



SASKATOON _____
POLICE SERVICE

TO: Jo Custead, Chairperson
Board of Police Commissioners

FROM: Troy Cooper
Office of the Chief

DATE: 2022 April 08

SUBJECT: Decriminalization for Simple Possession of Illicit Drugs

FILE #: 2,005

ISSUE:

Decriminalization for simple possession of illicit drugs in Saskatoon.

RECOMMENDATION:

Report be received.

STRATEGIC PRIORITY:

Strategy 7.1 – Coordinated Communications and Awareness.

BACKGROUND:

On August 19 2021, the Saskatoon Board of Police Commissioners resolved a motion to provide the following information:

- Evidence-based approaches to expanded harm reduction in other jurisdictions that could include decriminalization, safe supply, and increased diversion of drug related charges that could provide further lessons for addressing this crisis in Saskatoon;
- What role Police Services and Police Boards play in this discussion relative to Provincial Ministries of Health and Medical Health Officers, Justice Ministries, Municipal Governments, and other partners; and
- Information on how many individual, simple possession criminal charges have been laid in the past three years versus how many of these charges stem from instances where

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someone is arrested for a different crime and the drug charge is laid incident when the person is searched when being arrested; and

- Clarify that decriminalization does not mean that these drugs become legal and that police officers will still be expected to and will take action if they come across someone using illegal substances in a public place in our city; and
- Include information on how decriminalizing will or could make drug use safer given the drug supply is still unregulated; and
- Include what resources we might request from our Federal Government and attendant civil service (see their commitments referenced above), our Provincial Government and attendant civil service, our Indigenous Governments, our Civic Government, as well as what resources might be provided by the People of Saskatoon whether as individuals or as organized in many forms. We ask for this in accordance with our mission "to strengthen the culture of community safety".

DISCUSSION:

In August of 2021, the Saskatoon Board of Police Commissioners initiated a motion to explore the impact of the decriminalization for simple possession of illicit drugs in Saskatoon. In addition to providing feedback on decriminalization as a policy strategy, the motion also requested specific feedback on harm reduction strategies, safe supply initiatives, municipal governance, and local statistics.

The following correspondence is divided into three categories in an attempt to adequately respond to a multi-layered and extremely complex community situation. The report is structured as follows:

- **Decriminalization**
Aims to provide a historical context with respect to the evolution of decriminalization strategies in Canada, with a specific focus for Saskatoon. Additional focus on the evolution of Drug Treatment Courts, local prosecution efforts, and the *need for a health led solution*.
- **Role of the Board of Police Commissioners & the Saskatoon Police Service**
Provides feedback on the anticipated roles of the Saskatoon Police Service and Board of Police Commissioners.
- **Saskatoon – Statistical Picture – Controlled Drugs & Substances Act**
Attempts to determine whether there are correlations between toxicity deaths and involvement with law enforcement.

Decriminalization of personal amounts of illicit drugs has been the topic of discussion for provincial and municipal governments, law enforcement, academia, and community-based organizations in Saskatoon. A thorough analysis of decriminalization as an effective way to

mitigate the harms of substance abuse is likely a worthwhile initiative given the status of drug toxicity deaths in Saskatchewan. The Saskatchewan Coroners Service continues to provide data on all death investigations (concluded & suspected) where the cause of death was due to a drug overdose. Saskatchewan continues to experience unprecedented numbers of accidental deaths resulting from drug toxicities with over 900 in the last three years alone.¹

DECriminalIZATION

Decriminalization theories can often evoke a variety of opinions that are influenced by geography, political will, and community perspective. Discussions on decriminalization will undoubtedly involve personal opinions since it reflects a change to social views that are intrinsically linked to moral perspectives. There is a plethora of academic research suggesting that decriminalization is an effective way to mitigate the harms of substance use, especially harms associated with criminal justice sanctions for simple possession under the *Controlled Drugs and Substances Act*. This correspondence does not attempt to account for the voluminous amount of traditional, systematic or quantitative literature reviews on the topic of decriminalization; however, as a reference point a 2018 policy brief from the Canadian Centre on Substance Use & Addiction serves to acknowledge the proposed benefits of decriminalization:

“Decriminalization is an evidence-based policy strategy to reduce the harms associated with the criminalization of illicit drugs. For those who use illicit drugs, these harms include criminal records, stigma, high-risk consumption patterns, overdose and the transmission of blood-borne disease. Decriminalization aims to decrease harm by removing mandatory criminal sanctions, often replacing them with responses that promote access to education and to harm reduction and treatment services. It is not a single approach or intervention; rather it describes a range of principles, policies and practices that can be implemented in various ways.”²

On May 6, 2021, the Health Canada Expert Task Force on Substance Use released their first report entitled ‘*Recommendations on Alternatives to Criminal Penalties for Simple Possession of Controlled Substances*’. The Task Force found that “criminalization of simple possession causes harms to Canadians and needs to end. The Task Force was mindful of five core issues when making recommendations: stigma; disproportionate harms to populations experiencing structural inequity; harms from the illegal drug market; the financial burden on the health and criminal justice systems; and unaddressed underlying conditions.”³

Decriminalization by definition is the removal of criminal penalties for prohibited activities under the *Controlled Drugs and Substances Act* (CDSA). More specifically, section 4(1) is an offence

¹ Saskatchewan Coroners Service, “Confirmed and Suspected Drug Toxicity Deaths (2016 – Most Recent),” 2022, <https://publications.saskatchewan.ca>.

² Canadian Centre on Substance Use and Addiction, “Decriminalization: Options and Evidence [Policy Brief],” 2018, <https://www.ccsa.ca/decriminalization-options-and-evidence-policy-brief>.

³ Health Canada Expert Task Force, “Report #1 Recommendations on Alternatives to Criminal Penalties for Simple Possession of Controlled Substances”, 2021, <https://www.canada.ca/content/dam/hc-sc/documents/corporate/about-health-canada/public-engagement/external-advisory-bodies/reports/report-1-2021/report-1-HC-expert-task-force-on-substance-use-final-en.pdf>.

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for possessing substances included in Schedule I, II or III of the CDSA. The removal of criminal penalties for illegal activities can be achieved through ‘de facto’ or ‘de jure’ methodologies. A ‘de facto’ approach is one that does not require any changes to current laws or regulations. A ‘de jure’ approach involves changing the laws or regulations for a geographical area. Although the Saskatoon Police Service has not formally ascribed to either method, current trends would suggest that we have adopted a ‘de facto’ response to the criminalization of simple possession under section 4(1) of the CDSA as displayed by the number of stayed or withdrawn charges and the decreasing number of convictions. Please refer to the graph on page 12 for a complete breakdown of all 4(1) dispositions in Saskatoon for the years 2018 – 2021.

During the 3rd quarter of 2020, the Public Prosecution Service of Canada (PPSC) implemented guideline 5.13 to deal specifically with prosecution for possession of controlled substances contrary to section 4(1) of the *Controlled Drugs and Substances Act*. The policy change appears to reflect a philosophical shift in how the PPSC responds to charges for possession of an illegal substance. The focus appears to be shifting from a criminal perspective to a health-related issue providing there are no public safety concerns to consider. Although the guidelines were not meant to usurp Parliament by deciding what was legal or not, it amounted to a ‘de facto’ reduction in criminal charges for simple possession. The policy amendment was successful in establishing a set of guidelines that prosecutors must follow when deciding which cases raise public safety concerns, which would otherwise negate the application of suitable alternative measures. The PPSC will only resort to criminal prosecution for simple possession of a controlled substance in the most serious manifestations of the offence. Examples would include offences that pose risk to the safety or well-being of children, conduct that compromises the health or safety of others (driving offences), cultivation, production, trafficking, etc. The PPSC continues to review its prosecution policies in light of public health research and the ongoing opioid crisis.

Statistics from the Saskatoon Police Service Information Management System (SIMS) suggests that approximately 78% of all 4(1) charges in 2021 were withdrawn, stayed, or dismissed. A very low percentage of charges for possession of an illicit drug make their way to court. This would suggest that locally, people who use drugs are not being criminalized for illicit drug possession unless there is a public safety concern.

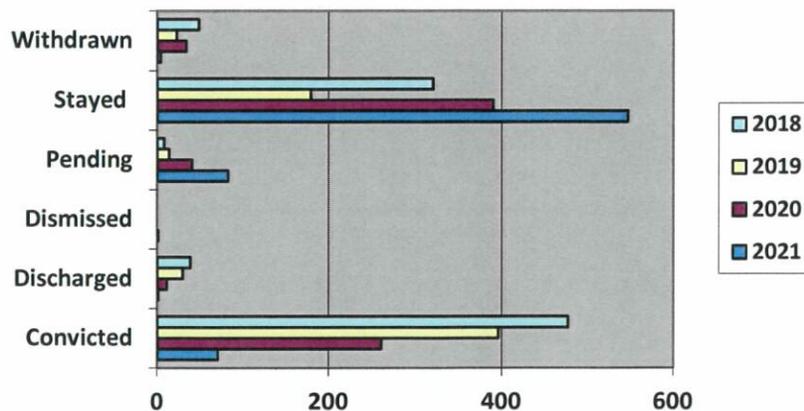


Figure 2: Disposition of 4(1) charges
Saskatoon Police Service

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In Canada, the province of British Columbia has been leading the charge when considering the application of decriminalization strategies. A recent report authored by the British Columbia Association of Chiefs of Police in 2021 shed some light on the enforcement of section 4(1) of the CDSA. 72 RCMP Detachment Commanders responded to a survey with the following results:

- a 54% reported their police officers were not enforcing section 4(1) in the CDSA;
- b 71% of those policing jurisdictions with a population base of 5,000 to 14,999 were not enforcing section 4(1) in the CDSA;
- c The primary reason for stopping (or reducing) enforcement of section 4(1) in the CDSA was that the PPSC policy change resulted in charges no longer being approved.⁴

The Saskatoon Police Service continues to enforce section 4(1) of the CDSA, however when combined with the PPSC guidelines for prosecution there is evidence to suggest that people who use drugs are no longer being criminalized for illicit drug possession unless there is a demonstrated linkage to other criminal conduct.

Decriminalization strategies continue to be the subject of local academic research. A P5 Project team from the University of Saskatchewan submitted an academic review to the Saskatoon Board of Police Commissioners in August of 2021. Dr. Lori Hanson and Dr. Barbara Fornssler prepared the submission entitled “Decriminalization of simple drug possession in Saskatoon, SK: A rapid evidence review”. The research aimed to provide analysis and feedback on how decriminalization might work for Saskatoon, which is important since every jurisdiction is relatively unique and the subsequent response requires an integrated approach from various stakeholders. Concluding remarks on behalf of the research team provides optimism for future academic endeavors aimed at providing local solutions:

“Our rapid evidence review focused on the effects of decriminalization. Future work is anticipated to consider the evidence on different models of decriminalization, with early evidence from Canada indicating that the process of developing a decriminalization of personal possession framework for the city of Saskatoon should be done with the input of People With Lived or Living Experience (PWLLE), health providers, local police services and community organizations who are providing services in this area of care.”

