity, including more funding for publicly accessible beds in the VCH region
- Increased funding for concurrent disorder clinicians for Foundry centres
- Support to increase OAT prescribing
- Contingency management programming for people with stimulant use disorders.

RISK REGISTRY

The City of Vancouver understands that decriminalizing drug possession charges is controversial to some and comes with a variety of potential risks. However, it is an opportunity to demonstrate the value of a public health approach to substance use and begin the process of creating a comprehensive model for reducing the harms associated with problematic substance use. The City has attempted to be prudent in its application and rigorous in identifying the challenges and risks entailed with this important change to long standing public policy.

An important component of the Vancouver model is the risk registry. The risk registry will act as a foundation for the on-going monitoring and course corrections that may be needed to manage and mitigate risks but also to improve and inform public policy makers. The risk registry presented below is a snapshot of what will become a "live" document maintained and updated as implementation proceeds. It will also form the basis for parts of the comprehensive evaluation of the model. The version that will be implemented will include timelines for item reviews.

Potential Risk	Rating Considerations	Plan of Action to Limit Risk Exposure
Uncertainty over practical meaning of a threshold floor may lead to continuation of status quo (e.g., using alone for fear of arrest; seizure of drugs below threshold)	<p>As with any new initiative, there will be some initial information and perception barriers</p> <p>Communications strategies must be tailored to PWUD, frontline VPD officers, and health and social service workers</p>	<p>Extensive plain-language communication about the changes including an awareness campaign through social media</p> <p>Key messages to be developed with drug-user community and advocacy organizations who work with PWUDs</p> <p>Police guidelines and training will occur to ensure frontline officers understand the thresholds and how they will work in practice</p> <p>Materials will be translated into several different languages, reflecting Vancouver's diverse population of PWUD</p> <p>Monitor FAQ's and update materials over time</p>
A threshold that is set below typical drug use patterns could leave those with the most serious substance use challenges subject to drug seizures and police discretion	Police recognize the need for health care response to substance use and accept the importance of diversion	Monitor drug seizures and drug charges
Failure to adequately engage PWUDs in design of model could lead to failure to identify best policies and potential risks	The Revised Working Group and the proposed Implementation and Evaluation Committee will involve people with lived experience	PWUD's will be engaged in risk analysis
The difficulty to create thresholds for all drugs under CDSA may encourage people to shift to more risky drugs defined by thresholds	People use for example psychedelic substances for a variety of reasons but are unlikely to migrate use to substances listed in the City's exemption	<p>Monitoring of types of drugs in use in Vancouver by the Decriminalization Implementation and Evaluation Group</p> <p>Continuous improvement of threshold setting in collaboration with Health Canada</p> <p>Work to identify key substances to add to the threshold list, using all</p>

		available data regarding patterns of use
Prescription pills being diverted to the illegal market more frequently	Pills are a safer supply but caution still needed for risks associated with them	Monitor
Diverted prescription medication becoming more available to people who use drugs recreationally	Pills have known purity and quantity, so are unlikely to present the same degree of risk as illicit substances	Monitor
Increase of non-voluntary use of “party drugs” (e.g., date rape)	This relates to other criminal charges and not possession	Monitor
Removal of criminal deterrent could encourage increased substance use by some	<p>No evidence that criminalizing drug use has been a deterrent</p> <p>There are multiple variables at play in determining population-level patterns of substance use (e.g., adverse childhood events, trauma, poverty, employment rates, etc.). Decriminalization is unlikely to contribute to increased substance use in Vancouver.</p>	<p>Work with BC Ministry of Mental Health and Addictions to support prevention and health promotion strategies</p> <p>Continue to monitor rates of addition through the BC Centre for Excellence in HIV/AIDS Cascade of Care data, which contains estimates of population-level prevalence of substance use disorders.</p> <p>VCH plans to include “illicit substance use” as an ongoing indicator in its “My Health, My Community” population health survey. This will allow for a baseline indicator to be established in 2021, with ongoing monitoring from that point.</p>
Poor uptake of voluntary referrals could limit impact on reducing harms associated with substance use, such as overdose death	<p>No evidence available yet to assess this risk</p> <p>The VPD and VCH, and the other members of the Implementation Committee, will monitor referral numbers and will actively seek to ways of ensuring PWUDs understand the myriad of health services that are available</p>	<p>Ensure easy access to OOT by expanding services</p> <p>Keep community, service providers, first responders, and PWUD well informed of OOT access and service</p> <p>Monitor OOT performance measures</p> <p>VCH to continue to scale up access to low-barrier Opioid Agonist Treatments (including injectable options) and Safe Supply initiatives (see health system capacity)</p>

A high threshold could allow those trafficking to disguise their intentions and make it more difficult for police to investigate trafficking	Trafficking at any amount, even amounts below the threshold, remains illegal	VPD data on trafficking incidents and suspected trafficking incidents will be tracked
Threshold could be perceived incorrectly as suggesting that use of drugs under threshold is safe (especially dangerous for youth and/or people with low tolerance)	Experience in other jurisdictions does not suggest that this is likely to occur	<p>Continue to educate public about the nature and causes of the public health emergency related to overdose deaths in BC</p> <p>Continue to promote provincial “STOP overdose campaign”</p> <p>Continue to scale up naloxone training and distribution, overdose prevention services, and OAT</p>
PWUDs could relocate to Vancouver to avoid criminal prosecution in their home jurisdiction	<p>Data regarding intra/inter-provincial migration for health service utilization does not bare out these kinds of assumptions</p> <p>The population targeted by the exemption is not highly mobile</p> <p>Recent changes to federal drug charging policy, which makes criminal charges unlikely in the vast majority of cases involving personal possession amounts, and the implementation of new diversion and support programs in communities outside Vancouver might allow people to find safety and supports rather than re-locating</p>	The VPD has frequently assessed the percentage of its total interactions with persons from outside of Vancouver. This data provides a strong baseline for assessing any potential changes in this regard
Setting the thresholds at a three-days worth of supply could lead to increased drug trafficking as individuals may opt to buy substances more frequently, in smaller amounts, to avoid criminal charges	<p>There are a number of factors that PWUD take into account when purchasing substances, including availability of funds, preferred drug dealer, geography, etc.</p> <p>The thresholds represent a floor, not a ceiling. Officers will still be able to use discretion, as they</p>	VPD data of trafficking incidents, even where charges are not pursued, to monitor the number of trafficking incidents that occur before and after the exemption

	can now, if they believe that an individual is in possession above the threshold, but for personal use	
People who are homeless may be discriminated by the approach as they have to always carry drugs on them and thus may have more than the proposed thresholds while others can store a supply of drugs elsewhere	Assess degree of concern through data collection	Monitor
Unnecessary referrals could put strain on health care response	<p>The volume of referrals is not expected to be large in number initially and will be completely voluntary.</p> <p>The OOT are experts at screening and assessment to help ensure referrals are appropriate</p>	VCH has expanded capacity of OOT and will be prepared to increase capacity if needed
Police referrals could be perceived as mandatory or coercive	<p>The referral process will be very unobtrusive.</p> <p>The VPD referring persons it encounters who use drugs is analogous to its current common practice of referring persons to community counselling and victim services. These refers are entirely voluntary and are made in the best interest of the persons officers encounter</p>	<p>Police training and guidelines will address this issue</p> <p>The OOT will monitor client experiences, offering feedback to the VPD if referrals are perceived to be coercive</p> <p>The OOT will ensure that clients understand that all referrals to care are entirely voluntary in nature and intent</p>
Difficulty in assessing threshold amount may lead to confrontations between police and PWUDs		<p>Simple processes for assessing volumes will be built in to police training. This issue will be addressed in Q and A material distributed widely to drug user and advocate organizations</p> <p>Thresholds will represent a floor, not a ceiling, so there will be some ability for officers to be flexible when</p>

		determining if an amount is under the threshold, or slightly over.
Difficult to make accurate assessment of volume		<p>As above, continuous improvement of threshold setting in collaboration with Health Canada</p> <p>This can also be assessed in the evaluation.</p>
Inequitable application of threshold by race, gender, minority population, colour, sexual orientation	Possession for simple possession below the threshold amount removes police discretion, which is expected to result in equitable application of the exemption	Indigenous organizations and people with lived experience will be represented on the Implementation and Evaluation Committee to identify any gaps, issues, or inequities in application of the exemption
If there is insufficient capacity to respond to referrals, prospective clients may continue to experience harms associated with substance use	This is not a risk unique to the decriminalization initiative	<p>The Province and VCH have expanded and continue to expand harm reduction and addictions treatment services.</p> <p>VCH continues to expand OOT and is confident in its ability to accept increased referrals from the VPD</p>
Effectiveness of health care response could be undermined if clients encounter systemic racism in attempting to access treatment and supports	There have been reports of systemic racism in the health care system	<p>The OOT pledges to practice in ways that are trauma-informed and culturally safe at all times.</p> <p>The VCH Aboriginal Health Department continues to provide training and guidance in assisting VCH to implement the recommendations of the <i>In Plain Sight</i> report, which “target immediate, principled and comprehensive efforts to eliminate all forms of prejudice and discrimination against Indigenous peoples in the B.C. health care system”.</p>
More caseload for health system could lead to more demands and strain on peer workers	Peers are often used for front line support. It is not clear that increased referrals to OOT would affect demand for peer workers	<p>Support and possibly monitor need for added funding</p> <p>Consider adding survey questions specifically for peers in the evaluation</p>

Legislators will not support Vancouver's exemption request if there is a possibility it contravenes Canada's International Commitments	Initial assessment is that the City of Vancouver model complies with international commitments	City will discuss with Health Canada and adjust if needed.
Police may exceed authority in collecting/storing referral information	<p>Police are well trained in their responsibility for collecting information and privacy of those they interact with</p> <p>Most frequently OOT referrals will involve officers handing out contact information for the team</p>	<p>Will be addressed in police guidelines</p> <p>Police identifying someone possessing drugs is expected to occur when the police have contact with someone for an unrelated offence. In such instances, the recording of police actions is entirely appropriate and lawful</p> <p>Electronic health records are subject to provincial privacy laws</p>
May be confusion on whether the exemption applies to youth	<p>Communication has been explicit that model does not apply to youth</p> <p>Existing provincial legislation ensures that youth who use drugs are diverted to appropriate health and social supports.</p> <p>The Youth Criminal Justice Act already takes a strong stance towards not criminalizing youth and only doing so in extreme cases (i.e. not for offences such as simple drug possession)</p>	Meetings with Ministry of Children and Youth to ensure any additional risks are identified and managed.
May be requests to expunge previous criminal records that affect people's lives including child removals	<p>Not expected in short term</p> <p>This is an issue to be addressed by Federal government</p>	Further review of the issue is needed perhaps examining history with cannabis legal framework
Support for the approach could be affected if there is a perception that it will encourage consumption of drugs in public space	The exemption sought seeks to decriminalize personal possession of drugs. It does not permit or facilitate open drug use in public.	<p>City is engaging with Business Improvement Associations and Community Policing offices about the initiative.</p> <p>Evaluation information will be collected from these groups.</p>

The City will consider monitoring complaint related to public substance use through its 311 system.

The VPD will also track calls related to open drug use.

City could request addition of other drugs to provincial legislation restricting public consumption of cannabis.

COMMUNITY ENGAGEMENT

As part of the development of the submission to Health Canada, the City has undertaken an engagement process to inform and involve a range of stakeholders, especially those who are most affected. This section provides a summary of the City's roundtables organized to provide feedback on Vancouver's preliminary submissions to Health Canada for a Section 56(1) exemption to decriminalize the simple possession of drugs.

Community organizations, PWUD's and advocates have informed the City of Vancouver's approach to drug policy for years, including the proposed exemption model for decriminalization. The City regularly hears from community through a range of engagement activities such as the Vancouver Community Action Team, related work on poverty reduction, sex worker safety, the Murdered and Missing Women and Girls Inquiry, and other social development initiatives.

The groups that have taken part in the engagement roundtables have generally expressed support for decriminalization. They have shared valuable insights on the criminalization of simple drug possession that align with and expand upon the findings of numerous evidence-based studies that were reviewed in developing the City's submissions. It is important to note that some groups and individuals have felt excluded from the decision-making process. There have also been mixed feelings on whether the proposed model will be able to achieve the intended outcomes as described above.

Recognizing these concerns, careful monitoring and evaluation will take place as the model is implemented, including ongoing information sharing and engagement work to solicit feedback from the community. There will be formal representation from community groups and people with lived and living experience on the proposed Implementation and Evaluation Committee, and information and new evidence gathered through this process will be used to identify risk mitigation strategies.

The City of Vancouver's initiative to decriminalize personal possession is part of a comprehensive approach to address social issues in Vancouver. Two related activities described earlier in the submission provide additional on-going opportunities for public engagement on substance use: the Community Action Team and the Decriminalization of Poverty initiative

Roundtable Discussions

The facilitated roundtable discussions listed below were held to gather perspectives on the City's model for an exemption for simple drug possession. The roundtables attempted to reach a broad cross section of people with lived experience, and some key organizations engaged in the Community Action Team.

- Community Action Team Peer members
- Community Action Team Partner organization
- Community Action Team Indigenous partners
- Black and African diaspora community
- Sex workers
- Community policing
- Business Improvement Associations
- Vancouver Area Network of Drug Users (VANDU)

Future roundtables will be held with the Chinese Canadian community and youth.

Summary of Findings

The summary of the engagement sessions is presented in Appendix D. It is organized by crosscutting themes and themes specific to the different groups. These statements represent the views expressed by participants and provide a rich source of information to help inform the on-going work to address substance use issues.

The roundtable discussions highlighted certain themes that have also been raised through other engagement activities including meetings with key stakeholders, letters to the City regarding the initiative and meetings of the City's Decriminalization Working Group. The City has made note of these and attempted to address them in the model design. Several key issues and how the City is responding to them are noted below.

Thresholds

A major concern was that the proposed thresholds are low and do not accurately represent current consumption patterns. It was stressed that the drug supply and consumption patterns change, and thresholds need to account for this. The City of Vancouver model incorporates an on-going process for monitoring and evaluation that includes reviewing thresholds for possession as more current data and experience with the model evolves.

Role of the Police

The central role of the police in developing the exemption model was a concern raised especially by those with lived experience of substance use. To help address this, the City expanded its decriminalization Working Group although concerns continue to be expressed. The proposed Implementation and Evaluation Committee that will be instrumental in the implementation of the Vancouver model will include representatives from the community and people with lived and living experience.

Investment in community-led safety approaches

There was a strong emphasis on the need for community-based, grassroots organizations to receive funding and play a central role in moving forward. It was felt these groups would be in a better position to respond to community needs than the police in many situations. In the coming months, the City's Decriminalization of Poverty Initiative will be inviting the community to submit ideas for community-based programs and developing a community engagement process. Recommendations will be generated through an arm's length Community Panel comprised of community members with diverse expertise and backgrounds.

Existing Barriers to Services

Concern was expressed over the capacity to meet an increase in demand for health services that may result from the Vancouver exemption. Vancouver Coastal Health, with funding from the provincial

government, has significantly increased its capacity in addictions services. A wide range of wrap around services will be available to support the Vancouver decriminalization model.