There has been a substantial amount of movement with respect to decriminalization strategies since the August 19, 2021 Board meeting/motion. During the 4th quarter of 2021, a number of jurisdictions went on record requesting federal exemptions that would allow for the decriminalization of small amounts of illicit drugs. The B.C. government made a request in November 2021 that would allow for a province wide decriminalization strategy, while similar efforts were being made in Ontario. In addition, the Country’s largest mental health teaching hospital, the Centre for Addiction and Mental Health (CAMH) in Toronto, is formally pushing for countrywide drug decriminalization strategy.⁵

⁴ British Columbia Association of Chiefs of Police, Drug Decriminalization – An integrated approach to improve health and safety outcomes, December 14, 2021, https://www.cacp.ca/index.html?asst_id=2957

⁵ CAMH, “Statement on the decriminalization of substance abuse”, September 2021, <https://www.camh.ca/-/media/files/pdfs---public-policy-submissions/camh-statement-on-decriminalization-sep2021-pdf.pdf>.

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In December 2021, the Toronto Board of Health voted to ask the federal government to decriminalize the possession of small amounts of illegal drugs to help tackle the worsening opioid overdose crisis. Dr. Eileen de Villa, Toronto's Chief Medical Officer said “decriminalization would help save lives by addressing the stigma and the discrimination that keeps people from seeking help. Municipalities cannot unilaterally decriminalize drug use as it's the sole responsibility of the federal government. Criminalizing drug possession has disproportionate effects on Indigenous and Black populations who are more often over-criminalized for the prosecution of simple drug offences. Criminalization of drugs has not been effective in reducing either the supply or the demand for drugs. And moreover, the unregulated drug supply is becoming more toxic and unpredictable, causing overdoses and other harms.”⁶ The Health Board’s approval authorizes Dr. de Villa to seek an exemption for the City of Toronto from Health Canada. On January 2, 2022 the City of Toronto formally submitted an application to Health Canada to request an exemption to the *Controlled Drugs and Substances Act* to allow for the possession of drugs for personal use in Toronto:

“Toronto Public Health is requesting urgent action by the Federal government to provide an exemption under section 56(1) of the *Controlled Drugs and Substances Act* that would decriminalize personal possession of illicit substances within Toronto's boundaries.”⁷

In 2021 and 2022 respectively, Councilors in Edmonton and Montreal have publicly called for their municipal bodies to pressure the Federal Government into decriminalizing simple drug possession.

Drug Treatment Courts

There are currently two Drug Treatment Courts (DTC) in the Province of Saskatchewan. Regina’s DTC began operating in 2006. Moose Jaw established their court in 2009. Drug Treatment Courts operate on the premise of established eligibility criteria that evaluates a number of factors including, but not limited to the following⁸:

- Type of offences,
- Offender’s willingness to participate,
- Drug Testing,
- Multi-phased treatment plans,
- Moral Reconciliation Therapy.

Currently, Saskatoon does not have a Drug Treatment Court; however, the Saskatoon Tribal Council (STC) is currently in the process of proposing a DTC for the City. The proposal looks to involve representatives from justice, treatment, education and other community agencies as part

⁶ Sasitharan, Kirhana, “Toronto Board of Health votes to decriminalize possession of small amounts of illegal drugs”, 2021. <https://www.cbc.ca/news/canada/toronto/toronto-board-of-health-votes-yes-process-decriminalization-small-drug-possession-illegal-1.6275501>

⁷ Toronto Public Health, “Exemption Request”, January 4, 2022. <https://www.toronto.ca/wp-content/uploads/2022/01/943b-TPH-Exemption-Request-Jan-4-2022-FNLAODA.pdf>

⁸ Courts of Saskatchewan. Drug Treatment Court, 2021. <https://sasklawcourts.ca/provincial-court/therapeutic-courts/drug-treatment-court/>

of a collaborative approach to offer evidence-based solutions. In an effort to establish a solid foundation for the DTC to succeed, the STC has identified the following community agencies as essential stakeholders:

- Provincial Courts,
- Ministry of Justice,
- Federal and Provincial Prosecutions,
- Legal Aid,
- Community Corrections,
- Saskatchewan Health Authority,
- Saskatoon Police Service and/or RCMP,
- Social Services,
- First Nations Justice and/or Health.

Health Led Request

Co-chair of the Health Canada Expert Task Force on Substance Use, Police Chief Mike Serr (Abbotsford, British Columbia) has provided feedback with respect to decriminalization strategies. Chief Serr purports that any municipal or provincial request for decriminalization must be led by the healthcare stream. Dr. Leslie Buckley, Chief of the Addictions Division at Toronto's Centre for Addiction and Mental Health, said “the center has long called for drug use to be a public health issue, not a concern for the legal system”. She further indicated that “by reducing the stigma, people who use drugs are more likely to seek treatment early. Criminalization of substances has not been effective and it creates social harms. We're shifting more to a health lens and getting people the care that they need.” Further, “Decriminalizing drug use is crucial to helping people who are struggling with addiction. Decriminalization will reduce the harms associated with drug use and ... help to remove barriers that people who use drugs tell us they experience when accessing health and human services.” British Columbia Minister of Health and Addictions Sheila Malcolmson has also gone on record indicating that “substance use and addictions is a public health issue, it is not a criminal justice issue”. Adding that “shame and fear keeps people from accessing lifesaving services and treatments.”

Bill C-22

On February 19, 2021 the Canadian Association of Chiefs of Police (CACP) released a statement on the proposition of Bill C-22; *Addressing systemic discrimination, disproportionate representation, and simple possession of illicit drugs*. The CACP suggested that “frontline police officers will always play a critical role in any diversion model because they are often the point of first contact and the ones to assist individuals into pathways of care. However, for diversionary strategies to be effective, the health and social services must be available to divert them to.” The emphasis on adequate “health and social services” was likely the crux of the statement when the Alberta Association of Chiefs of Police (AACP) released their opinion on decriminalization strategies for the province of Alberta⁹. Calgary Chief Mark Neufeld, president of the AACP,

⁹ Chief Mark Neufeld, “On behalf of AACP, Statement: Decriminalization of Personal Possession”, 2022. <https://www.youtube.com/watch?v=4Yq81f481fl>

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indicated that a number of things need to be in place before decriminalization can be seriously considered:

“The Alberta Association of Chiefs of Police do not currently support the decriminalization of illicit drugs, without the required supports being in place. Before decriminalization can be seriously considered, provincial regulation needs to be established around key concerns such as consumption around minors, public consumption and disorder regulations, and operation of vehicles. This must be done by balancing the needs of the individual, with the needs of the broader community”¹⁰

Bill C-22 was first introduced by the Federal Government on September 23, 2020 and was entitled; “*An act to amend the Criminal Code and the Controlled Drugs and Substances Act.*” Although Bill C-22 was specifically designed to address the systemic inequities of the criminal justice system, from diversion to sentencing, from rehabilitation to records, it also sought to promote a ‘de jure’ approach to decriminalization strategies. Bill C-22 looks to establish a set of principles to guide Police and the Crown while exercising discretion to divert simple possession of drugs at an early stage. Essentially, Bill C-22 appears to be the catalyst for legislative changes allowing a for a Federally mandated decriminalization strategy to exist:

“Bill C-22 would make a number of amendments to the *Criminal Code* and the *Controlled Drugs and Substances Act* that seek to fulfill the Government of Canada’s commitment to address systemic inequities, including the overrepresentation of Indigenous Peoples, Black, and marginalized Canadians, in the criminal justice system. There are three areas of proposed reform in the Bill: (1) the repeal of all mandatory minimum penalties of imprisonment (MMPs) for offences under the *Controlled Drugs and Substances Act* and the repeal of MMPs for a tobacco offence and some offences involving the possession or use of firearms under the *Criminal Code*; (2) changes to increase the availability of conditional sentences under the *Criminal Code*; and, (3) changes to the *Controlled Drugs and Substances Act* to promote the use of diversion for simple possession of drugs.”¹¹

Saskatchewan Drug Task Force

The identification of a Drug Task Force (DTF) for the Province of Saskatchewan dates back to 2017 in response to growing opioid concerns in both municipal and rural communities. Although not much was accomplished in the years prior to 2020, the DTF refocused their vision and mandate in the fall of 2019. In an attempt to increase coordination efforts across all levels of government, the DTF reestablished a mandate with a specific focus to provide strategic leadership and oversight in the areas of data collection, identification of trends, risk analysis, emergency management, prevention, harm reduction, recovery, and suppression.

¹⁰ Gunn, Connor, “Alberta police chiefs don’t support decriminalization of illegal drug possession”, 2022. <https://lethbridgenewsnow.com/2022/01/20/alberta-police-chiefs-dont-support-decriminalization-of-illegal-drug-possession>.

¹¹ Government of Canada, “Bill C-22: An Act to amend the Criminal Code and the Controlled Drug and Substances Act”, 2022. <https://www.justice.gc.ca/eng/csj-sjc/pl/charte-charte/c22.html>

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Coordination efforts would inevitably require participation from the following organizations; Ministry of Health, Ministry of Corrections and Policing, Ministry of Social Services, Saskatoon Police Service, Regina Police Service, Saskatchewan Health Authority, and the RCMP. Chief Troy Cooper represents the Saskatoon Police Service on the Drug Task Force. In support of the DTF, an action committee was established with additional representatives from the aforementioned agencies. Superintendent Patrick Nogier currently sits as the action committee rep for the Saskatoon Police Service.

The DTF created a six-pillar approach in response to substance-related harms;

1. Data collection, trend, and risk analysis: Gathering and sharing information associated with substance use, harms, and vulnerability in Saskatchewan for the purposes of monitoring trends and risks as well as to plan for and predict surges in drug harms.
2. Emergency management: Supporting communities and the province to respond to surges of drug-related harms.
3. Prevention: Promoting effective strategies that aim to prevent substance use and harms and addressing the root causes of substance use and addiction.
4. Harm Reduction: Implementing measures that reduce the negative effects of drug and substance use on individuals and communities.
5. Recovery: Enabling recovery from substance misuse through medical treatment for physical and mental health, as well as through other social factors, such as rebuilding social supports, employment, and stable housing.
6. Suppression: Strengthening measures that suppress illicit trafficking of drugs and manufacturing of illicit drugs in Saskatchewan.

On March 3, 2022, the Saskatchewan Drug Task Force released its community engagement results as a progress report for the accomplished work to date. Public consultations included involvement from municipal leaders, First Nations and Métis groups, community organizations, advocates, health and social work professional associations, and people with lived experience. The community engagement results are being relied upon to help establish a roadmap and strategic priorities for the future. This will inevitably involve the “development of a workplan, recognizing the importance of community support, and the unique needs of the community.”¹²

On March 23, 2022 the Government of Saskatchewan announced additional funding for the Drug Task Force in response to recent community consultations. The funding is broken down into four core areas:

- \$650,000 for development of local integrated overdose response projects;
- \$150,000 for targeted stigma reduction efforts;
- \$150,000 for trauma-informed practice training for front line staff to assist in identifying and appropriately responding to individuals who use substances due to past trauma; and
- \$50,000 for coordinated research in areas of interest for the Drug Task Force.¹³

¹² “Drug Task Force.” Government of Saskatchewan. Accessed March 6, 2022. <https://www.saskatchewan.ca/drug-task-force>.

¹³ Budget 2022-23 Continues Building Upon Record Investments Into Mental Health And Addictions, Government of Saskatchewan, Accessed March 23, 2022. <https://www.saskatchewan.ca/government/news-and->

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The Drug Task Force has identified four main priorities for future exploration/implementation; Hot-spotting, Targeted Stigma Reduction Training, Targeted Trauma Informed Approaches Training, and Coordinated Research.

A forty-thousand-foot view would suggest that there are multiple federal, provincial and municipal bodies providing a response, and/or opinions related to the opioid crisis in Saskatchewan. There are also multiple community-based organizations and academic institutions that are offering feedback, suggestions and direction. If the Provincial Drug Task is structured to enhance the coordination and monitoring of the Government’s response efforts to substance-related harms then it needs to be recognized as such and provided with a substantial amount of latitude to identify, direct and ultimately dictate the direction of a drug strategy to address the opioid crisis in Saskatchewan.

Key Considerations

The benefit of not being the first municipality in Canada to implement decriminalization strategies is that we have the ability to observe and reflect. Vancouver and the province of British Columbia have led the charge and it is worth noting that the efficacy of decriminalization strategies are questionable given the number of unprecedented levels of accidental deaths due to drug overdoses. Despite a robust decriminalization approach in British Columbia, the 2021 statistics indicate that there were 2,224 suspected illicit drug toxicity deaths. The most ever recorded in a single year. This represents a 26% increase over the number of deaths seen in 2020 (1,767).¹⁴

From a law enforcement perspective, there are a number of key steps worth mentioning when considering decriminalization:

- **Threshold Quantities.** In a telephone conversation with Chief Adam Palmer of the Vancouver Police Service on February 3, 2022, he suggested that the evolution of decriminalization strategies inevitably involves the discussion of threshold quantities if your jurisdiction is opening the door for the decriminalization of hard drugs such as meth, fentanyl, etc. Decriminalization does not equate to legalization and prohibition must still factor into the equation since there is evidence to suggest that decriminalization and liberalization go hand in hand when considering the history and evolution of alcohol in Canada.
- A change in legislation will inevitably lead to a change in direction, training and protocols for police. The identification and implementation of remaining sanctions will be a priority for our Police Service.
- Sufficient diversionary options must be available through health care systems and pathways of care to account for a change in policing practices/enforcement?

media/2022/march/23/budget-2022-23-continues-building-upon-record-investments-into-mental-health-and-addictions.

¹⁴ British Columbia Coroners Service, “Illicit Drug Toxicity Deaths in BC”, Accessed on March 1, 2022. <https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf>.

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Decriminalization is not an effort to ignore the impact of illicit drugs on a community, but aims to ensure that people who possess small amounts of illegal substances are not under threat of criminalization for a health related behavior. The threat of arrest/criminalization increases the likelihood of drug use in unsupervised locations, which in turn raises the risk of overdoses. A criminal charge for possession of a small amount of illegal substances also places them in a justice system not adequately suited to deal with addiction and health challenges.

The Saskatoon Police Service is not adequately equipped to determine if health and social services in the City of Saskatoon are available to accept these diversions. We have however identified an opportunity participate in the discussion on decriminalization through engagement with the University of Saskatchewan, School of Public Health in that they have recently received funding to look more closely at the local impacts of decriminalization. It is our opinion that academia and public health experts are better positioned to examine the feasibility of decriminalization of simple illicit drug possession through a community wellness and public health lens.

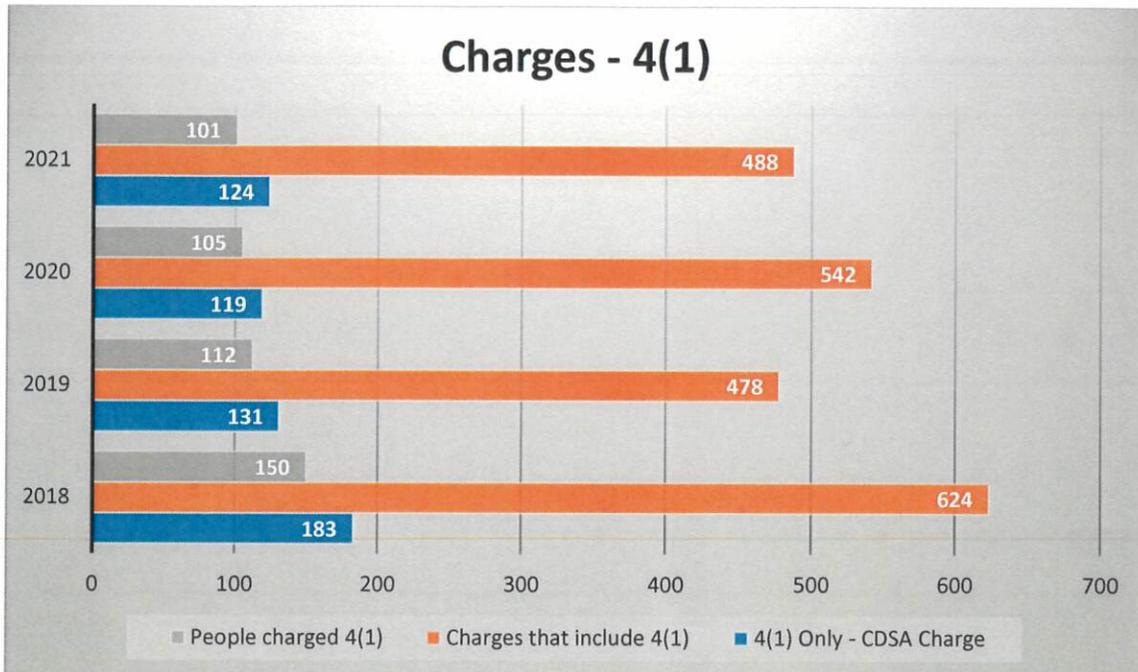
SASKATOON: Statistical Picture/ CDSA Charges

In December of 2021 the British Columbia Association of Chiefs of Police could not acknowledge the existence of a “theoretically based, empirically tested framework that can inform the development and evaluation of the decriminalization of illicit drug possession”.¹⁵ Decriminalization strategies appear to be universally applied and supported as a panacea for the number of opioid overdoses and in its simplest terms, decriminalization is an alternative response to criminal sanctions for simple possession. The implementation of a locally applied decriminalization strategy should include statistical consideration (analysis) of the relationship between health supports, social acceptance, and law enforcement trends.

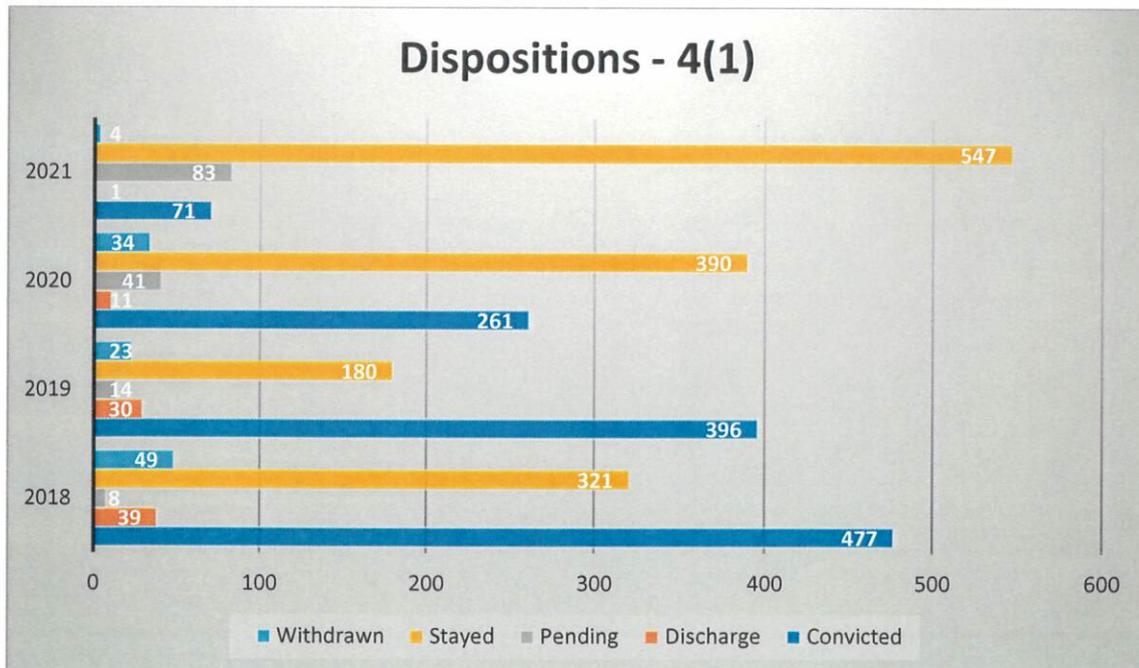
This section attempts to provide a relatively thorough statistical picture of enforcement trends and whether there is a correlation/relationship to toxicity deaths in Saskatoon for 2021. It starts by providing a statistical picture of enforcement trends by the Saskatoon Police Service for a four-year period between 2018 and 2021. The following information is an analysis of the Saskatoon Police Service Information Management System (SIMS) and includes all charges for possession of an illicit drug under section 4(1) of the CDSA. In the four period between 2018 and 2020, the Saskatoon Police Service charged 468 individuals with 557 counts of simple possession.¹⁶

¹⁵ British Columbia Association of Chiefs of Police, Drug Decriminalization – An integrated approach to improve health and safety outcomes, December 14, 2021, https://www.cacp.ca/index.html?asst_id=2957

¹⁶ A single person (single occurrence) can be charged with multiple counts of simple possession if they were in possession of different drugs.



Total count of 4(1) charges. The category “People charged” represents the actual number of individuals charged with 4(1) only.