Community Engagement and Communication

Concern was expressed that drug users themselves were not represented in the formal process to design the model. The City of Vancouver is extensively informed by several community engagement initiatives over many years as documented earlier in this submission. As well, the Working Group preparing the submission was expanded to include community members and the proposed Implementation and Evaluation Committee includes representatives from community groups and people who use drugs.

Safe Supply

Participants stressed the importance of ensuring safe substances are available and affordable. Safe supply initiatives are being pursued but are not addressed in this submission.

Next Steps

To effectively implement an approach to decriminalize drug possession for personal use, the City of Vancouver is committed to continuing its proactive public consultation and engagement. Community groups will also be meaningfully involved in the implementation of the model through participation on the Implementation and Evaluation Committee and through regular opportunities for information sharing and feedback.

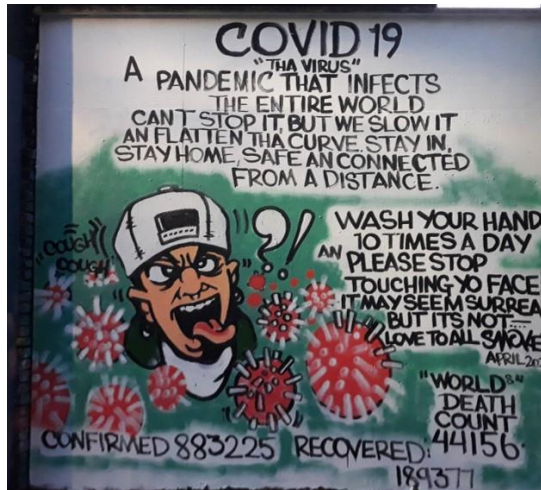
COMMUNICATION and IMPLEMENTATION

As evidenced throughout this document, the City of Vancouver and its partners have demonstrated leadership and capacity to implement an exemption to the CDSA. The City and its partners are prepared to proceed and will put in place policies, guidelines, and strategies for successful implementation once Health Canada provides approval to proceed. The following two examples demonstrate the type of approach that can be used to support implementation in the areas of communication and policy.

Communications

The City will need to communicate to people who use drugs about the changes and what the new model means to them. The City would take a multilingual, community centred approach to communications, similar to that used to provide COVID-19 public health information to marginalized residents in the early stages of the pandemic. In addition to replicating materials that were successful during COVID-19, the strategy would draw on familiar formats that are already used within the target community such as the 'Know Your Rights' cards designed by Pivot Legal Society and the Tenant Overdose Response Organizers (TORO)'s 'Little Health Dictionary'.

Examples of materials are provided below:



HỖ TRỢ THU NHẬP TRONG SUỐT DỊCH COVID-19		
Thông tin về nơi bạn có thể lãnh tiền và rút tiền hỗ trợ thu nhập của bạn dưới đây. Do COVID-19, chỗ lãnh tiền thường ngày của bạn có thể bị đóng.		
Nơi để lãnh tiền hỗ trợ thu nhập của bạn Các văn phòng hỗ trợ việc làm và thu nhập của BC mở cửa từ thứ Hai đến thứ Sáu, từ 9 giờ sáng đến 4 giờ chiều (đóng cửa từ 12:00 giờ trưa đến 1:00 giờ trưa ngoại trừ có vấn đề về sức vào ngày thứ Tư). Địa điểm bao gồm:		
<ul style="list-style-type: none"> Dockside 180 Main Street Strathcona 687 Powell Street Kiwassa 205 Powell Street Grandview 2350 Commercial Drive West End 2nd Floor 1725 Robson Street Mountainview 300-5550 Fraser Street 		
Thanh toán séc của bạn ở đâu		
Pigeon Park Savings No ID needed No registration fee	92 E Hastings St	Thứ Hai, thứ Ba, thứ Năm : từ 11 giờ sáng đến 4 giờ chiều Thứ tư: từ 11:00 giờ sáng đến 5:00 giờ chiều Thứ sáu: từ 12:00 giờ trưa đến 6:00 giờ chiều
TD Canada Trust	450 Main St	Từ thứ Hai đến thứ Sáu: từ 10:00 giờ sáng đến 4:00 giờ chiều, giờ đầu tiên dành cho người cao niên Thứ Bảy: từ 11:00 giờ sáng đến 4:00 giờ chiều
CIBC Chinatown	501 Main St	Từ thứ Hai đến thứ Sáu: từ 10:00 giờ sáng đến 4:00 giờ chiều
BMO Chinatown	601 Main St	Từ thứ Hai đến thứ Sáu: từ 10:00 giờ sáng đến 4:00 giờ chiều
HSBC Wayfoong	681 Main St	Từ thứ Hai đến thứ Sáu: từ 10:00 giờ sáng đến 4:00 giờ chiều
Cash Mart Payday Loan	2245 Commerical Dr	Từ thứ Hai đến thứ Tư: từ 10:30 giờ sáng đến 7:30 giờ tối Từ thứ Năm đến thứ Sáu: từ 9:00 giờ sáng đến 8:00 giờ tối
Đã cập nhật: Ngày 15 tháng 4 năm 2020		
THÊM THÔNG TIN: VANCOUVER.CA/COVID19		

STATEMENT FOR POLICE

PIVOT
equality lifts everyone

KNOW YOUR RIGHTS:

- Silence (see over).
- I can say "No" if the police ask to search me or my things.
- Saying "No" does not mean I have something to hide.
- I can leave unless I am being detained or arrested.
- I can only be strip-searched in private and by officers of the same gender.
- If I am being detained or arrested I have a right to know why and a right to speak privately to a lawyer without delay, even if I cannot afford to pay.
- I have a right to know a police officer's name and badge number.
- I can report a police officer who abuses me, swears at me, or violates my rights.

If you are stopped by police against your will, read or show them the following statement. Then, do not say anything until you talk to a lawyer.

Statement for police

"Officer, if I am under arrest or being detained, please tell me so. If I am free to go, please tell me so. If I am not free to go, please tell me why. I wish to exercise all my legal rights including my right to silence and my right to speak to a lawyer before I say anything to you. I do not consent to being searched. I wish to be released without delay. Please do not ask me questions because I will not willingly talk to you until I speak to a lawyer.
Thank you for respecting my rights."

Police Arrest: Silence is golden

Each situation is different and you must use your common sense. Stay calm and remember everything that happens. Remember your rights!

SILENCE

You can refuse to talk to police or answer their questions unless you are in a bar or a cinema, driving a car, or they say you broke the law. In those cases, you must give your name, birthdate, and address, or show your ID, but you do not have to say any more.

To report a police officer to the Police Complaint Commission call 1-800-665-6878
For legal aid call 1-866-458-5500 (1-866-458-3300 outside Metro Vancouver)

The focus would be on providing printed materials, and word of mouth information through peer networks. Given the linguistic and literacy needs of the target audience, the materials would be visual and translated into several languages including simplified and traditional Chinese, French and Spanish. We would distribute printed materials widely to community partners including non-profits, housing providers, healthcare facilities and peer advocates, and ensure that front line staff and peers are informed and feel able to speak about the exemption. We will also ensure that all materials are easily accessible for downloading and reordering via our website.

Outlined below is a list of proposed community communications tactics and the methods of distribution.

Tactic	Audience	Distribution
Flyers and posters	People who use drugs (PWUD) and community	<ul style="list-style-type: none"> Community centres Safe consumption sites Healthcare facilities Peer network Housing and shelters Non-profits working with community
Pocket sized / portable Know Your Rights card	PWUD	<ul style="list-style-type: none"> Include in BCCDC naloxone kits Same as above
One page information sheet that provides more detailed information	PWUD, peer network and frontline staff	<ul style="list-style-type: none"> Community network (email and printed) Same as above
FAQs to support conversations	Frontline staff and peer group leaders	<ul style="list-style-type: none"> Email / printed handout
Mural	Broader local community	Two to three prominent locations in Downtown Eastside and Downtown South areas
City of Vancouver webpage	PWUD and people with interest in the work	All information about the exemption would be available on an easy to find webpage and the resources listed above would be available for download.

The City would also promote the exemption through news releases, media conferences and outreach to specific reporters and podcasters to facilitate a broad awareness of the exemption.

Implementation - Police Policies

The VPD will develop the necessary policies to support implementation. They regularly adapt to changes in legal requirements. The VPD has been involved in discussions regarding the requested exemption and are aware of the need to support the changes in legal requirement. The VPD is prepared to adapt its policies and train its frontline officers on the legal and practical impacts of the exemption, should it be granted.

Like all police agencies, the Vancouver Police Department (VPD) must be responsive to changes in legal requirements. Changes faced by police typically result from three main areas: changes in written laws (statutory law), changes that result from court decisions (common law) and changes in policing standards. Each of these three areas have multiple levels where change can occur. For example, written laws can change at the federal, provincial or municipal level. Similarly, court decisions occur at numerous levels including provincial court, superior courts, courts of appeal and, ultimately, at the Supreme Court of Canada.

These three areas often result in police having varying timelines for implementation. In the case of changes in written laws, these changes are often known about well in advance of coming into force. Alternatively, court decisions often require police to change their policies and practices more promptly.

Vancouver Police Department policies are available at the link below.

<https://vpd.ca/police/about/major-policies-initiatives/index.html>

EVALUATION

The City of Vancouver exemption provides an opportunity to guide substance use policy not just for Vancouver but for other jurisdictions planning to request an exemption for simple possession. The Implementation and Evaluation Committee described earlier will be central to monitoring impacts and risk mitigation strategies defined in the submission.

A robust evaluation requires partnerships with the research community, community organizations, people with lived and living experiences as well as partner organizations that collect and utilize data on substance use and harm reduction. Vancouver is fortunate to be the home of research centres of excellence and research capacity in partner organizations like Vancouver Coastal Health and the Vancouver Police Department.

Research Aims

The central premise of the City's decriminalization proposal is that a person in possession of drugs below the threshold for personal use will be voluntarily connected with care and supports via VCH's Overdose Outreach Team. The individual will not have their drugs confiscated and they will not be arrested or subject to a criminal charge for possession.

The logic model presented earlier in this submission illustrates short-term and long-term outcomes associated with decriminalizing drug use possession. Expectations for the short-term outcomes of decriminalization are modest and relate primarily to a reduction in interactions with the criminal justice system and a reduction in seizures of drugs. Reducing criminalization will lead to increased willingness among people who use drugs to engage with health and social services including safe supply options, opioid agonist therapies and other overdose prevention interventions including supervised drug consumption and drug checking services. Reducing drug seizures will potentially prevent people who use drugs from engaging in high-risk behaviours to fund and source replacement drugs. This is expected to translate into a reduction in property crime and street-level violence.

The proposed evaluation structure seeks to monitor and evaluate whether the decriminalization of drug possession in the City of Vancouver results in these expected changes and ensure that potential unintended negative consequences are identified.

Four evaluation objectives have been defined.

Objective 1: Does decriminalization of drug possession for personal use reduce interactions between PWUD and the criminal justice system?

Objective 2: Does decriminalization of drug possession for personal use increase interactions and engagement between PWUD and health and services?

Objective 3: Does decriminalization of drug possession for personal use coincide with unfavorable changes in the drug supply, substance use patterns or risk behaviours among PWUD in Vancouver?

Objective 4: Does decriminalization of drug possession for personal use reduce stigma?

Indicators, Data and Reporting

The proposed monitoring and evaluation structure includes:

1. administrative data from the Vancouver Police Department
2. administrative data from Vancouver Coastal Health, and
3. data from surveys of people who use drugs (data sources under discussion).

It is recognized that it will not always be possible to attribute changes in the indicators specifically to the decriminalization initiative.

VPD and VCH have identified the needed data in their administrative databases and are prepared to collect and report on the data. Shortcomings in the current data definitions and data collection methods have been identified and will be adjusted to meet the objectives of the evaluation.

Self report data is currently collected in three longitudinal cohort studies involving people who use drugs in Vancouver. Data from these three cohort studies has been used to inform the development of the thresholds proposed in this submission. The availability of this data for monitoring and evaluative purposes is under discussion. Use of this data requires comprehensive involvement and consent of people who use drugs throughout the process of research design, data collection, analysis, and knowledge translation. Active participation and consent of Indigenous organizations is also essential. Given the timeline of the exemption submission, adequate time to consult and co-create an evaluation plan with key partners, specifically people with lived experience and Indigenous partners, was not possible. Therefore, the inclusion of cohort data as a platform for monitoring and evaluating the City of Vancouver's decriminalization initiative is still under discussion.

The City's exemption model offers opportunities to broaden the scope of partnerships in data collection including agencies such as the First Nations Health Authority, the BC Centre for Disease Control and other organizations that support people who use drugs such as housing providers and funders like BC Housing. The City of Vancouver is in an excellent position to act as a convenor in assembling a research group to draw on various existing surveys that are already conducted in Vancouver.

Administrative Data – Vancouver Police Department and Vancouver Coastal Health

The PRIME and JUSTIN databases and Property Office evidence data will be used to monitor:

- changes in the number of recommended and approved charges for drug possession, trafficking, and possession for the purposes of trafficking

- drug seizures
- property crime incidents
- calls for service related to street disorder and
- recommended charges for driving and traffic offences involving drugs

The evaluation will draw on resources such as the BOOST Collaborative, data on referrals to VCH's overdose outreach services, utilization of safe supply options, and caseloads for opioid agonist therapy to help monitor the impact of drug possession decriminalization on engagement with health services. Administrative data related to drug toxicity from drug checking programs and the BC Coroners service can be used to monitor any potential unintended consequences. The BC Centre for Disease Control Harm Reduction Survey, the VCH My Health My Community survey and the BOOST Collaborative/Cascade of care can be used to assess community level drug use patterns and engagement with drug checking services. Other indicators of interest include monitoring non-fatal and fatal overdose rates through emergency room data, BC Emergency Health Services data, Vancouver Fire and Rescue Services overdose call data and the BC Coroner's data. In addition, data from the City of Vancouver's 311 citizen call line and mobile needle retrieval services can be used to monitor discarded injection equipment.

In combination, these data sources provide a robust platform to monitor and assess the impacts and potential unintended consequences associated with decriminalizing drug possession. The creation of a regularly updated "dashboard" will be considered to report on the evaluation indicators. This will help make the implementation impacts more transparent for the public and key affected populations. The evaluation activities including the development and maintenance of a dashboard will require dedicated data management support for the VPD and VCH.

Self Reported Data

There are three longstanding prospective cohort studies of community-recruited people who use drugs in Vancouver. These cohorts include: the Vancouver Injection Drug Users Study (VIDUS, a cohort of HIV-negative adults who inject drugs founded in 1996), the AIDS Care Cohort to evaluate Exposure to Survival Services (ACCESS; a cohort of adults living with HIV who use illicit drugs founded in 2005), and the At-Risk Youth Study (ARYS; a cohort of street-involved youth who use illicit drugs founded in 2005). All cohorts recruit participants through street outreach and word-of-mouth, primarily in the DTES (VIDUS and ACCESS) and the Downtown South of Vancouver (ARYS). Research protocols are harmonized across the cohorts to permit pooled analyses. The infrastructure for these cohort studies is currently funded through grants from the US National Institutes of Health (NIH). However, research aims related to monitoring and evaluating the impact of the decriminalization of drug possession in the City of Vancouver are not part of the NIH parent grant. Therefore, external funding would be required to incorporate additional measures in the cohort studies.

There are a number of unique strengths and contributions that longitudinal cohort data can bring to an evaluation of drug decriminalization. Specifically, while administrative data is able to monitor instances of key indicators of interest over time, cohort data drawing on large samples of people who use drugs is able to characterize not only the prevalence of these indicators, but also the risk profiles of individuals who experience the key indicators over time. As the cohort studies are currently operational and collecting

data relevant to many aspects of the decriminalization of drug possession, this research infrastructure offers unparalleled opportunities to monitor changes over time.

The inclusion of selected specific data points from the three cohort studies would be beneficial to the evaluation. The cohort studies are not currently funded to collect data on some of the indicators that have been identified as important to the evaluation of the City's exemption. An expansion of self report data collection to broaden the geographic scope of the data across Vancouver would be beneficial, since the exemptions applies to all illicit drugs, some of which are not in widespread use among the respondents in the current cohort studies. Given the Province of British Columbia is also applying for an exemption to decriminalize simple possession, an approach that is not solely dependent on the cohort studies has some merit.

The City can act as a convenor to develop a sound approach to survey data collection. The City will work with Vancouver Coastal Health, the BC Centre for Disease Control and the BC Ministry of Mental Health and Addictions to explore research and evaluation needs to support decriminalization.

Indicators

Specific research objectives and an extensive list of evaluation indicators have been identified to create a framework for monitoring and evaluation.

Objective 1: *Does decriminalization of drug possession for personal use reduce interactions between PWUD and the criminal justice system?*

Indicator	Type of Data Source	Data Source
1. Experience of interactions with police	Self-report	TBD
2. Experience of confiscation of drugs and harm reduction equipment by police	Self-report	TBD
3. Experience of drug related arrests	Self-report	TBD
4. PWUD perspectives towards police	Self-report	TBD
5. Number of Incidents of recommended charges for a) trafficking, b) Possession for the purposes of trafficking, and c) Possession	Administrative Data	PRIME (VPD)
6. Number of Incidents with approved charges for a) trafficking, b) possession for the purposes of trafficking, and c) possession	Administrative Data	JUSTIN
7. Number of incidents involving drug seizures	Administrative Data	PRIME (VPD) (PRIME and Property Office Evidence module)
8. Number of Incidents involving recommended charges for property crime	Administrative Data	PRIME (VPD)
9. Number of calls for service from the public on street disorder and specifically complaints regarding 'drugs'	Administrative Data	PRIME (VPD) (Computer Automated Dispatch system)
10. Number of Incidents involving recommended charges for driving and traffic offences involving drugs	Administrative Data	PRIME (VPD)

Objective 2: *Does decriminalization of drug possession for personal use increase interactions and engagement between PWUD and health and social services?*

Indicator	Type of Data Source	Data Source
1. Referrals to VCH overdose outreach services	Administrative data	VCH
2. Experience of police referrals to OOT	Self-report	TBD
3. Use of safe supply options in Vancouver	Administrative data	VCH
	Self-report	TBD
4. Numbers of people engaged in OAT/iOAT in Vancouver	Administrative	BOOST Collaborative
5. Reports of avoiding SIFs, ODPs, or drug checking due to police presence near facility	Self-report	TBD

Objective 3: *Does decriminalization of drug possession for personal use coincide with undesirable changes in the drug supply, substance use patterns or risk behaviours among PWUD in Vancouver?*

Indicator	Type of Data Source	Data Source
1. Drug supply toxicity	Administrative data	VCH/BCCSU Drug checking data BC Coroners Service toxicology reports
2. Potential changes in drug use patterns	Self-report	BCCDC Harm Reduction Survey
3. Use of drug checking services	Administrative data	Drug checking
	Self-report	BCCDC Harm Reduction Survey
4. Use of overdose prevention sites	Self-report	TBD
5. Risky drug use practices: • needle sharing, • public injection, • using drugs alone	Self-report	TBD
6. Street level violence: physical altercations and sexual assault	Self-report	TBD
7. Non-fatal overdose	Self-report	TBD
	Administrative Data	ED data BCEHS data VFRS overdose call data
8. Rates of fatal overdose	Administrative	Coroner

9. Public substance use: discarded needle data	Administrative	CoV's 311 system and needle retrieval data
10. Overall population level substance use patterns	Self-report	My Health My Community
	Administrative	Boost Collaborative/ Cascade of care
11. Rates of youth overdoses at local ED's	Administrative data	VCH ED dashboard

Objective 4: *Does decriminalization of drug possession for personal use reduce stigma?*

Indicator	Type of Data Source	Data Source
1. Sense of self and belonging among PWUD	Self-report	TBD
2. Public attitudes towards people who use drugs	Polling	Public polling

Next Steps in Evaluation Planning

The City of Vancouver will establish an Implementation and Evaluation Committee to further develop the evaluation model. As well, the City, VCH and VPD will identify potential sources of funding to support the evaluation work including assigning staff to work on the data collection and reporting.

SPECIAL CONSIDERATIONS

Public Consumption

The potential impact of the exemption on the consumption of drugs in public has been identified by Health Canada. The issue of public consumption (e.g., discarded needles) or inappropriate behaviour in public spaces is not unique to drug use and is a concern Vancouver is well equipped to address. In addressing the issue, caution must be exercised not to force individuals to hide their drug use.

The City does not expect that the proposed exemption will lead to an increase in public consumption or complaints related to it. However, recognizing this could be an unintended consequence, the issue has been identified in the City of Vancouver CDSA Exemption Risk Register and will be monitored. Additional risk mitigation strategies will be implemented if the exemption leads to an increase of problematic behaviour in public spaces. Risk mitigation must recognize the risks associated with homeless individuals who have no ability to use in private residences and the concerns of the health sector about the overdose potential of people using indoors alone.

The use of criminalization to address the public consumption of drugs is neither effective nor a good use of police resources. The City of Vancouver believes that public consumption is best addressed using peer services that can provide harm reduction support to individuals who may be using drugs in public spaces. This is especially the case in areas of the City with a high concentration of drug use.

Current peer/community stewardship programs of note operate in partnership with Embers Eastside Works, the City and others such as the Business Improvement Associations (BIAs) and non-profit agencies. These programs provide DTES residents with employment opportunities that build capacity and confidence while leveraging their own lived experience and are an alternative and complement to enforcement initiatives in very low-income areas where people tend to be more highly criminalized. The programs work to build a more cohesive, inclusive, safe environment. For example, the recent Chinatown Community Stewardship Program works to increase the safety and harmony of all people and businesses in Chinatown by:

- Creating pathways for open communication and feedback between business owners, non-profit agencies and others on rising issues (immediate) and trends (ongoing)
- Addressing immediate peer/community-related issues, including drug related issues such as needle pickup and access to businesses
- Creating employment pathways for people with lived experience of poverty, mental health and drug use

Some other examples of relevant programs are noted below:

- The PHS Community Services Society (PHS) Mobile Needle Exchange operates throughout the city to pick up discarded needles, and to provide harm reduction education to people at risk of overdose. Members of the public can call the PHS hotline, or use the City of Vancouver's 311 system to report discarded needles
- PHS Spikes on Bikes Program is a peer-to-peer street outreach program offering harm reduction education, and conducting regular needle sweeps in priority locations throughout the inner-city
- Street Youth Job Action program provides youth with the opportunity to earn money, self confidence and skills, while connecting them to supports that lead to improved outcomes in their lives. Youth participants work in the downtown core to remove graffiti, post flyers, and conduct needle sweeps in local parks and civic plazas.

Problems associated with public consumption are often associated with behaviours over and above the actual consumption of drugs. Littering, smoking, or impeding private property are possible examples. The City and police have tools at their disposal to manage these issues. For example, the City has a stand alone City enactment that can address smoking crack cocaine in public. Health By-law No. 9535 defines smoking as burning a cigarette or cigar, or burning any substance using a pipe, hookah pipe, lighted smoking device or electronic smoking device. Burning is defined as follows “burning means to produce smoke, vapour, or other substances that can be inhaled. The definition is broad enough to encompass smoking crack cocaine. If needed the City will request the provincial government to add other substances to the Cannabis Control and Licensing Act to restrict public consumption.

The City is in partnership with other levels of government to continue to expand low barrier social housing that can accommodate individuals with substance use disorders. Often a safe space is monitored for consumption within these buildings. The City is actively working to increase safe spaces for consumption.

The City takes problematic behaviours that create tension in public spaces very seriously. This is neither new for the City nor is it expected that the exemption will exacerbate this. If it does the City strategies to address it and is prepared to seek additional regulatory restrictions if necessary.

Youth

The City has explicitly excluded minors from its request for an exemption. The criminal justice legislation for youth aims to avoid criminalizing youth and focuses rather on rehabilitation and re-integration. The City believes this legislation is best used to address any unique risks and harms associated with substance use and the possession of drugs by minors.

Drug Impaired Driving

Section 320.14(1) of the *Criminal Code* makes it a criminal offence to operate a vehicle when impaired by any drug. Police measure limits associated with alcohol and cannabis but must rely on driving behaviour and sobriety tests for other legal (i.e., prescribed medications) and illegal substances. The granting of an exemption under Section 56(1) for simple possession of drugs below a threshold does not change this situation.

APPENDIX A

Letter from Squamish Nation



Mayor Kennedy Stewart & Council
City of Vancouver
453 West 12th Avenue
Vancouver, BC, V5Y 1V4

Page 1 of 1

April 19, 2021

Skwxwú7mesh
Úxwumíxw

Dear Mayor Stewart and Elected Councillors,

Re: Letter of Support – Decriminalization of Personal Possession of Illicit Substances in Vancouver

The Skwxwú7mesh Úxwumíxw (Squamish Nation) strongly supports the City of Vancouver's request for a federal exemption to decriminalize personal possession of illicit substances within the City's boundaries for medical purposes.

Our mission statement emphasizes respect, equality, and harmony for all. We believe that the overdose epidemic is a health crisis rooted in inequality and that criminalization of possession impedes life-saving access to harm reduction services. This law unfairly targets those who are most visible and vulnerable; decriminalization of simple drug possession promotes our stated goals of uplifting all members of our community.

The Provincial Overdose Emergency was declared in 2016, and the issue has not gone away: the number of people that have died due to overdose has risen year over year. The COVID-19 pandemic has increased these impacts by increasing isolation, hindering access to community supports and harm-reduction services, and creating greater risk of toxicity in accessing illicit drug supplies.

Indigenous communities bear a disproportionate impact of the overdose crisis: according to FNHA, First Nations people are overrepresented amongst those who have died of an overdose in BC and the gap is widening. Institutionalized racism and colonial policing practices conspire to restrict Indigenous access to support networks even further. While we continue to provide support to our community members battling addiction through our Yúustway Health & Wellness department and our Ts'ixwts'ixwnítway Member Services department, we recognize the need for this exemption, especially for our members living off-reserve in Vancouver.

This health-based issue requires a health-focused solution. We believe that change can occur through community support, but equitable access to harm reduction services will only be achieved through shifting the focus from criminalization to healing. Standing with Premier Horgan, Canadian Association of Chiefs of Police, Vancouver Coastal Health's Chief Medical Health Officer Dr. Patricia Daly, Provincial Health Officer Dr. Bonnie Henry, PIVOT Legal Society, Canadian Drug Policy Coalition, and Canadian HIV/AIDS Legal Network we urge you to grant a federal exemption for decriminalization of simple drug possession.

Sincerely,

SQUAMISH NATION



Tiyáltelut
Kristen Rivers
Council Co-Chair

SQUAMISH NATION



Skwetsi7meltxw
Joshua Joseph
Council Co-Chair

Letter from Tsleil-Waututh Nation



Tsleil-Waututh Nation səlilwətal



May 25, 2021

The Honourable Patty Hajdu
Minister of Health
111 Wellington Street
Ottawa, ON K1A 0A6

RE: Letter of Support – City of Vancouver’s Exemption under Section 56(1) of the Controlled Drugs and Substances Act (CDSA) to Decriminalize Personal Possession

Minister Hajdu,

On November 25th, 2020, Vancouver City Council unanimously approved motion B.4 *Work with Senior Governments to Address the Overdose Crisis*, granting their support for the municipal government to request this exemption. Since this council motion passed, the City of Vancouver has submitted a formal application to Health Canada for the exemption on the basis of an urgent medical need and public interest.

The Tsleil-Waututh Nation strongly supports the City of Vancouver’s request to seek decriminalization within its boundaries.

Since April, 2016, British Columbia’s (BC) Provincial Health Officer declared a public health emergency due to rising rates of overdose deaths caused by widespread contamination of the illicit drug supply. With the onset of the COVID-19 pandemic, there are now two health crises and, with changes to drug supply and increased isolation, using drugs has become even more dangerous. In 2020, it was reported that over 1,716 people died due to overdose in BC, the worst year on record since the beginning of the crisis.

First Nations peoples have been over-represented in the overdose crisis:

- 16% of all overdose deaths between January and May 2020 are First Nations people. This number was 9.9% in 2019. First Nations represent only 3.3 per cent of the province’s population;
- There has been a 93% increase in First Nations overdose deaths from January to May 2020 compared to the same period in 2019¹;
- The Tsleil-Waututh Nation has experienced direct loss of our community members in Vancouver from the opioid crisis.

¹Source: <https://www.fnha.ca/Documents/FNHA-First-Nations-in-BC-and-the-Overdose-Crisis-Infographic.pdf>

Systemic racism and colonial policies have been reflected in Canadian drug law and police enforcement, which have disproportionately targeted Indigenous Peoples and people of color. This leads to further barriers resulting in health and social inequities. Tsleil-Waututh Nation Director of Health Andrea Aleck states:

"First Nations are at a disproportionately higher rate than our Canadian counterparts for substance use. Focus needs to be placed on harm reduction, developing strategies that are innovative responses to the epidemic. The opioid crisis is at an all-time high in the Province of BC, resulting in overdoses and the loss of lives of many Indigenous peoples."

Decriminalization policy has long been advocated for by drug users' advocacy groups and echoed by many health experts, such as Vancouver Coastal Health Chief Medical Health Officer Dr. Patricia Daly and Provincial Health Officer Dr. Bonnie Henry. Even the Canadian Association of Chiefs of Police has begun to recognize the harms associated with criminalization and the positive outcomes of decriminalization.

Decriminalization alone will not solve the overdose crisis but it is a powerful step towards ending stigma around drug use and decriminalizing people who use drugs. The removal of stigma removes barriers for drug users to access harm reduction, drug testing facilities and treatment options. Tsleil-Waututh Nation Community Safety Manager Andrew Van Eden has noted an increase in the loss of justice-involved drug users he works with, due to the stigma of using and the criminalization of those users. "Tsleil-Waututh people are facing criminal consequences for their use of drugs which, for many, correlates back to their trauma from colonial policies that have had multi-generational effects on them and their families" he stated.

We hope you will grant the City of Vancouver the exemption so they can move forward on the implementation of decriminalization.