Confirmed Toxicity Deaths – Saskatoon 2021

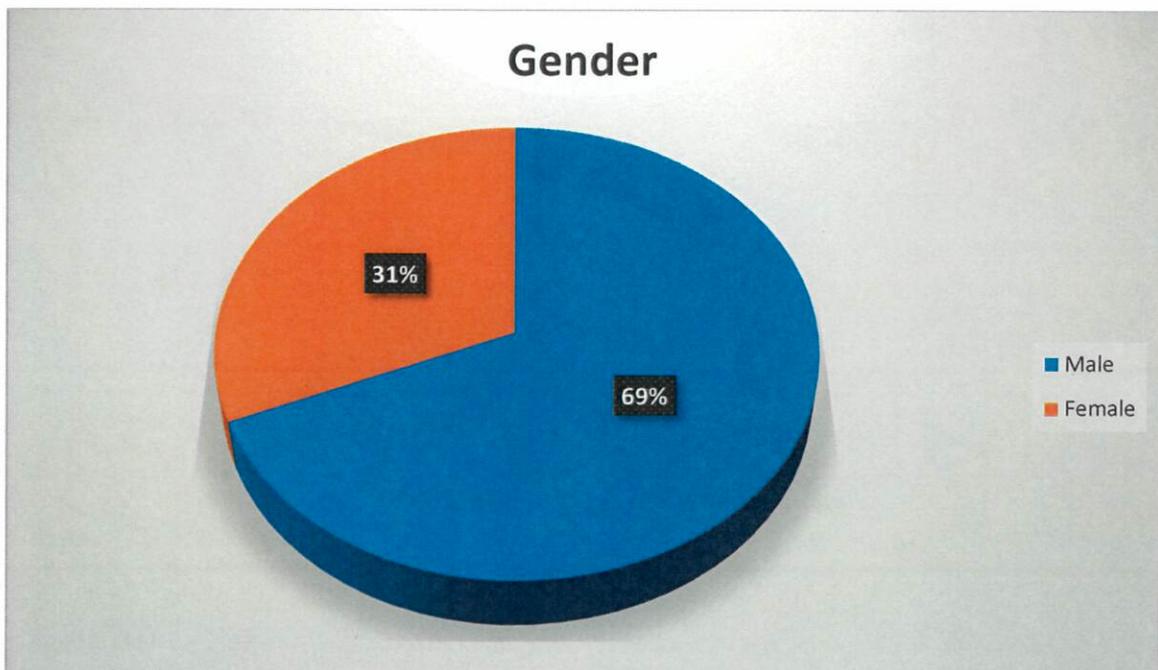
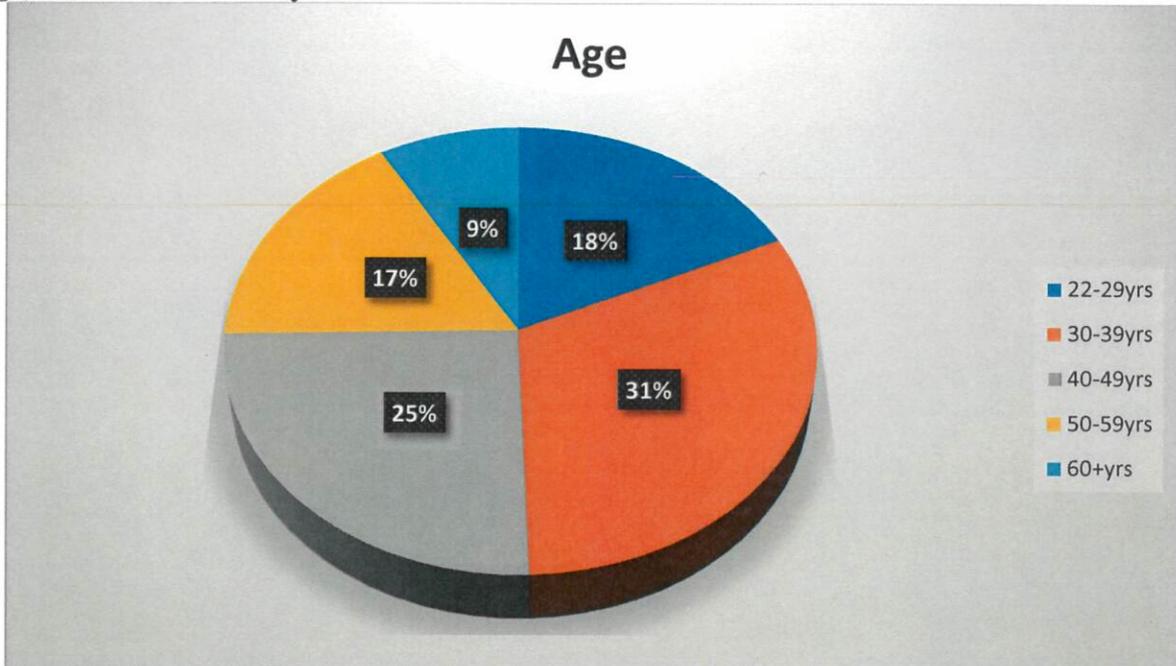
The following section provides an analytical framework for the 83 confirmed drug toxicity deaths in Saskatoon in 2021. It is important to note that the number of deaths due to drug toxicity will fluctuate as the Saskatchewan Coroners Service receives and confirms lab results. For the

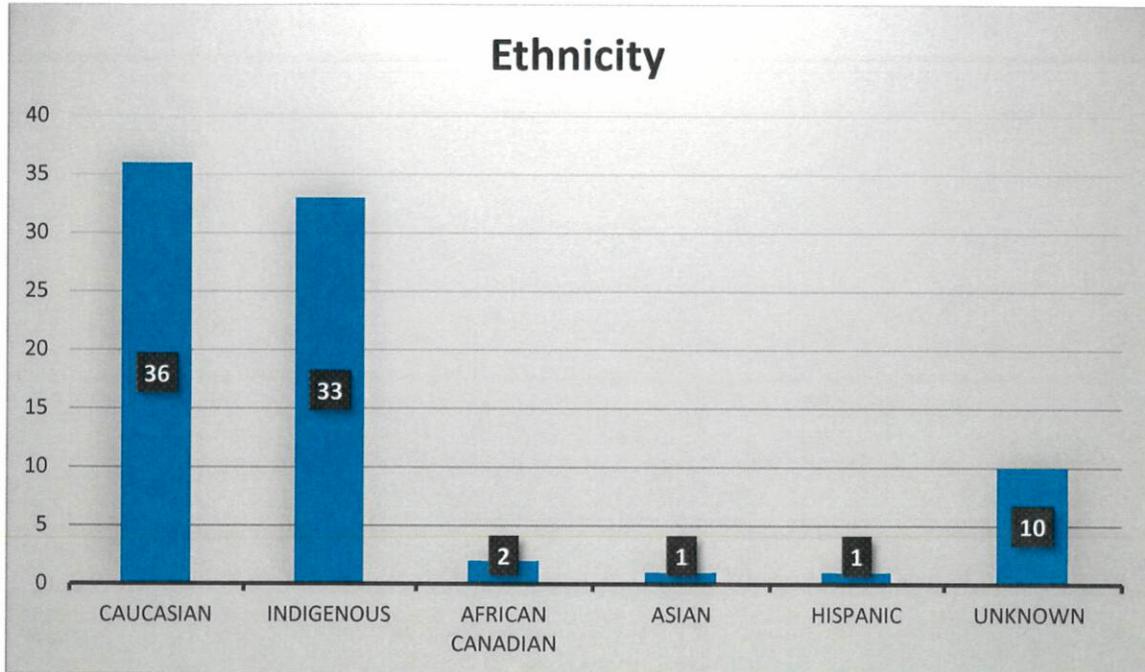
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purpose of this report, the number of drug toxicity deaths (83) represents the confirmed value as of February 24, 2022.

In an effort to determine whether there is a correlation between overdose deaths and interaction with the police, the Saskatoon Police Service has taken a closer look at data in the following categories; Age, Gender, Ethnicity, Contact with Police, Drug Related Intelligence/ Gang Involvement, Drug Related Charges, Conditions/Warrants, Type of Drug, Neighborhood.

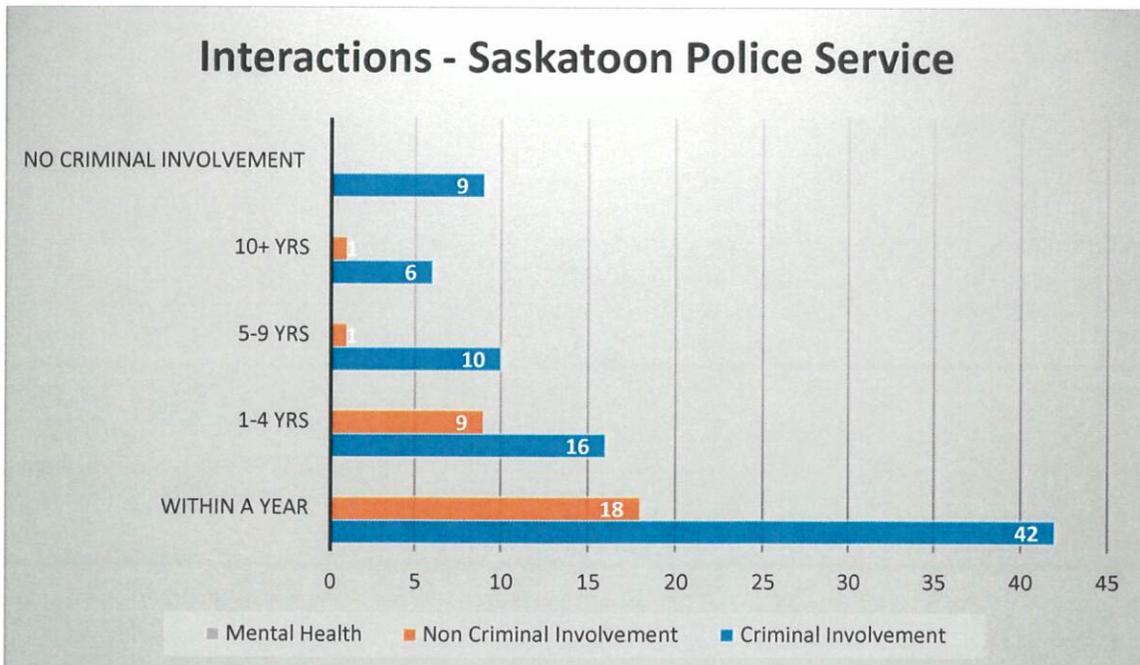
Age, Gender & Ethnicity:



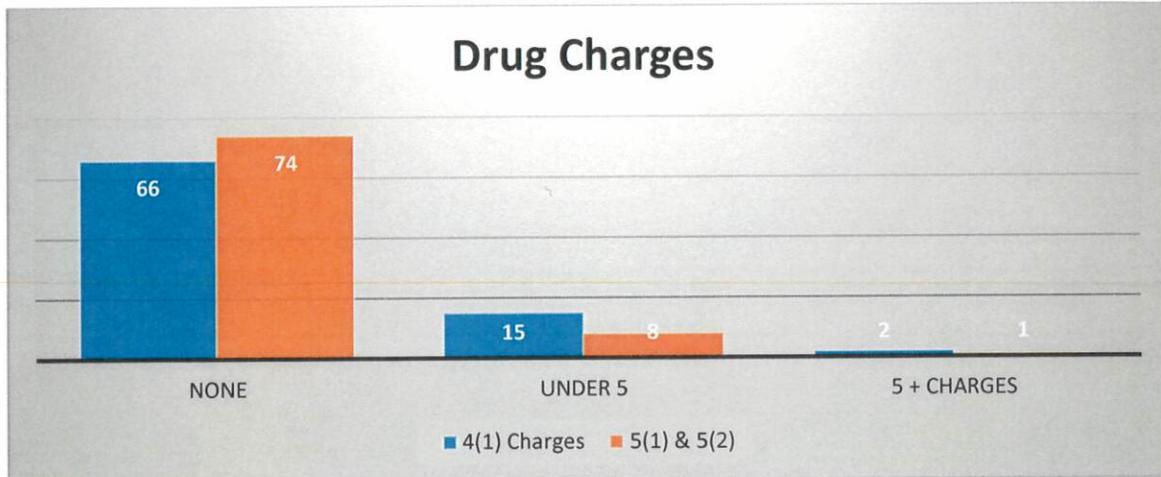


Interactions with the Saskatoon Police Service – Charges

In an effort to determine whether there was a connection between overdoses and interactions with the Saskatoon Police Service, a number of categories were analyzed in an attempt to identify potential linkages. The analysis was based on the following distinct categories; interactions with police where the individual was implicated in criminal activity (charged, warned, subject), subject of mental health concerns, and interactions with the police where they were not implicated in criminal activity (complainant, witness, etc.)