Tsleil-Waututh Nation Chief & Council


 Chief Leah George-Wilson


 Curtis Thomas


 Deanna George


 Vanessa Gonzalez


 Jen Thomas


 Justin George

CC: Health Canada

Hon. Bill Blair, Minister of Public Safety & Emergency Preparedness
 Hon. David Lametti, Minister of Justice, Attorney General of Canada

3178 Alder Court, North Vancouver, BC V7H 2V6 P: 604-929-3454 T: 604 929 4714

Letter from Metro Vancouver Aboriginal Executive Council



Aboriginal Community
Career Employment
Service Society
Aboriginal Front Door
Society
Aboriginal Mother Centre
Society
Circle of Eagles Lodge
Society
Fraser Region Aboriginal
Friendship Centre
Association
Helping Spirit Lodge
Society
Kekknow Native Housing
Lu'ma Native Housing
Society
Metro Vancouver
Indigenous Services
Society
Native Education College
Nisga'a Ts'amiks
Vancouver Society
Pacific Association of
First Nation Women
Spirit of the Children
Society
Urban Native Youth
Association
Vancouver Aboriginal
Community Policing
Centre
Vancouver Aboriginal
Friendship Centre Society
Vancouver Aboriginal
Transformative Justice
Services Society
Vancouver Aboriginal
Child & Family Services
Society
Vancouver Native Health
Society
Vancouver Native
Housing Society
Vi Fine Day Family Centre
Shelter Society
Warriors Against
Violence Society

Metro Vancouver Aboriginal Executive Council
100 – 2732 East Hastings St. Vancouver BC V5K 1Z9
Ph: 604-255-2394 — www.mvaec.ca

"Strategically planning for Services for our Community"

May 11, 2021

The Honourable Patty Hajdu, PC MP
Minister of Health
Locator 0900C2
OTTAWA, ON
K1A 0K9

RE: Letter of Support for City of Vancouver's Exemption under section 56(1) of the Controlled Drugs and Substances Act (CDSA) to Decriminalize Personal Possession of Drugs in Vancouver

Dear Minister Hajdu,

On November 25, 2020, Vancouver City Council unanimously approved motion B.4 to *Work with Senior Governments to Address the Overdose Crisis*, granting their support for the municipal government to request this exemption. Since this council motion passed, the City of Vancouver has submitted a formal application to Health Canada for an exemption on the basis of an urgent medical need and public interest.

The Metro Vancouver Aboriginal Executive Council (MVAEC) represents twenty-two (22) urban Indigenous organizations in the greater Vancouver area. On behalf of the 22 organizations, MVAEC strongly supports the City of Vancouver request to seek decriminalization within its boundaries.

Since April 2016, the British Columbia (BC) Provincial Health Officer declared a public health emergency due to rising rates of overdose deaths due to widespread contamination of the of the illicit drug supply. With the onset of the COVID-19 pandemic, there are now two health crises within the City of Vancouver boundaries, and with changes to the drug supply and increased isolation, using drugs has become even more dangerous.

First Nations peoples have been over-represented in the overdose crisis:

- 16% of all overdose deaths between January and May 2020 are First Nation people. This number was 9.9% in 2019. First Nation people represent only 3.3% of the province's population.
- There has been a 93% increase in First Nation overdose deaths from January to May 2020 compared to the same period in 2019. (Source: FNHA).

The Metro Vancouver Aboriginal Executive Council (MVAEC) was formed in 2008 to respond to our community's desire for a more collaborative, strategic, and unified voice to represent the close to 70,000 Aboriginal people living in Metro Vancouver. MVAEC became a Society in 2009, and comprises Executive Directors/CEOs from diverse urban off-reserve Aboriginal organizations. With 24 member organizations, MVAEC represents the vast majority of off-reserve, urban Aboriginal people in Metro Vancouver. Our members are recognized for their leadership, accountability, and ability to develop and deliver programs and services that are responsive to the unique needs and values of the urban Aboriginal community.

Systemic racism and colonial policies have been reflected in Canadian drug law and police enforcement, which have disproportionately targeted Indigenous peoples and people of colour. This leads to further barriers resulting in health and social inequities.

Decriminalization policy has long been advocated for by drug users' advocacy groups, and echoed by many health experts such as Vancouver Coastal Health's Chief Medical Health Officer, Dr. Patricia Daly, and the BC Provincial Health Officer Dr. Bonnie Henry. Even the Canadian Association of Chiefs of Police has begun to recognize the harms associated with criminalization and the positive outcomes of decriminalization.

Decriminalization alone will not solve the overdose crisis but it is a powerful step towards ending stigma around drug use and decriminalizing people who use drugs. The removal of stigma removes barriers for drug users to access harm reduction, drug testing facilities and treatment options. The full recognition of these issues as a matter of health will ultimately require the provision of safe supplies of these manmade substances by medical professionals.

We hope that you will grant the City of Vancouver the exemption so they can move forward on the implementation of decriminalization.

Sincerely,



Michelle George, MBA
Chief Executive Officer
Metro Vancouver Aboriginal Executive Council



Norm Leech
Co-Chairperson
MVAEC Board of Directors

CC: Health Canada
The Honourable Bill Blair, Minister of Public Safety and Emergency Preparedness
The Honourable David Lametti, Minister of Justice and Attorney General of Canada

APPENDIX B

Letter from British Columbia Civil Liberties



November 23, 2020

Vancouver City Council:

Mayor Kennedy Stewart
City Councillor Rebecca Bligh
City Councillor Christine Boyle
City Councillor Adriane Carr
City Councillor Melissa De Genova
City Councillor Lisa Dominato
City Councillor Pete Fry
City Councillor Colleen Hardwick
City Councillor Sarah Kirby-Yung
City Councillor Jean Swanson
City Councillor Michael Wiebe

Regarding Motion B4 – Work with Senior Governments to Address the Overdose Crisis

Dear Mayor Stewart and Vancouver City Councillors,

We are writing to you on behalf of the British Columbia Civil Liberties Association to express our support for Motion B4 appearing before Vancouver City Council on Tuesday November 24, 2020.

We emphatically support and stress the importance of the resolution to “direct the Mayor to consult with the VCH Chief Medical Health Officer and then write to the federal Ministers of Health, Public Safety and Emergency Preparedness, and Justice and Attorney General to request a federal exemption from the *Controlled Drugs and Substances Act* to decriminalize personal possession of illicit substances within the City’s boundaries for medical purposes, in order to address urgent public health concerns caused by the overdose crisis and COVID-19.”

The British Columbia Civil Liberties Association is the oldest and most active civil liberties organization in Canada. Our mandate is to defend and extend civil liberties & human rights for all in BC and Canada, while paying particular attention to the needs of oppressed communities. We engage in litigation in the courts, law and policy reform with government, and public legal education. Since the 1980’s, the BCCLA has advocated against various federal, provincial and municipal laws, bylaws and regulations criminalizing substance use and possession.

British Columbia Civil Liberties Association
306 - 268 Keefer Street
Vancouver, BC, Canada V6A 1X5

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Fax 604.687.3045 www.bccla.org
Toll-free 866.731.7507



We commend the longstanding efforts of frontline community groups like Vancouver Area Network of Drug Users, Western Aboriginal Harm Reduction Society, BC/Yukon Association of Drug War Survivors, Moms Stop the Harm, Overdose Prevention Society, and many others who have been advocating for the immediate and full decriminalization of simple drug possession for decades. We also support our colleagues in the HIV Legal Network, Pivot Legal Society and the Canadian Drug Policy Coalition who are leading advocacy efforts calling on the federal government to exercise its section 56 power under the *Controlled Drugs and Substances Act* to exempt all persons in Canada from the criminal prohibition on simple drug possession.

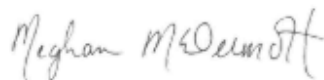
The BCCLA was one of the 170 organizations who signed the [joint letter to the federal Minister of Health](#) calling for immediate action to decriminalize simple drug possession. As you know well, there is an urgent need to adopt evidence-based policies to support the health and safety of people who use drugs. Since 2016, over 14,700 people have died by accidental overdose in Canada, with 1,500 lives tragically claimed in Vancouver alone. Now, the concurrent effects of two public health emergencies, the COVID-19 pandemic and the overdose crisis, have escalated the crisis of overdose deaths in the absence of decriminalization and the lack of safe supply. There are decisive steps every level of government can and must take to protect the health, dignity and freedom of people who use drugs.

We further emphasize that full decriminalization means removing all criminal sanctions *and* other regulatory measures — such as administrative penalties, fines, drug seizures, involuntary treatment or coerced diversion programming — for the possession of substances for personal use. A recent article in the Tyee [reveals](#) that even when people are not arrested for simple possession of drugs, police do still stop and confiscate small amounts of drugs without charging people with any offense under the *Criminal Code*. Given the omnipresent reality of police and law enforcement disproportionately targeting Indigenous, Black, homeless, sex worker, undocumented migrant, two spirit and trans people who use drugs for street checks, profiling, surveillance, and intimidation, it is vital that there are no criminal or administrative sanctions for personal drug possession. Reducing stigma, ending police harm, increasing access to justice, meaningful commitments to anti-racism, and saving lives all require full decriminalization.

Sincerely,



Harsha Walia
Executive Director



Meghan McDermott
Interim Policy Director

British Columbia Civil Liberties Association
306 - 268 Keefer Street
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Letter from British Columbia Centre on Substance Use



December 9, 2020

Health Canada
Address Locator 0900C2
Ottawa, Ontario
K1A 0K9

Re: Letter of Support for City of Vancouver's Motion to Decriminalize Simple Possession of Drugs in Vancouver

To whom it may concern:

We are writing in our capacity as the co-interim Executive Directors at the British Columbia Centre on Substance Use (BCCSU) to express full support for the City of Vancouver's application for a section 56 exemption to the *Controlled Drugs and Substances Act (CDSA)* to decriminalize simple drug possession in Vancouver.

The BCCSU is a provincially networked organization with a mandate to develop, help implement, and evaluate evidence-based approaches to substance use and addiction. The BCCSU seeks to improve the integration of best practices and care across the continuum of substance use through the collaborative development of evidence-based policies, guidelines, and standards. Supported by the Province of BC, the BCCSU aims to transform substance use policies and care by translating research into education and care guidance. We seek to achieve these goals through the integrated activities of our three core functions: research and evaluation, education and training, and clinical care guidance.

In BC, important gains in responding to the overdose crisis have been made. For example, research suggests that treatment and harm reduction initiatives launched or expanded as part of the provincial overdose response have prevented more than 3,000 possible overdose deaths during a 20-month period between April 2016 and December 2017.

However, despite these collective efforts and successes in averting fatalities, overdose events continued to occur provincially at the same or higher rate since the declaration of the public health emergency in 2016. BC Emergency Health Services reported an average of ~24,000 calls to respond to an overdose every year from 2016 through 2020. Furthermore, the impacts of COVID-19 have amplified the risks and harms associated with illicit opioid use. Recent BC Coroners Service reports have shown that the province is experiencing the highest rates of fatal overdoses on record. And while every health region has been impacted, Vancouver continues to experience the highest number of fatal overdoses than any other municipality in the province.

BC Centre on Substance Use
400-1045 Howe St
Vancouver BC V6Z 2A9
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It is to this end that innovative actions are urgently needed to reduce further overdose deaths and bolster the province's approach to substance use and addiction. As an organization, we are committed to utilizing the best evidence available to collaboratively identify solutions to the ongoing public health emergency, including assessing existing evidence, risks, and benefits to the public and individuals.

Research clearly demonstrates that strategies that emphasize criminalization and drug law enforcement with the aim of reducing access to illicit drugs have been ineffective and costly. Instead, this approach has had unintended consequences that have increased harms associated with substance use. Criminalization stigmatizes people who use drugs. They experience discrimination in various institutions as a result, which can impact ability to engage and be retained in harm reduction, treatment and recovery. It fosters a mistrust with the health system and discourages people who need and want care from seeking it.

Decriminalizing people who use drugs has, in other jurisdictions, proven to be an effective approach to reducing the harms of substance use. A widely referenced example of this approach is the Portugal model, where decriminalization of people possessing personal amounts of illegal drugs paired with an integrated range of harm reduction, treatment and recovery, and social integration services has led to a significant reduction in problematic drug use, drug-related harms (including HIV infection and overdose), and criminal justice overcrowding and recidivism.

In light of the scientific evidence and real-world examples, numerous research and policymaking bodies, including the BCCSU, have recommended a move towards a public health-oriented perspective that includes drug policy approaches such as decriminalization alongside investments in an evidence-based substance use system of care to support recovery, treatment, and harm reduction services.

The BCCSU leadership, researchers, and our community of stakeholders not only fully support this motion, we are also eager to work with our partners at Vancouver Coastal Health and the City of Vancouver to support implementation and provide research expertise to evaluate this new innovative intervention.



Once again, on behalf of the BCCSU, we offer our full support to the City of Vancouver for the decriminalization of simple possession drugs in Vancouver. We are confident this change will have a positive and lasting impact on the health and wellbeing of people who use substances.

Sincerely,



Cheyenne Johnson, RN, MPH, CCRP
Co-Interim Executive Director
BC Centre on Substance Use



Perry Kendall, CM, OBC, MBBS, MHSC, FRCPC
Co-Interim Executive Director
BC Centre on Substance Use

Letter from Public Health Association of BC



Submission to Vancouver City Council Motion B.4: Work with Senior Governments to Address the Overdose Crisis

November 23, 2020

Dear City Councillors:

On behalf of the memberships of the Public Health Association of British Columbia and the Canadian Public Health Association, we strongly urge you to support Motion B.4 (Work with Senior Governments to Address the Overdose Crisis) submitted by Mayor Stewart for consideration at your meeting on 24 November 2020.

The use of illegal psychoactive substances has become increasingly problematic as demonstrated by the current opioid crisis. The ongoing challenges posed by the crisis demonstrate that criminalization does not reduce the likelihood of illegal psychoactive substance use, and often results in stigmatization and other harms to those caught in possession of small amounts of substances for personal use. The effect of this criminalization often does not reflect the severity of the crime. For example, the current structure of fines and incarceration causes most harm to those at the lower end of the social gradient, which results in greater health inequity. Similarly, incarceration presents barriers to re-entry into general society, and increases a wide range of challenges from employment (thereby reducing that person's economic potential) to housing (that can directly and negatively affect health and well-being). Furthermore, these approaches have been demonstrated to systematically perpetuate socio-economic harm, especially against racialized communities.

The criminalization of people who use illegal psychoactive substances has other harmful consequences, including but not limited to:

- Crowding and slowing of the criminal justice system as a result of the prosecution of drug-related offences for non-violent crimes;
- Enforcement activities and stigmatization that drive those who use illegal drugs away from prevention and care services;
- Opportunity costs of allocating resources into law enforcement, judicial and correctional/penal approaches with consequent scarcity of resources for public health and social development approaches.

It is also recognized that criminalization contributes to the promotion and acceleration of infections such as HIV and hepatitis C, as the legal consequences and stigmatization resulting from criminalization result in unsafe injection practices such as the sharing and reuse of syringes in unsafe locations.

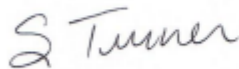


The alternative to criminalization is a public health approach that seeks to maintain and improve the health of populations based on the principles of social justice, attention to human rights and equity, evidence-informed policy and practice, and addressing the underlying determinants of health. Such an approach places health promotion, health protection, population health surveillance, and the prevention of death, injury and disability as the central tenets of all related initiatives. These actions are based on evidence of what works or shows signs of working, and are organized, comprehensive and multi-sectoral. This approach finds its basis in the *Canadian Charter of Rights and Freedoms** as well as several United Nations agreements.

The use of criminal sanctions to limit the personal use of psychoactive substances has failed to limit both the number of users and the products available to them. The available evidence supports the benefits associated with a public health approach and its capacity to reduce harms. This approach is predicated on decriminalization of the personal use of psychoactive substances and the increased availability of health and social supports for those who use psychoactive substances.