We looked at whether an individual was charged under sections 4(1) & 5(1) of the CDSA in order to determine whether there was a connection between drug use and criminalization of illicit drug use. 80% of the people who succumb to drug toxicity in Saskatoon had not been charged with possession of an illicit substance.¹⁷ The remaining 20% (17 people) had been charged with a section of the CDSA. Approximately 11% (9 people) had been charged with serious offences including trafficking or possession for the purpose of trafficking.



Drug Analysis

Toxicology provides insight into the types of drugs that have the most significant detrimental impact on our community. In the purest sense, a toxicology report will provide a quantifiable response for family members as they attempt to understand the reasons why a loved one is no longer with them. Although it helps in determining causation, it fails to provide a substantive reason for why someone would be using drugs to begin with. From an enforcement perspective, toxicology reports can help shape the focus of potential drug enforcement initiatives or public advisories.

Strategy 2.2 of the Saskatoon Police Service annual business plan aims to identify and reduce the availability of illicit drugs that are harmful to the community through education, prevention and enforcement tactics. Part of this strategy involves an analysis to determine the types of drugs that are causing harm to the community.

Fentanyl is an illicit drug that has been responsible for numerous incidents of drug toxicity deaths in Saskatoon. When Fentanyl is combined and added to other drugs the result is a potentially lethal dose for the consumer. Fentanyl laced drugs continue to be trafficked on a regular basis in our community. As the toxicology graph indicates, Fentanyl accounted for 1% of a confirmed single drug that caused a death and 44% as a combined drug causing death.

¹⁷ Based on queries of the Saskatoon Police Service Records Management System.

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Methamphetamine (Meth) is an illicit drug that has had a harmful impact on our community. Meth is relatively unique when you consider the impact it has had on our vulnerable sector. The relatively low cost and accessibility make it affordable and easy for street gangs to sell. Meth use affects the mental health of its addicts and amplifies preexisting conditions in those who are already suffering from mental health issues. Meth accounted for 1% of a confirmed single drug that caused a death and 33% as a combined drug causing death.

Etizolam is similar in composition to benzodiazepines like Valium, Xanax and Ativan. Benzodiazepines are a central nervous system depressant used to treat people with anxiety disorders, panic attacks, sleep disorders, or seizures. The Canadian Center on Substance Use and Addiction recently released specific information on the risks and harms associated with Nonmedical Use of Benzodiazepines:

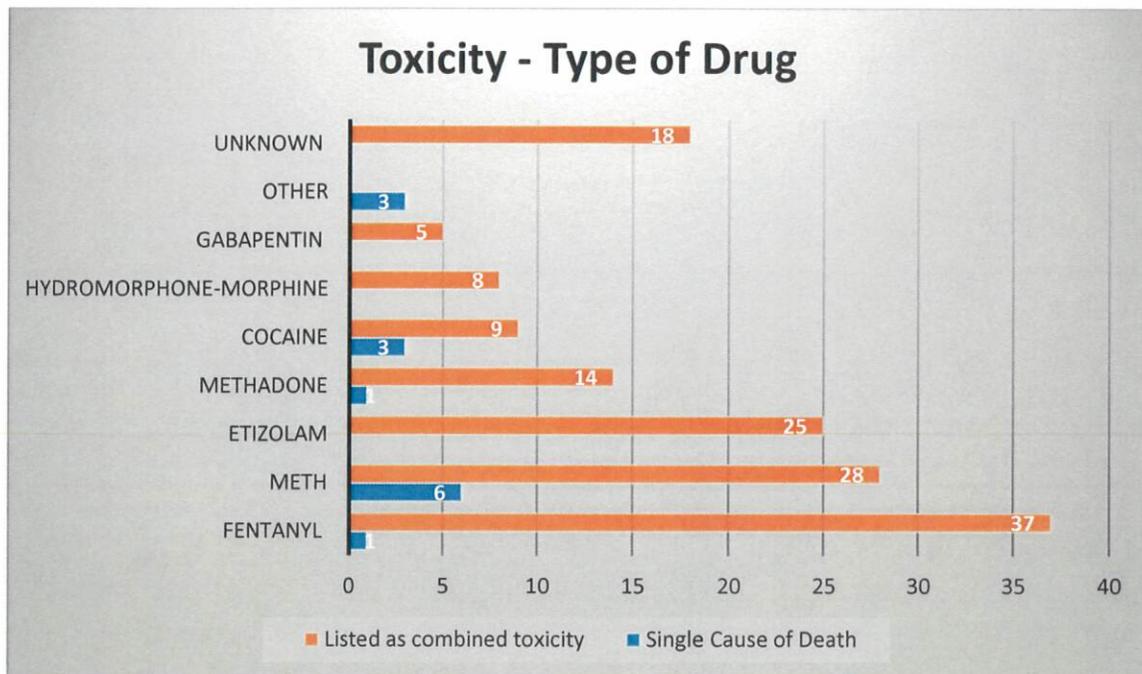
“Benzodiazepines and benzodiazepine-like substances that have been either illegally produced or diverted from legal sources for use in nonmedical settings have been identified with increasing frequency in drugs purchased on the unregulated market in Europe and North America, including Canada. (This bulletin refers to these as nonmedical benzodiazepines or NMBs.) This pattern has raised concerns as it is associated with harms to people who use drugs (PWUD) and creates unique considerations for harm reduction and treatment services.”¹⁸ NMB use, either intentionally or unintentionally raised three key concerns:

1. The combination of NMBs and opioids increases the risk of drug poisoning. These substances compound each other’s effects as both slow vital functions such as breathing. This is thought to be contributing to record-high drug poisoning rates.
2. Drug poisonings involving opioid-NMB combinations can be complicated to reverse. Naloxone can reverse the opioid effects by restoring breathing but not the sedation caused by the NMB. This means a person could start breathing again but not regain consciousness, complicating first response protocols and care.
3. Regular use of benzodiazepines can produce tolerance. This includes unintentional or unknown use of NMBs that are added to other substances. Stopping use of the intended drug (e.g., through opioid agonist or abstinence-based treatment, hospitalization or incarceration) can lead to an abrupt end of unknowingly using NMBs, which can produce benzodiazepine withdrawal symptoms that need medical management.¹⁹

¹⁸ Canadian Centre on Substance Use and Addiction, “CCENDU Bulletin – Risks and Harms Associated with the Nonmedical Use of Benzodiazepines in the Unregulated Drug Supply in Canada”, December 2021, <https://www.ccsa.ca/risks-and-harms-associated-nonmedical-use-benzodiazepines-unregulated-drug-supply-canada-ccendu>

¹⁹ Ibid, p.3

Etizolam was a detected drug in 30% of the circumstances where the fatality was attributed to a combination of drugs in a person’s system.



CONCLUSION:

The evaluation of evidence-based harm reduction strategies for a particular municipality is a task best accomplished through postsecondary-based research proposals. The complexities associated to decriminalization, safe supply, and increased diversion of drug related charges are unique by jurisdiction and correspondingly dependent on the number of support mechanisms that can accommodate a change in direction. The Saskatoon Police Service is not adequately equipped to evaluate whether the local health care system, support services and judiciary are equipped to support an exemption request at this time.

“PUBLIC AGENDA”

The Saskatoon Police Service recommends that the Board of Police Commissioners consider a study and final report on behalf of the University of Saskatchewan, School of Public Health that aims at examining the feasibility of decriminalization of simple illicit drug possession through a community wellness and public health lens. A document entitled “Decriminalization in the City of Saskatoon” was received by the SPS on April 8th, 2022 on behalf of Dr. Lori Hanson and Dr. Barbara Fornssler. The document has been included as an appendix to this submission.

Written by: **Patrick Nogier, Superintendent
Criminal Investigations Division**

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Submitted by:



**Troy Cooper
Chief of Police**

Dated:

April 11, 2022



DECRIMINALIZATION IN THE CITY OF SASKATOON
Moving Forward from Evidence and Lessons Learned

April 2022

Lori Hanson, PhD, Barbara Fornssler, PhD
University of Saskatchewan



CRISM | PRAIRIES
Canadian Research Initiative in Substance Misuse



**UNIVERSITY OF
SASKATCHEWAN**

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Land Acknowledgement

This report was drafted on Treaty 6 territory and the Homeland of the Métis Nation. We offer our respect to the First Nations and Métis ancestors of this place and reaffirm our relationships with each other.

Executive Summary

Since August 2021 the P5 research team¹ led by Dr. Barb Fornssler and Dr. Lori Hanson has been meeting periodically with Supt. Pat Nogier of the Saskatoon Police Service (SPS) to discuss emerging issues, evidence and information intended to inform discussion on decriminalization of personal possession of substances (DPPS) in the City of Saskatoon, as well as other jurisdictions in the province. This report, together with our earlier rapid evidence review (Appendix A), the appended case study on the experiences of the City of Vancouver and the Province of British Columbia, and the report tabled by Supt. Nogier, intend to respond to requests to the SPS by the Saskatoon Board of Police Commissioners (SBPC) for more information to support discussion on a motion tabled at the August 19, 2021 meeting of the Board (SBPC, 2021). See Appendix A: Saskatoon Board of Police Commissioners Motion for additional detail.

We have offered this series of reports to the SPS and the City of Saskatoon as guidance for ongoing discussion and collective action, while acknowledging that a wider set of actors and agencies urgently needs to be invited to the conversation to address the complex problems that underlie this growing crisis. We have also noted that work on DPPS in the City of Saskatoon is garnering wide interest as indicated by discussions we have had with the Saskatchewan Urban Municipalities Association, the City of Saskatoon Mayor's office, and the City of Regina police services among others.

This report first outlines a comprehensive model to guide dialogue and stakeholder engagement for addressing the harms of substance use, situating decriminalization as one of four interwoven elements, and locating a possible role for the SPS within the framework. We then explain key differences in types of DPPS and briefly outline research evidence on impacts. We highlight findings of a case study on decriminalization in the City of Vancouver and the Province of British Columbia to ground the discussion, and provide policy options – and a recommendation – for consideration. The appendices offer more detail, fulsome discussion, and nuance as well as many additional recommended resources.

¹ P5 refers to the *Perspectives, Pathways and Priorities of People with lived and living experience of substance use: Informing Policies* research project at the University of Saskatchewan. Dr. Fornssler is Adjunct Faculty, School of Public Health, and Dr. Hanson is Faculty, Department of Community Health and Epidemiology.

Report Highlights

Stabilizing people who use drugs requires a **multi-pronged approach** to harm reduction that considers not only treatment services, but also access to a safer supply, decent housing, and *de facto* or *de jure* decriminalization for simple possession. Our Substance Use Stabilization Framework for Saskatchewan enables consideration of these aspects as a system of support. In the report we describe each aspect conceptually considering evidence, and then suggest its local relevance, citing examples of useful reports and sites that address each aspect more fulsomely.

Importantly, the leadership of a multi-pronged initiative that aims to stabilize people who use drugs (PWUD) and simultaneously improve community safety necessarily involves **multiple agencies and organizations**. We conclude our discussion of each aspect of the framework providing ideas, examples, and suggestions of agencies in Saskatoon that could be involved and note that Saskatoon Police Services is uniquely positioned to address the aspect of decriminalization. We make note of the oft forgotten but key role to be played in all aspects of the framework by PWUD.

As illustrated in the evidence brief presented to the SPS in June 2021 (appended as Appendix B) research evidence suggests that decriminalization of personal possession of substances (DPPS) can:

- decrease stigma, which contributes to improved access to harm reduction services for substance users;
- improve rapport and trust in policing services which can positively affect relationships with BIPOC communities;
- lead to a reduction of criminal activities related to acquiring substances of use;
- reduce burden on police officers;
- improve health outcomes, including reduction in blood-borne and sexually transmitted diseases; and,
- reduce the economic burden on health and legal systems.

Overall and most importantly, evidence suggests that these direct and indirect effects of DPPS may effectively reduce drug toxicity deaths by reducing exposure to a toxic and unregulated drug supply.

Decriminalization can be seen as a series of policy choices along a continuum of regulation. Within that continuum, *de facto* approaches are implemented according to non-legislative or informal guidelines while *de jure* approaches are reflected in formal policy and legislation. The appended City of Vancouver case study demonstrates some of the issues encountered in attempting to implement DPPS.

After several years of vigorous public and political debate in B.C., polling shows that a majority of the public in B.C. is in favour of the principle of decriminalization. The Vancouver Police Department and the B.C. Association of Chiefs of Police are in favour, all parties in the Legislature are in support, and cities across the province support Vancouver's request to Health Canada. "The devil is in the details."

and the Vancouver Model is not without its critics. The Province of British Columbia and the City of Toronto chose to do things a little differently in their submissions to Health Canada.

Our understanding of problematic substance use in Saskatchewan, our summary of the evidence available, and our analysis of the lessons to be learned from the experiences of Vancouver and the province of B.C. lead to us to recommend that the City of Saskatoon should invite stakeholders (including PWUD), to envision, co-develop, and implement a multi-agency, multi-pronged strategy and implementation plan for reducing the harms and deaths from problematic substance use in the city.

Using our proposed stabilization framework as part of that process, the SPS would be invited to be a key player in the co-design of a strategy regarding decriminalization.

Intended to serve an ongoing discussion, this report concludes with three policy options for decriminalization of simple possession – status quo, *de facto* decriminalization with a public awareness campaign and *de jure* decriminalization with City Council support – and a recommendation.

Section I: The Substance Use Stabilization Framework for Saskatchewan

Reducing the harms experienced by people who use drugs requires acknowledgement of systemic underlying issues such as poverty, homelessness, and inequitable access to services that together produce an environment in which individuals can get trapped in problematic substance use. But just as those environments are created, so can they be dismantled. An important task required of those concerned seeking change is to think about issues comprehensively and to identify where the strengths that various members of the community can bring to the table. The Saskatoon Police Service has a role to play in addressing problematic substance use and deaths from drug toxicity, but they are only one agency among many needed.

To help situate the role of the SPS and of DPPS we commence this report with a proposed evidence-based Substance Use Stabilization Framework (SUSF). We also hope that the framework will enable future community discussion that includes, but also goes beyond, decriminalization. The SUSF is a simple model that encompasses: Housing, Safe Supply, Treatment and Decriminalization. We offer here a very brief consideration of each of the first three elements suggesting their local relevance, offering several resources for follow-up, and suggesting potential stakeholders and leaders within each element that could be invited to follow-up discussion. We then proceed to discuss aspect 4: decriminalization, offering broad definitions, a re-cap of some of the evidence presented earlier in our rapid evidence review and providing highlights from a case study of the Vancouver and British Columbia experiences and models of decriminalization (Appendix C). We conclude with three policy options, and a recommendation.

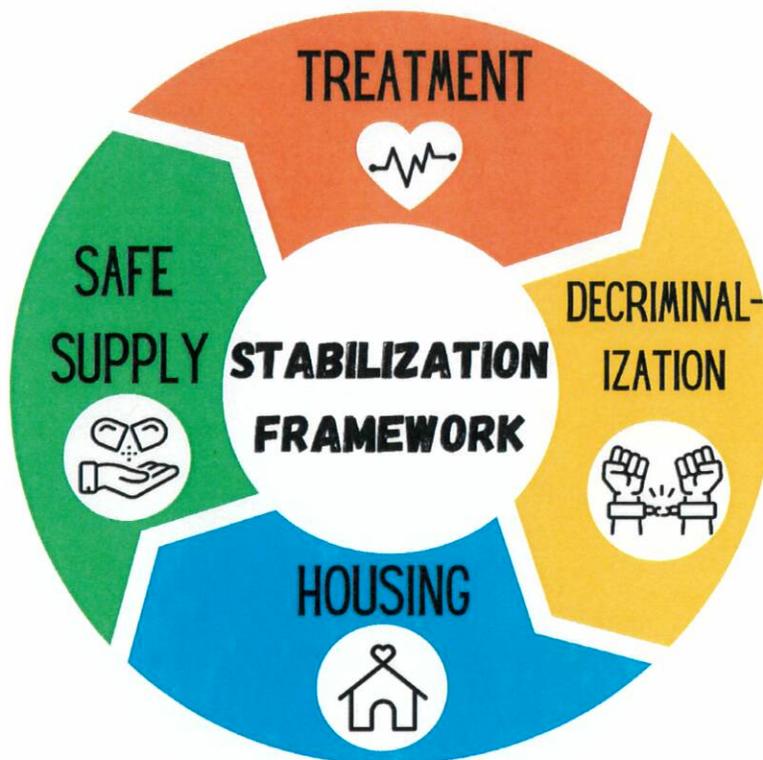


Figure 1: Substance Use Stabilization Framework for Saskatchewan (SUSF)

The Substance Use Stabilization Framework (SUSF) for Saskatchewan, developed by Fornssler et al (2022) (see Figure 1), provides a model to guide discussion and stakeholder engagement across sectors for addressing the harms of substance use. This model takes account of the multifaceted interactions between and across sectors that serve people who use substances. This framework consists of four key elements, working to unify supports and stabilize people who use substances for improved health outcomes.

Housing

Definition: Housing refers to the long-term living environment in which a person can dwell, without fear of immediate eviction and have access to a safe, stable, autonomous living situation (Housing Matters, n.d.).

Rationale: Long-term housing provides the space to engage services including; enhanced social services for mental health supports, outpatient treatment programs, and transportation planning for medical or employment related tasks (CMHA Ontario, 2013). All these factors influence the effectiveness of health interventions and program retention outcomes (Zerger, 2012). Affordable, stable housing options decreases street-level homelessness, reduces the frequency and duration of hospitalizations, increases overall health outcomes, increases employment rates, and supports full reintegration in the community following incarceration or residential treatment. Housing supports also reduce overall costs for community-based service organizations (CMHA Ontario, 2013). A brief survey of Saskatoon reveals that there are opportunities for change to align support services, update practices and policies to remove barriers, and enhance systems reach through coordinated access (SHIP n.d.).

Key Stakeholders (Saskatoon): Quint Development Corporation, United Way Saskatoon Journey Home Initiative, Saskatoon Housing Coalition, Saskatoon Crisis Intervention Services, Métis Nation of Saskatchewan, Lighthouse Supported Living Inc., Sanctum 1.5, Saskatchewan Housing Corporation, Ministries of Social Services and Health, Saskatchewan Urban Municipalities Association, and additional stakeholders when identified.

Resources:

Recommended Housing Backgrounders:

- 1) Gaetz, S., Scott, F., & Gulliver, T. (2013). *Housing first in Canada: Supporting communities to end homelessness*. Toronto: Canadian Homelessness Research Network Press.
<https://www.homelesshub.ca/sites/default/files/HousingFirstInCanada.pdf>
- 2) Saskatoon Housing Initiatives Partnership (SHIP). (n.d.). *Saskatoon's homelessness action plan*. <https://www.shipweb.ca/saskatoons-homelessness-action-plan>

Safe Supply

Definition: Safe supply is the legal and regulated provision of substances with mind and/or body altering properties.

Rationale: Safe supply addresses an urgent need to provide people who use substances access to substances that are free from poisonous contaminants. A regulated supply reduces the variability and volatility of substances to greatly reduce the likelihood of harms or death (Government of

Canada, 2022; CAMH Ontario, 2021). During the COVID-19 pandemic, safe supply access increased through temporary changes to the *Controlled Drugs and Substances Act* initiated by Health Canada to increase the flexibility of prescribing options, enhancing access to substances of use (CATIE, 2021). Early research suggests that safe supply reduces hospital admission and emergency department visits, improves connection to social supports, decreases criminal activity and substance use related infections, decreases the number of people experiencing homelessness, reduces engagement with survival sex work, decreases financial harms of street-level purchasing, and improves overall health and wellbeing for people who use drugs (Government of Canada, 2022; CAMH Ontario, 2021). Saskatchewan lags other provinces in offering training and support for prescribers to engage this promising field of practice.

Key Stakeholders (Saskatoon): Rapid Access Addiction Medicine clinic, Saskatchewan College of Pharmacy Professionals, College of Physicians and Surgeons of Saskatchewan & Prescription Review Program Representatives, Opioid Assisted Recovery Services, Westside Community Clinic, Prairie Harm Reduction, Ministries of Social Services and Health, Saskatchewan Urban Municipalities Association, and additional stakeholders when identified.

Resources:

Recommended Safe Supply Backgrounders:

- 1) Canadian Association of People who Use Drugs (CAPUD). (2019). *Safe supply concept document*. <https://zenodo.org/record/5637607#.YksvkejMJD9>
- 2) Government of Canada. (2022). *Safer supply*. <https://www.canada.ca/en/health-canada/services/opioids/responding-canada-opioid-crisis/safer-supply.html>

Treatment

Definition: Treatment is an evidence-based health services offered by a trained health professional.