A section 56 exemption offers an immediate, straightforward mechanism that can be used by the City of Vancouver to start undoing the damage of criminalizing people for personal drug use, and instead shift our energies and resources to more effective ways of protecting and promoting the health of people in our families and communities.

Sincerely,

A handwritten signature in blue ink, reading "S Turner".

Shannon Turner
Executive Director
Public Health Association of British Columbia

A handwritten signature in blue ink, reading "I Culbert".

Ian Culbert
Executive Director
Canadian Public Health Association

Letter from HIV Legal Network



**Submission to the City of Vancouver:
Mayor Stewart's motion to decriminalize
personal possession of controlled substances in Vancouver**

November 20, 2020

The HIV Legal Network (formerly the Canadian HIV/AIDS Legal Network) wishes to express our support for Mayor Stewart's motion to direct "the City of Vancouver to write to the federal Ministers of Health, Public Safety and Emergency Preparedness, and Justice and Attorney General to request a federal exemption from the *Controlled Drugs and Substances Act* to decriminalize personal possession of illicit substances within the City's boundaries for medical purposes, in order to address urgent public health concerns caused by the overdose crisis and COVID-19."¹

As you may know, in May of this year, the HIV Legal Network, Pivot Legal Society and the Canadian Drug Policy Coalition called on the federal government to exercise its section 56 exemption power to decriminalize simple drug possession — a call that has been endorsed by more than 170 civil society organizations to date.² **We reiterate our support for this particular route to effectively decriminalize simple drug possession: one that is simple, straightforward, and can be undertaken immediately.**

There is a tremendous need to act quickly. As the current text of the motion notes, the overdose crisis has tragically claimed more than 1,500 lives in Vancouver since a provincial overdose emergency was declared in April 2016, and 2020 is projected to be the worst year yet. The motion also acknowledges that decriminalization is "an urgent and necessary next step to addressing the overdose crisis."³

Research has shown that the criminalization of simple drug possession, and the attendant fear of drug seizures and arrests, push some people who use drugs to do so in isolation, compromising their ability to take critical safety precautions, such as using a "buddy system" or accessing supervised consumption or overdose prevention services.⁴ It also creates significant barriers to health care and social supports by fuelling stigma, discrimination, shame and blame. Moreover, heightened law enforcement surveillance in the context of restrictions imposed in response to the COVID-19 pandemic also increases the risk of arrest, detention, and incarceration faced by people who use drugs.⁵

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Charitable Registration/Numéro d'organisme de charité #141110155 RR0001

No administrative sanctions, involuntary interventions or other punitive measures

Even in the absence of criminal sanctions, however, **administrative sanctions or other penalties associated with personal drug possession give license to law enforcement to surveil and punish people who use drugs.** In Portugal, for example, where simple drug possession is decriminalized but remains an administrative violation punishable by penalties such as fines or community service,⁶ people who use drugs are still stopped, searched and harassed by the police.⁷ The policing of people who use drugs also falls most heavily on the most marginalized.⁸ If, as Mayor Kennedy's motion indicates, an aim of decriminalization is to help address "anti-Black, anti-poor, and colonial policing," then ongoing administrative sanctions would undoubtedly undermine this objective.

At the same time, ongoing policing of people who use drugs in Portugal, along with persistent stigma and discrimination against people who use drugs, has resulted in the displacement of communities of people who use drugs. This displacement creates significant barriers to accessing services, including health care and harm reduction. If the motion seeks to "reduce the stigma associated with substance use and encourage people at risk to access lifesaving harm reduction and treatment services," replacing criminal prosecution with an administrative sanction would similarly undermine this objective.

Any referrals to treatment must also be entirely voluntary, and law enforcement should play no formal role in referring people to "health assessments," treatment, commissions or diversion programming. Not only would any such action be perceived to be coercive by people who use drugs, involuntary treatment is ineffective and a waste of resources that could be better spent on evidence-based supports for people who use drugs.

As the Global Commission on Drug Policy (comprising former heads of state or government and other eminent political, economic, and cultural leaders from countries around the world) has observed:

"many local and national authorities have adopted alternatives to punishment, abandoning criminal sanctions against people who use drugs and replacing them by administrative consequences like fines, often combined with medical treatment and social measures. Nevertheless, these alternatives do not go far enough. ... [T]he **Commission calls for the removal of all punitive responses to drug possession and use.**

...

Alternatives to punishment, and the support of neglected communities, are the pathways to liberate both individuals and communities from the grip of organized crime, open new economic perspectives, and respect the rights and dignity of all."⁹

We support this recommendation of the Global Commission on Drug Policy, and urge you to ensure **that criminal sanctions are not replaced with administrative sanctions. Meaningfully addressing the harms of the prohibition of simple drug possession requires the removal of all criminal sanctions and other punitive measures by the state for the possession of substances**

for personal use, such as administrative penalties, fines, confiscation or seizures of substances or drug use equipment, conditions of release such as geographic restrictions, drug use conditions, temporal conditions, personal contact conditions, or formal diversion to Drug Treatment Courts as an alternative to criminal sanction.

This would reduce the persistent threat of police surveillance, arrest, and prosecution; decrease stigma related to drug use; and remove barriers to harm reduction, health, community, and social services, particularly for the Black, Indigenous, and poor communities most affected. As the Vancouver Area Network of Drug Users and Pivot Legal Society recently underscored,

“[administrative or other consequences for drug possession] do not help us. Instead, they preserve the same fear and distrust that drives drug use underground, negatively impacting our lives in much the same ways as criminalization itself. ... a legacy of racist, anti-poor policing means that even a seemingly ‘benign’ interaction with a police officer is often experienced as a hostile detention by communities that have been over-policed, profiled, and incarcerated.”¹⁰

Widespread support for decriminalization

Criminalizing simple drug possession does not protect public health or public safety and has been ineffective in reducing the use and availability of illicit drugs.¹¹ Prohibition drives rampant stigma against people who use drugs and puts them at increased risk of harm, including by impeding their access to much-needed services and emergency care in the event of an overdose or, now, by increasing their risk of exposure to SARS-CoV-2, the virus that causes COVID-19. As the Canadian Centre on Substance Use and Addiction concluded in a 2018 report, a growing body of evidence supports decriminalization as an effective approach to mitigate harms associated with substance use, particularly those associated with criminal prosecution for simple possession.¹² A scan of more than 25 jurisdictions around the world that have decriminalized drugs identified a number of positive health outcomes, including reduced rates of HIV transmission and fewer drug-related deaths, improved education, housing, and employment opportunities for people who use drugs, and significant savings, with a negligible effect on levels of drug use.¹³

Given the extensive evidence, there is strong support in Canada for the decriminalization of drug possession for personal use from organizations of people who use drugs and other community organizations, harm reduction and human rights advocates¹⁴ as well as public health associations and authorities including the Canadian Public Health Association,¹⁵ Canadian Mental Health Association,¹⁶ Canadian Nurses Association,¹⁷ Toronto Board of Health,¹⁸ Toronto’s Medical Officer of Health,¹⁹ Montreal Public Health,²⁰ Winnipeg Regional Health Authority,²¹ and Provincial Health Officer of British Columbia.²²

Globally, decriminalizing simple drug possession has been recommended by numerous health and human rights bodies as a measure that both protects health and upholds human rights,

including the World Health Organization (WHO), UNAIDS, UN Special Rapporteurs on the right to health,²³ the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment,²⁴ and most recently, the UN Chief Executives Board for Coordination — which has adopted a call for decriminalization of simple possession as the common position of the UN system (including the UN Office on Drugs and Crime, the lead technical agency on drug policy issues).²⁵ The *International Guidelines on Human Rights and Drug Policy*, endorsed already by the UN Development Program (UNDP), UNAIDS and WHO, also call on States to “decriminalise the possession, purchase, or cultivation of controlled substances for personal consumption.”²⁶

Conclusion

Support for decriminalization continues to grow, amidst calls to also reconsider the role of police in various contexts, and a growing body of evidence about the disproportionate impact of punitive drug policy on Black, Indigenous and poor communities. A section 56 exemption offers an immediate, straightforward mechanism that can be used by the City of Vancouver without delay to start undoing the damage of criminalizing people for personal drug use, and instead shift our energies and resources to more effective ways of protecting and promoting the health of people in our families and communities.

²³ “Mayor Stewart announces plan to decriminalize simple possession of drugs in Vancouver,” November 18, 2020. Available at <https://www.kennedystewart.ca/decriminalize-simple-possession-of-drugs-in-vancouver>.

²⁴ Canadian HIV/AIDS Legal Network, *Letter to Canadian Government: Decriminalize Simple Drug Possession Immediately*, May 14, 2020 updated June 25, 2020. Available at www.hivlegalnetwork.ca/site/letter-to-canadian-government-decriminalize-simple-drug-possession-immediately/?lang=en.

²⁵ *Supra* note 1.

²⁶ *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44 at para 10; A. B. Collins et al., “Policing space in the overdose crisis: A rapid ethnographic study of the impact of law enforcement practices on the effectiveness of overdose prevention sites,” *International Journal on Drug Policy* 73 (2019): pp. 199-207.

²⁷ See, for example, CCLA and Policing the Pandemic Mapping Project, *Stay off the Grass: COVID 19 and Law Enforcement in Canada*, June 2020. Available at <https://ccla.org/cclanewsites/wp-content/uploads/2020/06/2020-06-24-Stay-Off-the-Grass-COVID19-and-Law-Enforcement-in-Canada.pdf>.

²⁸ Transform Drug Policy Foundation, *Drug decriminalisation in Portugal: setting the record straight*, November 14, 2018. Available at <https://transformdrugs.org/drug-decriminalisation-in-portugal-setting-the-record-straight>.

²⁹ International Network of People who Use Drugs, *Is Decriminalisation Enough? Drug User Community Voices from Portugal Introduction – Building on Our Consensus Statement*, 2018. Available at https://www.inpud.net/sites/default/files/Portugal_decriminalisation_final_online%20version%20-%20RevisedDec2018.pdf.

⁸ Ibid.

⁹ Global Commission on Drug Policy, *Advancing Drug Policy Reform: A New Approach to Decriminalization*, 2016. Available at <https://www.globalcommissionondrugs.org/wp-content/uploads/2016/11/GCDP-Report-2016-ENGLISH.pdf>.

¹⁰ Vancouver Area Network of Drug Users & Pivot Legal Society Joint Statement, "We Support a Vancouver Motion to Request a Federal Exemption to Fully Decriminalize Drug Possession," November 19, 2020. Available at https://www.pivotlegal.org/vandu_pivot_joint_statement.

¹¹ E. Wood et al., "The war on drugs: a devastating public-policy disaster," *The Lancet* 373:9668 (2009) pp. 989-990.

¹² Canadian Centre on Substance Use and Addiction, *Decriminalization: Options and Evidence*, 2018. Available at <https://www.ccsa.ca/sites/default/files/2019-04/CCSA-Decriminalization-Controlled-Substances-Policy-Brief-2018-en.pdf>.

¹³ Release, *A Quiet Revolution: Drug Decriminalisation Across the Globe*, March 2016. Available at <https://www.release.org.uk/publications/drug-decriminalisation-2016>.

¹⁴ Canadian HIV/AIDS Legal Network, "Canada must adopt a human-rights based approach to drug policy," November 22, 2018. Available at www.aidslaw.ca/site/statement-canada-must-adopt-a-human-rights-based-approach-to-drug-policy/?lang=en. The statement was endorsed by Amnesty International Canada, Canadian Aboriginal AIDS Network, Canadian Association of People Who Use Drugs, Canadian Drug Policy Coalition, Canadian Nurses Association, Canadian Public Health Association, Criminal Lawyers' Association, HIV & AIDS Legal Clinic Ontario (HALCO), Moms Stop The Harm, moms united and mandated to saving the lives of Drug Users (mumsDU) and Pivot Legal Society.

¹⁵ Canadian Public Health Association, *Decriminalization of personal use of psychoactive substances*, position statement, October 2017. Available at www.cpha.ca/sites/default/files/uploads/policy/positionstatements/decriminalization-positionstatement-e.pdf

¹⁶ Canadian Mental Health Association, *Care not Corrections: Relieving the Opioid Crisis in Canada*, April 2018. Available at https://cmha.ca/wp-content/uploads/2018/04/CMHA-Opioid-Policy-Full-Report_Final_EN.pdf

¹⁷ Supra note 14.

¹⁸ N. Thompson, "Toronto board of health to urge federal government to decriminalize drug use," *The Globe and Mail*, July 16, 2018.

¹⁹ E. Mathieu, "Chief medical officer calls for decriminalization of all drugs for personal use," *The Toronto Star*, July 9, 2018.

²⁰ Santé Montréal, "La directrice régionale de santé publique de Montréal salue les recommandations de Toronto" news release, July 27, 2018. Available at <https://santemontreal.qc.ca/population/actualites/nouvelle/decriminalisation-des-drogues-pour-usage-personnel/>.

²¹ Winnipeg Regional Health Authority, *Position statement on harm reduction*, December 2016. Available at <https://serc.mb.ca/wp-content/uploads/2018/06/HarmReduction-wrha.pdf>

²² British Columbia Office of the Provincial Health Officer, *Stopping the Harm: Decriminalization of People who use Drugs in BC*, April 2019. Available at www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/reports-publications/special-reports/stopping-the-harm-report.pdf

²³ See, for example, Anand Grover, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, UN General Assembly, 65th Session, UN Doc A/65/255, August 6, 2010; Anand Grover, *Submission to the Committee against Torture regarding drug control laws*, October 19, 2012; Anand Grover, *Open letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the*

UN General Assembly Special Session on the Drug Problem (UNGASS), to UNODC Executive Director Yury Fedotov, December, 7 2015.

²⁴ Juan E. Méndez, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN General Assembly, 22nd Session, UN Doc A/HRC/22/53, February 1, 2013.

²⁵ United Nations Chief Executives Board, *Summary of Deliberations: Segment 2: common United Nations system position on drug policy*, UN System, 2nd regular session of 2018, UN Doc CEB/2018/2, January 18, 2019; United Nations Chief Executives Board, *United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration*, UNCEB, 2nd Session, Annex 1, UN Doc CEB/2018/2, January 18, 2019.

²⁶ International Centre on Human Rights and Drug Policy, UNAIDS, UNDP, WHO, *International Guidelines on Human Rights and Drug Policy*, March 2019. Available at <https://www.humanrights-drugpolicy.org/>.



DELIVERED BY EMAIL

February 10, 2021

The Hon. Patty Hajdu
Minister of Health

Dear Minister:

Re: Vancouver and British Columbia exemptions to decriminalize simple drug possession

Thank you for your ongoing willingness to discuss the matter of exemptions under the *Controlled Drugs and Substances Act* (CDSA) to decriminalize simple possession. We were pleased to learn recently that you will be consulting with the City of Vancouver and now the Province of British Columbia regarding their recent requests for exemptions.

As you well know, the criminalization of drugs and of people who use them protects neither public health nor public safety, and in fact ultimately harms both, while wasting public funds that could be better spent on effective, evidence-based, health-oriented responses to the harms sometimes associated with substance use. Each day that goes by under a regime of criminal prohibition is a day in which government policy contributes to those harms and to the often-deadly stigma surrounding drug use. Time is even more of the essence as the COVID-19 pandemic compounds the ongoing public health crises of drug toxicity injuries and deaths, on top of the longer-running HIV and HCV pandemics, among other harms. We have seen additional barriers to accessing harm reduction services, increased rates of people using alone, and increased drug toxicity in the unregulated market.