Rationale: Treatment provides medical guidance, advice, and interventions that can support an individual to address their substance use. Treatment is most successful when provided in an environment of autonomy, non-judgement, support, and accessibility (CCSA & CAPSA, 2019; CAMH, 2021). Treatment includes but is not limited to: access to general practitioners and prescribing physicians; nurses, pharmacists, withdrawal management, in-patient and out-patient treatment facilities; methadone/suboxone clinics; emergency medical service providers; and post-intervention care. Common treatment goals are a reduction or cessation of substance use, improving social functioning, improving personal relationships, and enhanced quality of life (CCSA, 2021). Access to treatment reduces the effects of health concerns related to substance use, such as infections and STBBIs (WHO, 2009). A supportive medical health environment fosters the autonomy of the patient, enhances knowledge about health care options, and pathways to enhance wellbeing.

Key Stakeholders (Saskatoon): Rapid Access Addiction Medicine clinic, Opioid Assisted Recovery Services, Calder Treatment Centre, Metis Addictions Council of Saskatchewan Inc., Brief and Social Detox (formerly, Larson House), Westside Community Clinic, Ministries of Health and Social Services Saskatchewan Urban Municipalities Association, and additional stakeholders when identified.

Resources: Recommended Treatment Backgrounder:

Konefal, S., Maloney-Hall, B., Urbanoski, K., & the National Treatment Indicators Working Group. (2021). *National Treatment Indicators Report: 2016–2018 Data*. Ottawa, Ont.: Canadian Centre on Substance Use and Addiction.
<https://www.ccsa.ca/sites/default/files/2021-01/CCSA-National-Treatment-Indicators-2016-2018-Data-Report-2021-en.pdf>

Decriminalization

Definition: Decriminalization of personal possession of substances (DPPS) involves the removal or absence of criminal penalties for the simple possession of a controlled substance.

Rationale: *De facto* decriminalization, in which policy and regulatory changes are enacted to remove criminal sanctions, has been shown to reduce the number of individuals incarcerated for simple possession. In policy-based decriminalization approaches – known as *de jure* decriminalization – jurisdictions formally adopt policies and procedures that reflect a shift in approach from justice to health that fosters the use of social marketing to educate the public, raise awareness, and enhance community impacts (CCSA, 2018). In this way, DPPS can significantly reduce the stigma associated with substance use. Stigma is the most significant barrier for people who use substance to access the health care system (CCSA & CAPSA, 2019).

Key Stakeholders (Saskatoon): People who use substances, Saskatoon Board of Police Commissioners, Saskatoon Police Services, Prairie Harm Reduction, Elizabeth Fry Society, John Howard Society, City of Saskatoon, Ministries of Justice and Health, Correctional Services, Saskatchewan Urban Municipalities Association, and additional stakeholders when identified.

Resources: Section II of this report analyses various aspects of, and the impacts of decriminalization.

The single best concise and up-to-date summary of ‘the details of decriminalization’ is:

Greer, A., Bonn, M., Shane., Stevens., Tousenard, N., and Ritter, A. (2022). “The details of decriminalization: Designing a non-criminal response to the possession of drugs for personal use. *International Journal of Drug Policy* 102.

<https://www.sciencedirect.com/science/article/abs/pii/S0955395922000251>

ABSTRACT: “Internationally, policymakers are considering alternative, non-criminal responses to the possession of drugs for personal use, or ‘simple possession’. We show that ‘decriminalization’ is not a simple, unified model; rather, there are meaningful differences in policies and options available as part of a non-criminal response. Responses include various decriminalization, diversion, and depenalization approaches. However, what details need to be considered in developing these approaches? In this paper, we eschew these labels and present an overview of key design features of non-criminal responses to simple possession and consider some of the equity considerations of the choices available, including reform architecture (the objectives and *de jure* or *de facto* approaches); eligibility criteria (population-, place-, and drug-based criteria); and actions taken (deterrence, therapeutic, and enforcement strategies). This paper does not evaluate individual features or models, but instead offers a practical framework that can be used to deliberate on potential reform decisions.”

Section II: Decriminalization of Personal Possession of Substances (DPPS)

“An understanding of decriminalization starts by recognizing that it is not a single approach, but a range of policies and practices.” (CCPA, 2018)

Two concepts in the decriminalization literature that are important to grasp are the ideas of *de facto* and *de jure* decriminalization. In brief, *de facto* approaches are implemented according to non-legislative or informal guidelines while *de jure* approaches are reflected in formal policy and legislation.

***De facto* decriminalization** can involve practices wherein law enforcement officers divert individuals from the criminal justice system at their discretion and depending on the context of the encounter, may or may not work with other human service organizations to help address issues encountered. The main concern for *de facto* decriminalization is the lack of regulatory backing for these practices and the patchwork nature of response that may occur across larger jurisdictions. *De facto* decriminalization can place the onus of interpretation on individual officers, increasing ‘role strain’. If used, guidelines therefore must be adequately communicated to the public and law enforcement officers so issues of equity are addressed and any additional strain on community resources can be anticipated.

***De jure* decriminalization** is also known as ‘formal decriminalization’. In this approach policy and regulatory changes are enacted to remove criminal sanctions. Additionally, these policies may direct law enforcement personnel to provide referral for health services and clarify thresholds. The amount of a substance permitted for personal possession without penalty is a ‘threshold’ amount. When an individual exceeds that amount there is an accompanying criminal penalty. (Thresholds are discussed in detail in Appendix C on Vancouver and British Columbia.)

Approaches to DPPS have been characterized by the Canadian Centre on Substance Use and Addiction (CCSA) as “a range of policies and practices that can be tailored and combined to respond to particular contexts and to address specific objectives” (CCSA 2018, p.1). However, DPPS approaches typically retain criminal penalties for production, trafficking, and the sale of controlled substances (Seliga, 2022). As developed by CCSA (2018), one way of viewing DPPS is along a series policy options on a regulatory continuum (See Figure 2). On the continuum, decriminalization falls as a middle ground between strict criminalization and regulated legalization. While legalization and regulation are exemplified in the case of Uruguay, other countries and communities have explored decriminalization practices across this regulatory continuum (CCSA, 2018; International Drug Policy Consortium, n.d.). *De facto* decriminalization has been embraced in the Netherlands, along with specific areas of the United Kingdom, Australia, and the United States (CCSA, 2018). *De jure* decriminalization has been embraced in Portugal, Mexico, and the Czech Republic (CCSA, 2018). Of note, these countries have noted impacts of decriminalization including a reduction in HIV/AIDS transmission, reduced overdose deaths, and reduced burden on the criminal justice system without a significant increase in substance use or expansion of criminal drug networks (Pivot Legal Society 2020; CCSA, 2018).

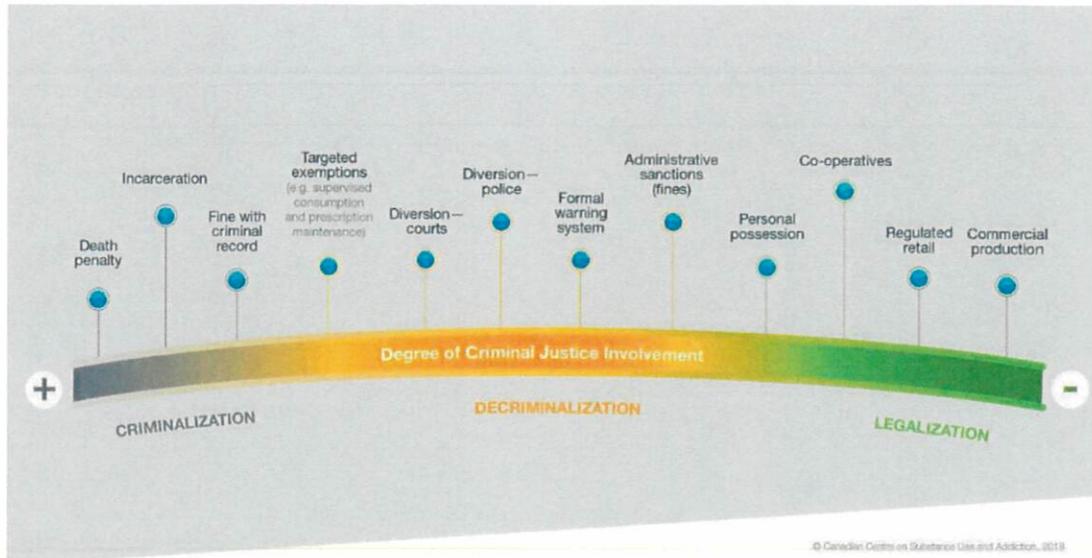


Figure 2: Regulatory Continuum (CCSA, 2018)

Impacts of Decriminalization

The global evidence base clearly shows that drug prohibition does not reduce drug use, and decriminalization does not increase drug use (HIV Legal Network, 2020; Scheim et al., 2020). Further, countries pursuing punitive policies experience the highest rates of drug-related deaths (CCSA, 2018).

We summarized the global and Canadian evidence on the impacts of DPPS in a rapid evidence review submitted to the SPS and the City of Saskatoon Mayor’s office in August 2021. That report, which includes an extensive list of references, is appended in Appendix B.

The rapid review of the literature provided evidence that suggests that criminalization for simple possession is largely ineffective in deterring people from using substances, is expensive, is burdensome for police officers, and is inequitable as it disproportionately affects BIPOC communities.

Promisingly, the evidence shows that decriminalizing simple possession of substances can enhance community safety, increase economic benefits to the municipality, enhance law enforcement safety and community engagement, reduce the risk of harms for PWUD, promote pathways to reconciliation, improve BIPOC relationships with law enforcement, and reduce the spread of HIV/AIDS. We refer the reader to that report for more details and references about the impacts of decriminalization.

The Case of the City of Vancouver and the Province of British Columbia

The City of Vancouver submitted its request for an exemption to Section 56.1 of the *Controlled Drugs and Substances Act* to Health Canada in May 2021 (<https://tinyurl.com/yckjhepj>), and the Province of

British Columbia submitted a province-wide request in November 2021 (<https://tinyurl.com/bd6jafuk>). [More recently the City of Toronto also applied (<https://tinyurl.com/2p9exrrn>).] None of these requests have yet been officially responded to however, it appears that some change may be forthcoming. Reversing his previous stance on decriminalization after the 2021 federal election, Prime Minister Justin Trudeau is “looking at the issue of decriminalizing hard drugs with the provinces and is open to further action.” (Bond 2021)

Although still in limbo, the three requests to Health Canada are a fascinating example of how jurisdictions can learn from each other, improving their processes (and arguably their outcomes) as they go. The next city or province that wishes to proceed with DPPS and/or makes a similar request to Health Canada will have considerable experience and ‘lessons learned’ to draw on. A full case study report on the experiences and lessons learned from the Vancouver experience, including a timeline of key events and a table comparing the Vancouver and B.C. ‘models’ is appended in Appendix C.