We do not suggest that decriminalizing drug possession is a panacea or “silver bullet.” But all of these harms could be mitigated by removing the criminal penalties for possession of drugs for personal use, as we and more than 170 organizations across the country urged last year. There will of course be other, complementary steps needed to protect and promote health, including as we continue to respond to the twin crises of COVID-19 and drug toxicity deaths.

A consistent, nation-wide approach

The effects of drug prohibition are urgent and demand action. As we have outlined in [previous correspondence](#), the best, simplest solution immediately available is for you to issue, under section 56 of the CDSA, a blanket exemption from section 4 of the CDSA, which criminalizes the simple possession of scheduled substances. A consistent, nation-wide policy of

decriminalization is far preferable, for reasons of health and equity, to a piecemeal, *ad hoc* approach of responding to one-off requests from individual jurisdictions. Decriminalizing simple possession through such a measure is consistent with this government's stated commitment to a public health-focused, harm reduction approach — which requires not only promoting access to specific harm reduction services, but also steps to reduce the harms caused by punitive drug laws and policies. It is also consistent with the unanimous recommendation of all UN agencies, which two years ago adopted a common position supporting decriminalization of simple possession — important recognition that such an approach does not contravene member states' obligations under international drug control conventions. Furthermore, it responds to the call of the Canadian Association of Chiefs of Police to end the criminalization of simple possession.

We again urge you to proactively issue a nation-wide, blanket exemption from section 4 of the CDSA that applies to all persons in the country and in relation to all substances currently criminalized under the Act and its schedules. (We also urge you to introduce legislative amendments to the CDSA to repeal section 4 as a longer-term solution.) This would obviate the need for individual, case-by-case exemption applications. We would publicly support such a step, as would many other civil society organizations.

Consideration of individual exemption requests

We understand that, rather than simply granting Vancouver's request for an exemption, Health Canada has replied with a request for additional information and discussion. While we appreciate the need to understand the implications of granting such an exemption, we are concerned that this could become an exercise in creating bureaucratic hurdles and delay — a history we have already seen with respect to exemptions for supervised consumption services, with the resulting cost in lives and avoidable harms.

We urge you to ensure that Health Canada does not impose unnecessary and unreasonable conditions in granting an exemption for the purposes of decriminalizing simple possession. In particular, we note the following:

- **Consultation requirements:** There should be no undue requests for (yet more) consultation or information about whether certain actors (e.g., law enforcement, health authorities, other orders of government, community members, etc.) support or oppose an exemption being issued. If a municipal or provincial government has determined to request an exemption to implement decriminalization locally, it is safe to assume they have not done so lightly. There is no good reason to burden applicants and consulted communities with yet further detailed consultations, and the outcomes thereof, before acceding to that request and granting the exemption. Should a municipality or health authority have determined that it wishes an exemption within its jurisdiction, its residents should not be deprived of this benefit because, for example, a provincial government may be ideologically opposed. Deference must be given to public health, not those who oppose it. This is particularly true in light of Health Canada's mandate to improve the health of all people in Canada. In the context of supervised consumption services, Health Canada's unnecessary demands for local consultation — which are not mandated by law — have proven to be a significant barrier and source of delay that

can work at cross-purposes with the single most important consideration in your decision-making process: public health. The lesson from that experience should not be ignored.

- **Threshold quantities:** We appreciate that an exemption that decriminalizes *simple possession* (i.e., for personal use) leaves in place the criminal prohibition on *possession for the purpose of trafficking*. Therefore, this may raise the question of defining specific threshold amounts to guide the decriminalization of simple possession in practice. We suggest it may not be strictly necessary to define such quantities as part of the terms of an exemption. However, we also recognize that, if done properly, doing so may be useful to avoid or reduce misuse of police discretion such as “up-charging” by laying more serious charges of possession for the purpose of trafficking for small quantities that would ordinarily only attract a simple possession charge. It is essential that it be clear that *any threshold quantities specified in an exemption should serve as a floor, not a ceiling* — i.e. possession or transfer of a quantity *below* the set threshold is always considered in law to be simple possession for personal consumption and covered by the exemption from section 4 of the CDSA, but possession of a quantity *above* the threshold is never automatically or presumptively possession for the purpose of trafficking, which remains an offence. Rather, as is currently the case, and as is constitutionally required, the burden always remains on the prosecution to prove an offence, including possession for the purpose of trafficking. Furthermore, if threshold quantities are specified in an exemption, they must reflect quantities of substances that people are likely to possess for personal consumption, and must consider factors such as patterns of personal use, geography, individual experience, physical tolerance of certain substances, etc. If threshold quantities are set artificially low, disregarding real-world practices, then decriminalization on paper becomes illusory in practice.
- **Age restrictions:** The prohibition on simple possession does harm to those criminalized, regardless of their age. Decriminalization must apply to all, regardless of age, including youth whose prosecutions for possession would be also guided by the provisions of the *Youth Criminal Justice Act*. We urge you to avoid limiting the scope of an exemption in a manner that discriminates based on the age of those who possess controlled substances for personal use.
- **Time restrictions:** Any exemption granted for local decriminalization should remain in effect until such time as either (a) the requester notifies the Minister that it wishes to terminate an exemption or (b) the full legislative repeal of the prohibition on simple possession in the CDSA comes into force.
- **Other services available:** We are fully supportive of greater access to health and social services, and the investments needed for these — including by redirecting resources currently wasted on policing, prosecuting, and imprisoning people for drug offences. We caution, however, that it would be a mistake to insist that certain services, or a certain degree of services, be in place in a jurisdiction before effecting decriminalization. Even in the complete absence of any services, it is beneficial to remove criminalization, and its attendant stigma and other harms, from the lives of people who use drugs. A reminder that the current *status quo* of drug prohibition is not neutral: it is actively killing people who use drugs across the

country. Ensuring adequate access to valuable health and social services must be a *complement* to decriminalization, not a *precondition*. (We are also mindful of the fact that the approach adopted by Health Canada in responding to the exemption requests from Vancouver and British Columbia will inevitably set something of a precedent for handling similar requests in future. But most jurisdictions in Canada do not enjoy the same history and extent of health and social services as Vancouver; they should not be deprived of the benefits of decriminalization because they may not be in position to meet a standard that may be feasible for Vancouver to demonstrate. Indeed, doing so would actually compound inequity by maintaining a criminal prohibition in place to harm those already experiencing less access to supportive services.)

- **Diversion requirements:** Offering people access to health and social services, including for drug dependence where this may be needed or useful, is welcome — provided that this is not premised upon being apprehended for possessing drugs and that police are not seen as the gateway to access. But mandating referrals to, or attendance at, certain services — including a health assessment or treatment — or simply diverting people who would otherwise face simple possession charges to participation in a drug treatment court or similar program, is not. In no way should such approaches feature in any decriminalization scheme, including as a term in an exemption issued under section 56. It is counterproductive to maintain such coercive measures while seeking to decriminalize and destigmatize people who use drugs; such an approach also raises human rights concerns. International drug control conventions do not require Canada to impose any such alternative to simply fully decriminalizing simple possession, which all UN agencies have recommended. People who use drugs have been clear that administrative penalties of any kind — including tickets and fines, compulsory attendance at “dissuasion commissions” or participation in drug treatment courts, and confiscation of drugs without charges — are not conducive to destigmatizing drug use or encouraging access without fear to supervised consumption, safe supply programming, and other supports for people who use drugs, and are likely to increase the risk of negative consequences of drug use. Our call is for full decriminalization, not a partial workaround that perpetuates much of the same fear, stigma, and harms to health as does criminalization.
- **Evaluation requirements:** We fully appreciate the benefit of evaluating how decriminalization plays out. We encourage Health Canada to collaborate with other orders of government, academic researchers, and civil society organizations — including organizations of people who use drugs — to support efforts to gather such data, which can also inform policy in future. However, we must flag two concerns. First, it would be unnecessary and unwarranted to insist on an evaluation plan as a condition of granting an exemption for decriminalization. There is more than enough evidence establishing the harms of criminalization, and the health and lives of people who use drugs cannot be held hostage to a demand for yet more research. Again, such evaluation efforts, in at least some jurisdictions, would be a welcome complement to local decriminalization, but must not be made preconditions. Second, it is essential that any assessment be based on fair and appropriate measures based on the objectives of decriminalization (i.e., a reduction in the number of charges laid for simple possession and of people being charged, as well as some demographic analysis to address potential continued bias in the application of the law). Other outcomes, including the anticipated benefits for health and well-being of persons previously

criminalized, savings in public expenditures by eliminating enforcement of the prohibition on simple possession, etc., are important and data regarding all other potential benefits ancillary to decriminalization are welcome. However, these are secondary and not essential to judging the success of decriminalization efforts, the goal of which is to reduce the inherent harm of being criminalized and of the policing that accompanies it.

We hope and expect to see more requests for exemptions in the near future. Our recent primer on decriminalization for municipalities and provinces has been downloaded hundreds of times. We have shared, and are sharing, it widely with these other orders of government. We and other community advocates – including parents who have lost children to toxic drugs and other harms caused or exacerbated by our stigmatizing, punitive drug laws – are also actively encouraging municipalities across the country to support decriminalization. A growing number are recognizing the need for a more health-friendly approach, as seen in the resolutions adopted in recent months by the Toronto Board of Health, the City of Montreal, and several other smaller municipalities.

We thank you and your staff for taking the time to meet and correspond with us on this issue in the past and we hope that we can continue the conversation. There is truly no time to waste. We urge you to listen to the health and human rights experts who have already spoken about this, follow the public health evidence, and issue these exemptions quickly, without onerous and unnecessary conditions or restrictions. Lives and health are at stake.

Sincerely,



Richard Elliott, Executive Director, HIV Legal Network



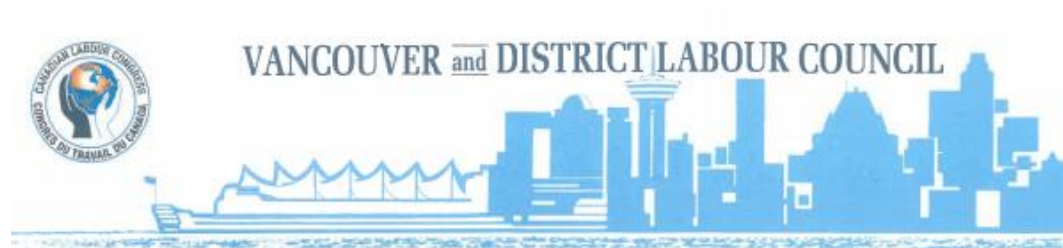
Donald MacPherson, Executive Director, Canadian Drug Policy Coalition



Caitlin Shane, Staff Lawyer – Drug Policy, Pivot Legal Society

Cc: His Worship Kennedy Stewart, Mayor of Vancouver
Dr. Patricia Daly, Medical Health Officer, Vancouver Coastal Health
Hon. John Horgan, Premier of British Columbia
Ms. Jill Lot, Deputy Minister, Office of the Premier of British Columbia
Hon. Adrian Dix, Minister of Health, British Columbia
Hon. Sheila Malcolmson, Minister of Mental Health and Addictions, British Columbia
Dr. Bonnie Henry, Provincial Health Officer, British Columbia

Letter from Vancouver and District Labour Council



November 19, 2020

Mayor and City Councillors
City of Vancouver

VIA Form: <https://vancouver.ca/your-government/contact-council.aspx>

Dear Mayor Stewart and Councillors,

RE: Motion “Work with Senior Governments to Address the Overdose Crisis”

Our Labour Council, representing approximately 60,000 union members in the Vancouver area, strongly encourages the adoption of Mayor Stewart’s motion “Work with Senior Governments to Address the Overdose Crisis”.

We appreciate the leadership that Mayor and Council have shown on attempting to address the terrible overdose crisis that is costing our city so many lives. Unfortunately, with over 300 overdose deaths in the City of Vancouver this year alone it is clear that much more must be done. That’s why we were glad to see this motion, which we believe continues to move Vancouver in the right direction on this issue.

It is time to end the stigma around substance use and shift from a law enforcement focused approach to a health focussed one. If we are serious about tackling this difficult issue, we must recognize that decriminalization is a crucial step in that shift, and therefore in helping to clear the path to harm reduction and treatment for those who need it.

It should be clear to all that criminalization has worsened, not improved the current situation. It has not worked to-date, and we are given no reason to believe it will work in the future. The results of other jurisdictions that have taken this kind of approach, and the broad consensus around the need for this shift, are both strong reasons to approve this motion. Thank you for your consideration.

Best Regards,



Stephen von Sychowski
President, VDLC

cc: VDLC Executive Board



svs/eh

SUITE 170 - 111 VICTORIA DRIVE, VANCOUVER, B.C. V5L 4C4 TEL: 604-254-0703 Email: office@vdlc.ca www.vdlc.ca



Letter from Multidisciplinary Association for Psychedelic Studies



April 19, 2021

Dear Health Canada,

As the Board Chair of The Multidisciplinary Association for Psychedelic Studies (MAPS) Canada, I would like to express my organization's support for the City of Vancouver's initiative to decriminalize personal possession of all illicit substances, including psychedelics. MAPS Canada is committed to conducting and publishing scientific research supporting the beneficial uses of psychedelic medicines in the treatment of mental health conditions.

We strongly believe decriminalization will be beneficial for users, practitioners, and will help end the stigma around drug-use that has persisted for too long. People who use drugs, from opiates to psychedelics in isolation and under fear of arrest are at higher risk of harm.

MAPS is currently supporting the final phase of clinical trials for MDMA-assisted psychotherapy for the treatment of post-traumatic stress disorders. We are also in the initial implementation stage of an MDMA-assisted psychotherapy trial for eating disorders and have a number of other studies in the beginning stages.

We are very encouraged that the City of Vancouver is piloting this project and basing their decisions on solid public health advice. We believe science speaks for itself, and I encourage you to refer to the Literature Review in the attached Appendix for a summary of significant positive results showing the benefits of psychedelics for treatment of PTSD and other mental health conditions.

Warm regards,



Eesmyal Santos-Brault
Board Chair, MAPS Canada



Appendix Literature Review

The use of psychedelics is not a new phenomenon. For millennia, cultures world-wide have respected the function of psychedelic plants and fungi to provide healing, knowledge, creativity, and spiritual connection [1-11].

Lysergic acid diethylamide (LSD) and psilocybin were two of the first psychedelic substances to show therapeutic potential in the 1960s [21]. Recent scientific studies are demonstrating how psychedelics can be beneficial for treating conditions such as end-of-life anxiety [12], substance use disorders [13-15], cluster-headaches [16], PTSD [17-19], anxiety [13], obsessive-compulsive disorder [20], treatment-resistant depression [13], decreasing chronic pain [22], and alleviating OCD [20]. Studies observing use of psychedelics in community, outside of carefully controlled lab environments, also show positive outcomes, such as reducing rates of intimate partner violence [23], recidivism [24], suicidality [25, 26], positive mood and social connectedness [27, 28] and ability to relate to nature [29]. Meta-analyses of the academic literature consistently report optimism regarding the significant potential health, social and spiritual benefits of psychedelics [15, 30-37].

The U.S. Food and Drug Administration (FDA) assessed the data and subsequently granted Breakthrough Therapy designation for two studies investigating psilocybin therapy for treatment-resistant depression and for MDMA assisted therapy for PTSD. Breakthrough designation allows the FDA to grant priority review to drug candidates if preliminary clinical trials indicate that the therapy offers substantial treatment advantages over existing options for patients with serious or life-threatening diseases.

In addition to treating a variety of conditions, psychedelics can also be valuable for personal and spiritual growth. Specifically, a Johns Hopkins study on “healthy normals” found that over 75% of the respondents considered their psilocybin experience to be one of the top five most meaningful or spiritual experiences of their lives [38, 39].

The risk of harm from psychedelics is extremely low. In 2000, a risk assessment on mushrooms containing psilocybin was conducted by the Netherlands-based Coordination Centre for the Assessment and Monitoring of new drugs and concluded that the health risk to the individuals, the public, and threats to public order was low. This has been confirmed by many researchers [40-43] and the European Monitoring Centre for Drugs and Drug Addiction [44]. David Nutt’s analysis of drug harms is of specific interest, as his detailed assessment includes an exhaustive list of harms to both self and others and concludes that mushrooms, LSD and Ecstasy are three of the least harmful in a long list of both legal and illegal drugs [42].

It is notable that the Canadian Medical Association Journal chose to put an exploration of the psychedelic renaissance on the front cover of its journal which is sent to all Canadian physicians[45].



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APPENDIX C

Letter from Coalition of Organizations

Open letter regarding the proposed “Vancouver Model” of decriminalization

To: Patty Hajdu, Minister of Health
British Columbia Decriminalization Working Group
City of Vancouver Decriminalization Working Group

As a coalition of organizations representing victims and survivors of the decades-long war on drugs, we are demanding immediate action from all levels of government to halt and redraft the so-called “Vancouver Model” of decriminalization ahead of the City of Vancouver’s proposed final submission to Health Canada on May 14, 2021.

If the “Vancouver Model” is not stopped now, the City of Vancouver and Health Canada will set a deadly precedent for public policy; not only in Vancouver, but across Canada and beyond. We reiterate why this current proposal for decriminalization must be scrapped immediately:

- 1. Drug users were excluded from the development of the model.** Mayor Kennedy Stewart broke his commitment to work with drug users in the design of the “Vancouver Model” of decriminalization. By excluding the very people most impacted by the drug war from the drafting of drug policy, the model stands to reproduce the harm of prohibition and the exclusion of drug users from civic life;
- 2. The VPD have had unchecked decision-making power over the development of the model.** The police are the perpetrators of the drug war; the goal of decriminalization must be to curb their power and impunity over our community. The City and Health Canada have willingly handed complete jurisdiction over the “Vancouver Model” to the VPD instead of those who stand to benefit most from decriminalization – drug users;
- 3. The model’s proposed threshold amounts are unrealistic and dangerously low.** As people who use drugs every day, we assure you that the thresholds proposed in the City of Vancouver’s April 12 submission to Health Canada are unrepresentative of lived patterns of possession. By setting decriminalization thresholds at this low level, the City of Vancouver will further expose drug users to police profiling and brutalization;
- 4. The model does not feature meaningful provisions for safe supply.** Without an effort to provide a regulated supply of drugs, decriminalization will not reduce overdose deaths. It is of the utmost importance that the “Vancouver Model” include provisions for harm-reduction-focused supply.

We cannot abide by the phony “Vancouver Model” of decriminalization and refuse to be tokenized in petty political bids. We call on the City to immediately amend its proposed thresholds and call on Health Canada to ensure that any approved thresholds are consistent with the goals of reducing harms to people who use drugs. And finally, we demand the VPD to be removed from their decision-making capacity in the decriminalization process.

If these changes are not made, we, the undersigned, will have no choice but to condemn this model as harmful and uninformed. We want decriminalization – but on our terms, not the terms of the police and politicians. Our lives are at stake.

Signed,

Organizations

BC Centre on Substance Use
Coalition of Peers Dismantling the Drug War
Crackdown Podcast
Defund 604 Network
Drug User Liberation Front
Moms Stop the Harm
Nanaimo Area Network of Drug Users
Pacific Aids Network
PIVOT Legal Society
Rural Empowered Drug Users Network
Surrey–Newton Union of Drug Users
Tenant Overdose Response Organizers
Vancouver Area Network of Drug Users
~~Vancouver Prison Justice Day Committee~~
Western Aboriginal Harm Reduction Society

Supporting Individuals

Shila Avissa, RSW, MSW (Candidate), RISE Community Health Centre
Anna Brisco, RD, MEd (Candidate)
Tyson Kelsall, MSW, RSW, VCH
Shianne Ewenin, RISE Community Health Centre
Bronwen Besso-Smith, BSW
Targol Salehi, RSW

Paisley McHaffie Mental Health worker
 Bilal Bagha, MD
 Dr Rita McCracken, MD PhD
 Mei-ling Wiedmeyer, MD University of British Columbia
 Serena Eagland, RN
 Madelaine Beaumont, RN(c) VCH
 Anna-Maria Trudel
 Jaclyn Sauer MSW RSW
 Portia Larlee
 karina czyzewski, RSW
 Dwight Pennock
 Dani Aiello PhD Queen's University
 Dr Emily Ower MD
 Amber Kelsall, RN
 Mr. Mason Kerr Socialist Alternative
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 Ari Clemens, MScPH BCCSU
 Sarah Bishop
 Trish Emerson
 Milan cerwood
 Alison McBride
 Anna Dodd
 Vic Cluett, RN VCH
 Kim Calder, LPN/4th Year SN VHC - IC I D I E S
 Alyssa Savage
 Lindsey Richardson Associate Professor, UBC Sociology
 Kathryn Chadwick McGill University
 Annie Foreman-Mackey, UBC Medical Student, MPH

Paisley McHaffie Mental Health worker
Bilal Bagha, MD
Dr Rita McCracken, MD PhD
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Serena Eagland, RN
Madelaine Beaumont, RN(c) VCH
Anna-Maria Trudel
Jaclyn Sauer MSW RSW
Portia Larlee
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Dwight Pennock
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Alyssa Savage
Lindsey Richardson Associate Professor, UBC Sociology
Kathryn Chadwick McGill University
Annie Foreman-Mackey, UBC Medical Student, MPH

Letter from VANDU Board of Directors



May 10, 2021

At this morning's Decriminalization Working Group meeting with Health Canada, representatives of VANDU were once again confirmed in their suspicion that their input in the development of the "Vancouver Model" is not being taken seriously.

Urgent concerns over the exclusion of drug user experience and expertise in the decriminalization drafting process, the unrealistic and dangerously low threshold amounts already submitted by the City to Health Canada, and the question of the VPD's unchecked decision-making power in the making of the "Vancouver Model" have not been addressed.

On Monday May 3, the VANDU Board requested an immediate meeting with the Working Group Oversight Committee, as well as a commitment from the City of Vancouver to reconsider its previously submitted threshold amounts. These demands have not been met.

Since our belated invitation to the Working Group, we have tried our best to work in good faith with City staff on what could have been a crucial step in de-escalating the deadly drug war. However, it has been made apparent that Mayor Kennedy Stewart's promise to include drug users in the making of the "Vancouver Model" was a lie made to score petty political points ahead of the electoral cycle.

We issue this as a warning: if threshold amounts are not revised immediately and drug users continue to be tokenized in the drafting process, the "Vancouver Model" will go down in history as a fatal misstep in drug policy. VANDU is not alone in this opinion; a coalition of drug user groups, drug advocates, and healthcare professionals across British Columbia have banded together against this phony decriminalization plan. See our open letter attached.

For the reasons above, the VANDU Board of Directors has decided to leave the City of Vancouver's Decriminalization Working Group. We ask that the City and all involved members of the Working Group refrain from further claiming VANDU has 'approved' the "Vancouver Model" of decriminalization. We refuse to be tokenized any longer.

The VANDU Board requests that the open letter attached is forwarded to Patty Hajdu, Minister of Health, the British Columbia Decriminalization Working Group, and the City of Vancouver Decriminalization Working Group.

Signed,
The VANDU Board of Directors

Letter from VANDU & Pivot Legal Society



Via Email

Kennedy Stewart
Mayor
City of Vancouver

Mary Clare Zak
Managing Director of Social Policy & Projects
City of Vancouver

Adam Palmer
Chief Constable
Vancouver Police Department

March 15, 2021

Dear Mayor Kennedy Stewart, Mary Clare Zak and Chief Adam Palmer,

**RE: Threshold amounts in Vancouver's application to decriminalize drug possession
(A joint open letter of Vancouver Area Network of Drug Users and Pivot Legal Society)**

We write on behalf of the Vancouver Area Network of Drug Users (VANDU) and Pivot Legal Society regarding potential 'threshold amounts' (i.e., quantity limits for drug-related offences) under the City's s. 56(1) application to decriminalize drug possession. In particular, if threshold amounts are adopted as part of the City's model, it is critical that they reflect the *maximum* quantity of substances any person is likely to possess.

Our Position

This is our position: threshold amounts must be appropriately high in order to eliminate both the abuse of police discretion and the enforcement and confiscation of below-threshold amounts. We submit that possession or transfer (i.e., sharing, splitting) of below-threshold amounts must always be considered in law to be simple possession and therefore protected by the exemption. Possession of above-threshold amounts, in turn, is never automatically or

Pivot and VANDU's offices are located on the unceded territory of the Coast Salish Peoples, including the territories of the xʷməḱəḱəm (Musqueam), Skwxwú7mesh (Squamish), and səliwətaʔ (Tsleil-Waututh) Nations.

presumptively possession for the purposes of trafficking (PPT) or trafficking. Existing burdens of proof must still be met in order to establish these higher offences, and where only simple possession is made out, the exemption must apply.

As expressed in our joint statement of November 19, 2020, we support efforts to fully decriminalize drug possession in Vancouver.¹ However, the imposition of threshold amounts, if not maximal, undermines the goals of decriminalization and belies classification as “full decriminalization.” Threshold amounts that are too low, or that reflect only the “average” daily use quantity of the “average” person who uses drugs, will do more harm than good, especially to those of us who are poor, racialized, or psychiatrized. It follows that a model of decriminalization without an appropriately high threshold amount will not have our support.

If you pull me over for anything other than trafficking, and I have drugs or drug paraphernalia on me, that's irrelevant for the case at hand. It should have nothing to do with me jaywalking, loitering. Whatever drugs on me, that's my business, that's my lifestyle. If I'm caught for a crime or bylaw infraction, that's what I should be questioned about, not whatever's in my bag at the moment.

I'll tell you right now, if I have drugs on me, I don't jaywalk. The cops are looking for any excuse to look through your pocket. Especially if they suspect you may have any quantity of drugs on you, they will wait for any little thing to justify searching you. The search will lead to dope and the dope lands you in a jail cell. And we all know jail does nothing good but take my tax money and put my friends in danger of detoxing in an unsanitary, unsafe place.

If the police find a scale on me, it's not because I'm a drug dealer – it's because I'm a safe drug user. When I sit down to do my shot, I measure out exactly how much I want to use. I know what my quantity is, and I measure so I don't overdose, like any responsible user should.

- Martin Steward, VANDU Board of Directors

¹ https://www.pivotlegal.org/vandu_pivot_joint_statement

The Law: Quantity alone does not distinguish possession from other offences (PPT/trafficking)

The case law is clear: the quantity of drugs a person possesses is not, on its own sufficient to establish PPT or trafficking under s. 5 of the *Controlled Drugs and Substances Act* (CDSA).² In other words, there is no identifiable threshold in law that separates simple possession from other offences. This is in part to account for the fact that drug use and possession are not one size fits all. The quantity of drugs a person possesses depends on various factors, including but not limited to frequency of use, tolerance, bodily composition, drug potency, geography, economic circumstances, etc.

"I am not aware of any presumption in law that quantity alone is indicia of trafficking or possession for the purpose of trafficking."

- *R v McCallum*, 2006 SJ No 404 at para 28

Courts have indicated that only where there is "an objectively significant amount, i.e., 10kg or 1000 hits" *might it be possible* that quantity alone suffices to establish PPT.³ But even then, there is no presumption in law.

"To be clear, just because someone might be in possession of what is considered a large quantity of drugs, that does not mean their intent was to traffic them."

- *Hill/Wein Evidence Newsletter* page 13

"As noted, neither s. 5(2) of the *Controlled Drugs and Substances Act* nor the definition of traffic, nor the relevant authorities stipulate that quantity is a part of the *actus reus* of the offence."

- *R v Yung Chan*, 2003 66 OR (3d) 577 at para 34

If thresholds below an objectively significant amount are adopted, we risk creating a model more restrictive than the one currently permitted by the caselaw (especially if police attempt to retain the ability to enforce PPT where the amount possessed is below threshold). We do not consent to this.

² *R v Yong*, 2020 ABQB 644 at para 28; *R v Bui*, 2020 AJ No 74 at para 109; *R v McCallum*, 2006 SJ No 404 at para 28 [McCallum]; *R v Chan*, 2003 66 OR (3d) 577 at paras 27-35. See also *Hill/Wein Criminal Evidence Newsletter*, Issue 44 (2020) at p 13: "As a general proposition, a trier of fact, without expert evidence, cannot infer p for p [PPT] on the basis of quantity alone."

³ *Hill/Wein Evidence Newsletter* page 13.

"Average" thresholds will target those of us most marginalized

It is well-established that VPD's enforcement of drug-related offences is systemically racist and biased against poor people. If thresholds are based on the "average drug user" (a term that we contest in and of itself), drug users who do not fit this mold – without question, the most marginalized drug users – will not be protected.

Many of us purchase or carry our drugs in bulk – a many-days'-worth supply. Why? Because we risk arrest every time we buy; and choose to mitigate that risk in part by buying larger quantities less frequently. Because there's a pandemic, and we're quarantining or limiting excursions for our own health and safety. Because we're having to adapt to an increasingly toxic and unstable drug supply. Because our partners or comrades might buy for the both of us when we're unable to do so ourselves. Because we live in rural and remote communities with limited access to our suppliers. Because we have limited mobility and don't have capacity to purchase one-off doses. Because we may not have the luxury of an indoor home or a safe-keeping place for our supply. Because we use large quantities of drugs!

Threshold amounts don't make any sense because what I need for medicine may be way more or way less than someone else. And besides, I live in a community. I live in a co-op. I could be carrying Tom, Dick, and Harry's medicine if they ask me to. We care about each other and take care of each other. So, if my friends and neighbours are quarantining, I'm picking up the community's supply and making sure they have what they need. It should be no different from you picking up a prescription for grandpa. Should I be arrested for that just because it's over a certain number? If we decriminalize, no amount should be illegal. That's that.

-Brian McDonnell, VANDU Board of Directors

We are concerned that averaging thresholds will further stigmatize those of us whose consumption patterns are deemed "abnormal" or "problematic." Simply because we do not fit a standardized, acontextual, and homogenous criteria, we will be denied the benefits of decriminalization (despite the fact that we need those benefits most). Those of us who are unsheltered will be unfairly targeted, as per usual, because we are forced to carry all our belongings on our person and don't have the privacy and protection that housed people do. New protections for only a subset of PWUD will result in continued and likely reinvigorated enforcement against the rest of us. Undoubtedly, people who are poor and/or unsheltered, people of colour, people in rural and remote communities, people with disabilities, and women and gender-fluid people will be left vulnerable.

Threshold quantities must be a floor and not a ceiling

If threshold quantities are adopted, they should serve as a 'floor', wherein the possession or transfer (i.e., sale, sharing, splitting) of a quantity below the established threshold is *never* a crime. In other words, we oppose the enforcement of possession in addition to PPT and trafficking in all scenarios involving possession of a below-threshold amount.

The possession of above-threshold amounts in turn, is never automatically or presumptively PPT or trafficking. As always, the burden of proof lies with the prosecution to demonstrate all elements of those offences in order to secure them (i.e., intent to sell). Courts will still be permitted to find that the possession was for personal use (and therefore protected under the exemption), or that the transfer did not amount to trafficking. In addition, mitigating factors (including whether the person uses drugs themselves or if they belong to an affected community) must still be taken into consideration in determining whether PPT or trafficking has been established.

Nothing about us without us

If thresholds are adopted as part of the City's move to decriminalize drug possession in Vancouver, it is non-negotiable that our community be integral to the drafting of those thresholds. The VPD cannot be the arbiters of this process. Drug thresholds must reflect our lives and our circumstances, and the only way to ensure this is to follow our leadership.

We look forward to speaking in future.

Sincerely,

Vancouver Area Network of Drug Users, and

Pivot Legal Society

cc: Dr. Patricia Daly
Vice President, Public Health, Chief Medical Health Officer
Vancouver Coastal Health

Briefing Note from the Vancouver Area Network of Drug Users (VANDU)

Briefing Note: May 12, 2021

To: Mayor's Office, City of Vancouver

From: the Vancouver Area Network of Drug Users (VANDU)



Drug policy needs to be driven by data that is relevant to the experiences of people who use drugs in Vancouver. There are known limitations to the existing data in the City of Vancouver's *Submission on Thresholds* (version 08.04.2021). The proposed policy on thresholds is: (a) based on data from 2018; (b) it relies on surveys of people who inject drugs; and (c) it is based on average amounts of drugs *used* per day, which is not the same as amounts of drugs possessed. Furthermore, buying drugs in bulk is a common practice, as drugs cost less when bought in larger quantities.

Because of these limitations, the VANDU Board conducted a rapid community assessment over 4 days to better understand drug possession and the potential effects the proposed law would have on people who use drugs. While VANDU is still drafting its report, some notable preliminary findings worth highlighting include:

- 161 people who use drugs participated in this survey
- Many participants (32%) reported being charged with drug possession in the past and 48% of participants reported previously having their drugs confiscated by police, with 31% having their drugs confiscated in the past year
- When looking at the maximum amount of individual drugs purchased at one time in the last year for personal use, the percentage of people who would be *vulnerable to arrest* based on the City's proposed model is as follows:
 - 74% of people who use crack
 - 61% of people who use fentanyl
 - 53% of people who use heroin
 - 45% of people who use cocaine
 - 35% of people who use crystal methamphetamine

It is well-known that many people are polysubstance users, some buy in bulk, and many purchase drugs for other people (e.g., partners, friends), especially during the COVID-19 era. In this study, 70% of individuals reporting regularly using more than one drug, with 30% reporting use of two drugs, 23% reporting use of three drugs, and 17% reporting use of more than three drugs. As well, approximately 52% of participants reported buying drugs for other people, and on average were purchasing for two other people.

This real-time community-based data demonstrates that the proposed thresholds will continue to leave many people in Vancouver vulnerable to criminalization. It further highlights the need for and benefit of greater and meaningful engagement with people who use drugs in shaping drug policy.

Letter from British Columbia Centre on Substance Use



May 17, 2021

To: The City of Vancouver Decriminalization Working Group Oversight Committee
Mayor Kennedy Stewart

Re: City of Vancouver decriminalization submission

We're writing in follow-up to the public statement the BC Centre on Substance Use (BCCSU) shared last week and to provide clarification and further information to comments made in the media.

We understand that to inform discussions about thresholds, the City of Vancouver Decriminalization Working Group Oversight Committee drew upon data provided by researchers from our team at the BCCSU. The data was compiled by three longstanding cohort studies, including the Vancouver Injection Drug Users Study (VIDUS), the AIDS Care Cohort to Evaluate Exposure to Survival Services (ACCESS) study, and At-Risk Youth Study (ARYS), as well as the Cheque Day Study (The Impact of Alternative Social Assistance on Drug Related Harm, or "TASA"). These data revealed self-reported daily drug use patterns among people who use drugs in Vancouver.

When these data were shared, their limitations were clearly spelled out. Specifically, that they were collected prior to the COVID-19 public health emergency and they revealed only daily self-reported drug use patterns among people who inject drugs. However, while these data do provide good local evidence to inform the setting of thresholds and thereby inform your submission to Health Canada, these data should not be the sole source used for this purpose.

Your documents describe ranges as "low", "medium", and "comprehensive" inclusion. The comprehensive range, which was recommended based on the "Risk Analysis" included in the City's document, would set thresholds at approximately 13 grams for opioids, 14 grams for cocaine, 22.5 grams for crack cocaine, and 19 grams for amphetamines. This level of inclusion was said to provide coverage for those with "severe substance use disorders" for a multi-day supply.

Our concern is that the proposed thresholds in your submission were set at the "low" level, and not based on the data provided. Additionally, the thresholds were set without meaningful consultation of people who use drugs or drug user groups. At this level, it will likely result in the ongoing criminalization of people who use drugs and related harms.



BRITISH COLUMBIA
CENTRE ON
SUBSTANCE USE
Networking researchers, educators & care providers

In comments made in the media, it has been suggested that the thresholds were set based on these data shared by BCCSU. This has created the impression in the local and national drug user community that the threshold recommendations were made by BCCSU, which could have long-term impacts on our research activities in the community.

We commend you for launching this bold initiative and appreciate that you are approaching this with urgency. However, we strongly believe that the development of this application needs to be adequately informed by the voices of people who use drugs, as they have lived experience and wisdom that is critical when shaping effective drug policy, and that up-to-date data that reflects the current situation in the COVID era must also be collected and considered, and new, more realistic thresholds must be set.

This work has the potential to shape drug policy for this city, province, and country for decades to come. The urgency should be equally felt in ensuring that the policy proposal is right.

Sincerely,

Cheyenne Johnson
Executive Director, BC Centre on Substance Use
Adjunct Professor, School of Nursing, University of British Columbia

Dr. Thomas Kerr
Senior Scientific Advisor and Senior Scientist, BC Centre on Substance Use
Head, Division of Social Medicine, University of British Columbia

APPENDIX D

Roundtable Discussions

The facilitated roundtable discussions listed below were held to gather perspectives on the City's model for an exemption for simple drug possession. The roundtables attempted to reach a broad cross section of people with lived experience, and some key organizations engaged in the Community Action Team.

- Community Action Team Peer members
- Community Action Team Partner organization
- Community Action Team Indigenous Partners
- Black and African Diaspora Community
- Sex Workers
- Community Policing
- Business Improvement Associations
- Vancouver Area Network of Drug Users (VANDU)

Future roundtables will be held with the Chinese Canadian community and youth.

The following questions were used to guide the discussions.

- What do we need to consider when defining thresholds for simple possession?
- What do you want to see in a voluntary alternative pathway?
- What else does this model need to consider? What is missing?
- What concerns do you have?
- How will this model make a difference? Or not?
- What more do you need to know?

Summary of Findings

The analysis below of the engagement sessions is organized by crosscutting themes and themes specific to the different groups. These statements represent the views expressed by participants and provide a rich source of information to help inform the on-going work to address substance use issues. In some instances, statements may be perceptions of a situation rather than a description of a direct experience. Much of the feedback heard during the engagement goes beyond the scope of the exemption request. The City recognizes that decriminalization is just one piece of a broader, more comprehensive approach to substance use, criminal charges and the overdose crisis. Although the need for responses such as safe supply or police accountability mechanisms raised by participants have been captured, they will not be directly addressed by the exemption. Supports such as affordable housing, healthcare, legal services, harm reduction services, and culturally safe services, must also be scaled up through intersectoral and cross-jurisdictional efforts, in tandem with decriminalization.

Need for a Systemic Approach

- The Vancouver model should focus on systemic issues, including housing, racism and anti-Indigenous racism specifically, child apprehension, poverty, stigma, and community safety
- Ensure drug users charged with possession have access to lawyers

Support for Decriminalization of Possession

- Some people were supportive of the proposed model and felt that it was a helpful step towards decriminalization that could have positive effects, including decreasing stigma of substance use
- Decriminalization will affect peoples' lives in many positive ways, particularly people who are Indigenous and for those who are stuck in the justice system due to simple possession
- Decriminalization can help with stigma and fear of being caught with drugs, thus promoting access to services and support from peers

Support for Decriminalization of Poverty

- Many expressed support for the City's initiative to decriminalize poverty by divesting in policing and re-investing in community-based services to address issues such as substance use, as well as sex work and homelessness
- Community members would like more information on the decriminalization of poverty work
- Divesting in police and investing in community services is an indicator of decriminalization

Engagement Process and Decision-making Model

- People who use drugs and drug user groups should have been engaged from the outset of the project prior to determining thresholds and included all the way through at each round table. Many were disappointed that they were consulted after the preliminary proposal and threshold amounts had been submitted to Health Canada, and felt this undermined the engagement process
- More diverse engagement is needed beyond involving the Community Action Team (CAT)
- Suggestions for future engagements include focusing on case studies, and establishing agreements with drug user groups on engagement
- People with lived experience and Indigenous people need to be involved at all levels, including in the research, developing the model and writing policies
- People want transparency in how decisions are made and who is involved

Enforcement and Policing

- Police currently have too much decision-making power in the development of the model, and this is problematic because police are not primarily concerned with impacts on drug users
- Police might find another way to criminalize drug users such as increased arrests for dealing or ticketing for street vending
- Many felt that police will discriminate against certain people if police have too much discretion
- People are afraid of the police due to past negative experiences, contributing to lack of trust, especially for BIPOC, women and LGBTQ2S youth,
- Police are not trained to deal with mental health and other health issues and should not be referring people to services/alternative pathways
- Interventions are needed to address racism, discrimination, harassment, and violence by police
- Concern that an increase in policing is already occurring around overdose prevention sites

Drug Seizures

- Many felt unconvinced that the proposed model would result in less drug seizures
- Harms associated with confiscation need to be addressed

Proposed Thresholds

- Threshold amounts are too low and conservative
- Threshold amounts were not determined based on current data and are not reflective of current usage, especially considering poly substance use, changing drug supply, increased tolerance, varied amounts and usage for different people, and issues with drug purity
- Confusion on how threshold amounts will be determined during encounters with police and concern that measuring amounts will be too complicated
- Thresholds may have harmful effects on drug users in that people may consume drugs quicker to stay within threshold amounts and avoid criminalization
- Always needing to know how much drugs you are carrying is a barrier because it requires a scale
- Thresholds are used to determine who is dealing and this is not an effective way to determine who is a dealer

Access to Safe Supply

- Increased access to safe supply is needed if we are to decriminalize possession, as we want people to be able to have easier access to safe drugs, not toxic drugs
- Safe supply could contribute to less crime associated with drug use and less need for policing
- Increased access could include purchasing from a dispensary instead of through a prescription from a physician
- Existing gaps in access to safe supply need to be addressed including requirement for a prescription and prescriber; having to go 3 times a day for injections; lowered dose for missing a day
- Safe supply is needed beyond opioids and should include a range of drugs
- Ideas for safe supply include legalization with drug taxes going into the community; dispensing machines; growing poppy plants

Alternative Pathway to Services

- Some people do not want treatment
- More funding should be invested in community-based services as well as hiring peers, such as peer navigators, peer counselling, peer welfare checks.
- Concern with lack of access to existing services including long wait lists and other barriers to treatment and safe supply
- Existing barriers to access health services need to be addressed, including the requirement to detox before access to some services, cost attached to some treatment services, barriers to access treatment from jail due to the assumption that people only want services to get out of jail
- Accessing drugs from a dealer is faster and has less stigma than trying to get into treatment or access other services
- Concern that the health care system currently lacks capacity to respond to increased referrals
- Concern with forcing people into treatment or other punitive effects

The Proposed Model

- Many were unconvinced the proposed model would result in less criminalization, less seizures or have a positive impact on drug users
- Some felt the proposed model may increase harms to drug users and the community
- Some people will use the same amount of drugs whether it is criminalized or not

Areas Requiring Clarity in Communications Role Out

- How will this affect people who have already been criminalized and/or are incarcerated for possession?
- How will the model apply to Vancouver residents working or visiting neighbouring cities?
- Will people be able to access services if possessing amounts above the threshold?
- How will it be determined who has a substance use disorder, and access to alternative pathways?

Group-Specific Themes

People with Lived Experience

- Drug user groups should be included at the start even with tight timelines as they can organize quickly and are experienced in political advocacy
- The model needs to consider “ethical dealing”, i.e., drug users who test their drugs and provide a safe supply to their friends
- Some were concerned that the model could result in increased policing
- The model needs to be trauma informed, including trauma associated with incarceration, encounters with the police/criminal justice system, and substance use
- Police need training on working with people who use drugs (e.g., anti-stigma, trauma-informed practice, etc.)

Indigenous Partners

- The model does not address root causes of substance use, including colonization, trauma, protection of corporate profits
- Healing can happen in a cultural way; Indigenous cultural approaches and programs need to be part of the alternative pathway
- Indigenous people need to always have an ally when interacting with police

Frontline Workers and Providers

- Providers expressed concern with an increase in referrals as there are not enough prescribers

Sex Workers

- Sex workers often carry drugs for their partners or dates, so need to account for personal use for more than just themselves
- If a sex worker has a date and is dropped off in another city, will the Vancouver model still apply?

Business Sector

- Some felt comforted by presence of police in the community and expressed concern that there is not enough police presence
- Crime is a large concern for business and some were concerned there may be an increase in potential break-ins
- Increased information and communication needed to inform businesses of the rationale for this model, including why there is a need for less enforcement

Black and African Diaspora Community

- Some had concerns with how the model would affect youth and if it would increase drug use among youth
- This model might give police more incentive to harass people who already experience discrimination and racism
- The model does not address White privilege, and Black youth are arrested more, even for doing nothing

Reflection on the Roundtable Process

City engagement staff also reflected on the engagement process to identify areas of improvement for on-going work on decriminalization. Some highlights of this are noted below.

What Went Well

- Good participation in all groups
- People felt comfortable to provide critical feedback
- Organizations supported with facilitation and honoraria distribution/food (e.g., option for some to meet on site and have COV staff brought in virtually)
- Having project staff available for people to connect with after and in between sessions
- Streamlined presentation that is accessible to communities

Challenges and Limitations

- Timeline – need to explain rationale and the challenges this created in terms of moving the process forward quickly
- Some submissions were submitted prior to engagement
- Community groups disagreed with threshold amounts and other aspects of the model that were already submitted
- Concern over police involvement and lack of trust sometimes related to other issues – need to clarify role and rationale

- Virtual engagement – barriers to participation
- Late involvement in project design process of Indigenous peoples and people who use drugs
- Unprecedented process – not sure of the way forward
- Representation – not representative fully of communities