Of note, while it is widely understood that decriminalization of illicit drugs for personal use is not a ‘magical solution’ to the overdose crisis in B.C., decriminalization is strongly supported as part of the solution. Polling shows that a majority of the public is in favour, the Vancouver Police Department and the B.C. Association of Chiefs of Police are in favour, all parties in the Legislature are in favour, and cities across the province support Vancouver’s request to Health Canada. PWUD are well-organized and vocal supporters of “full decriminalization”, with effective organizations advocating on their behalf. It is clear to police, policy makers and politicians in B.C. that a continued over-reliance on the criminalization of drug use is failing both PWUD and society.

With regard to the role of police services, a recent study of the attitudes and opinions of police officers to drug enforcement in B.C. (Zakimi et al 2022), has documented that “officers who enforce drugs in B.C. can experience role strain from taking on a health and social support roles in their everyday work” and concluded that “future policy could redefine police roles by considering the expectations of officers themselves as well as those of the communities in which they work, highlighting the importance of the local context, the gaps in other service systems, and the needs of PWUD.” The study also noted that “while some police officers may still believe in the traditional, punitive drug enforcement approach, others are actively changing the way they deal with PWUD ... focusing more on harm reduction.”

Appendix C of this report suggests three key take-aways from the experiences of the City of Vancouver and the Province of British Columbia:

1. After several years of intense political and public discussion, there is growing and widespread support for the principle of decriminalization in B.C. There is widespread recognition that the evidence suggests that a multi-faceted approach including decriminalization and safe supply programs may effectively reduce drug toxicity deaths by reducing exposure to a toxic and unregulated drug supply. Polling shows that a majority of the public is in favour, the Vancouver Police Department and the B.C. Association of Police Chiefs are in favour, all parties in the Legislature are in favour, and cities across the province support Vancouver’s request to Health Canada. It is understood that decriminalization of illicit drugs for personal use is not a ‘magical solution’ to the overdose crisis.

2. PWUD are well-organized and vocal supporters of “full decriminalization,” with effective organizations advocating on their behalf. The Vancouver Area Network of Drug Users (VANDU) and Pivot Legal Society feel that the City of Vancouver failed to adequately/meaningfully consult strong community-based groups in the development of its request to Health Canada. This resulted in VANDU and Pivot withdrawing their support from the specifics of the request. The provincial government apparently did a better job of engagement with PWUD; while VANDU and Pivot disagreed with some of the details of the province’s request (Vancouver Area Network of Drug Users, Pivot Legal Service, et al, 2021 May 10) it was generally regarded as “a step in the right direction” and was not rejected in the way that the City of Vancouver’s request was. Toronto’s request to Health Canada contains a 70-page summary of consultations conducted by Toronto Public Health as part of the development of the document.
3. The most contentious issue is that of thresholds. Over the objection of PWUD groups, the City of Vancouver adopted thresholds based on its calculations of the amounts required for three days of use of different substances (opioids at 2 grams, cocaine at 3 grams, crack cocaine at 1 gram, and amphetamines at 1.5 grams). These amounts may be difficult to verify for enforcement absent safe supply options. There is great likelihood for substance contamination or mixing in the illicit market. However, in Portugal individual thresholds were established and are equal to a ten-day supply for the individual who uses the substance (Statista, 2020; Transform Drug Policy Institute, 2021). Some advocates and advocacy groups have expressed concern that threshold amounts set ‘too low’ will result in continued criminalization (Canadian Drug Policy Coalition, 2021). The Health Canada Expert Task Force on Substance Use published recommendations for alternatives to criminal penalties, suggesting that thresholds be developed with the “presumption of innocence and... set high enough to account for the purchasing and consumption habits of all people who use drugs” (Canada, Health Canada- Health Canada Expert Task Force on Substance Use, 2021)

The provincial government took a different approach, requesting a cumulative threshold of 4.5 grams of substances where there is no evidence of trafficking. Rather than requesting a numerical threshold, the City of Toronto chose to empower the community. “In the absence of a national framework, a panel with drug researchers, people who use drugs, harm reduction workers, and police is proposed to determine the appropriate quantity for personal possession, meeting on an annual basis to review quantities as necessary. Any consideration for how much a person may carry needs to consider more than personal use, and should also take into consideration purchasing, sharing, and using patterns, which may differ from person to person.”

PWUD argue strenuously that thresholds must be set “appropriately high” in order to eliminate both the abuse of police discretion and the enforcement and confiscation of below-threshold amounts. (Pivot Legal Society, 2022 Mar 17).

It remains to be seen how Health Canada will respond to these different approaches.

Section III: Conclusions and Recommendations

We commenced this report encouraging readers to think about decriminalization as one part of a comprehensive strategy. We noted that the Saskatoon Police Service has a role to play in addressing problematic substance use and deaths from drug toxicity, but they are only one agency among many needed. To help situate the role of the SPS and of DPPS we proposed an evidence-based Substance Use Stabilization Framework (SUSF) as a tool to frame the discussion of decriminalization as one element needed in a larger strategy.

We have provided a summary of the evidence on DPPS and appended two longer reports that provide numerous sources of evidence and a detailed documentation of the experience of Vancouver and B.C. with decriminalization. Together our analyses lead us to suggest a meeting of minds to begin to address our city's drug toxicity crises more fulsomely. Choices on decriminalization should be seen as one important part of a larger community effort to stem the tide of deaths by overdose. In that light, we believe that the City of Saskatoon has three policy options.

Policy Option #1: Status Quo

The City of Saskatoon could choose not to explore decriminalization through additional practical or policy measures. Although pursuing a no-change option does not preclude change on the other elements of the stabilization model, the current rates – of opioid poisoning deaths, HIV/AIDS in Saskatoon, incarceration rates, or disparities experienced by BIPOC in the city – may worsen. No change to current practices and policy would require no increased financial or time commitment on behalf of the Saskatoon Police Service.

Policy Option #2: *De facto* decriminalization with a public awareness campaign

The SPS could intensify *de facto* decriminalization efforts almost immediately, wherein law enforcement officers would be instructed to refrain from imposing criminal charges to people who are found in possession of a personal amount of a substance. If this action is chosen, the evidence suggests that the impacts of this intervention can be heightened by the incorporation of public awareness and education campaigns. Through these types of campaigns, the community would be made aware of decriminalization which can contribute to decreasing the stigma experienced by people who use drugs and can act to foment a progressive uptake of the message of decriminalization (as has been experienced in B.C.). However, *de facto* changes may lead to a patchwork style of enforcement, police officer role confusion and burnout and difficulties in replication in other jurisdictions.

Policy Option #3: *De jure* decriminalization

Leadership by the City of Saskatoon and the Saskatoon Police Service can evolve Saskatoon into a city where simple drug possession is decriminalized, a first for a Canadian prairie city. *De jure* decriminalization would ensure that policies and actions reflect each other and reduce the variability of drug enforcement within city limits. This partnership would also elevate the topic of

decriminalization into the public sphere creating a great environment of anti-stigma and support for people who use drugs, a cultural shift that can reduce many of the negative effects of substance use. *De jure* decriminalization is an option which does require (A) vision and leadership; and (B) a time and financial commitment by active partners to ensure progress is made and public questions are adequately addressed.

Making the application to Health Canada for an exemption from the *Controlled Drugs and Substances Act* (CDSA) pursuant to section 56(1) would be a very important move, but in and of itself would be insufficient to stem the tide of drug-toxicity deaths. Lengthy waits disenable cities and provinces to decriminalize simple possession potentially contributing to lives lost. In practice DPPS could be implemented through binding policies, communicated to law enforcement officers, and evaluated regularly to effectively move forward and monitor a *de facto* decriminalization effort.

Recommendation

Our policy recommendation is for the City of Saskatoon to begin the process of achieving Option #3 for long-term change, and to immediately enact Option #2 while waiting on approval for an exemption request to Health Canada.

Our understanding of problematic substance use in Saskatchewan, our summary of the evidence available, and our analysis of the case of Vancouver and B.C. lead to us to recommend that the City of Saskatoon Mayor's office should invite stakeholders (including PWUD), to envision, direct, and implement a multi-agency, multi-pronged strategy, and action plan for reducing the harms and deaths from problematic substance use in the city. Our proposed Stabilization Use Framework is submitted for consideration as part of that effort.

Specifically with regard to decriminalization, the City of Saskatoon should follow the good examples of the cities of Vancouver and Toronto and strike a Working Group consisting of City staff, the Saskatoon Police Service, the Saskatchewan Health Authority, the Federation of Sovereign Indigenous nations, the Métis Nation Saskatchewan, the Aboriginal Friendship Centres of Saskatchewan, a wide range of community-based organizations, and researchers to co-develop an exemption request to be submitted to Health Canada. It is essential that people who use drugs in Saskatoon be full participants in this co-development process.

Additionally, there is an urgent need to scale-up proven harm reduction interventions in the city – incorporating novel approaches such as safer supply and acknowledging and redressing the harms caused by laws that criminalize people who use drugs.

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Appendices

Appendix A: Motion to Explore Decriminalization in Saskatoon

Saskatoon Board of Police Commissioners. (2021, Aug 19). 6.1 Commissioner K. Healy - Decriminalization for Simple Possession of Illicit Drugs in Saskatoon. Saskatoon: Author.
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Appendix B: Rapid Evidence Review

Decriminalization of simple drug possession in Saskatoon, SK: A rapid evidence review

Prepared by: Dr. Lori Hanson, Dr. Barbara Fornssler, and the *P5 Project YXE* Research Team at the University of Saskatchewan.

Preamble:

This rapid evidence review was first drafted at the request of the Charlie Clark, Mayor of the City of Saskatoon, in June 2021 to inform decision-making about the decriminalization of personal possession of substances in advance of a motion put forward by the Saskatoon Board of Police Commissioners (SBPC) to examine this topic. The Perspectives, Pathways, and Priorities of People with Lived and Living Experience of Substance Use: Informing Policies (P5 Project YXE) research team filled this request in five working days. On June 17, 2021, Commissioner K. Healy put forward a notice of motion (item 6.1 of SBPC minutes June 17, 2021) to address Decriminalization for Simple Possession of Illicit Drugs in Saskatoon. The P5 Project YXE team submitted the draft document to the SBPC to inform members about this topic. The motion was debated by SBPC on August 19, 2021, and passed with some modification (item 6.1 of SBPC minutes August 19, 2021).

This rapid review document was finalized for public release in September 2021. It provides summary evidence, rather than a comprehensive assessment of the research literature. It is organized into several key aspects of the topic including terminology, community safety, economic benefits, impacts on law enforcement, BIPOC/Reconciliation, and HIV/STBBI relationships to substance use. The papers reviewed offer compelling evidence suggesting that decriminalization for simple possession is likely to benefit the city of Saskatoon.

Key Points:

- Criminalization of simple possession feeds stigma, inhibits the seeking of healthcare
- Criminalization encourages less safe use of substances
- Decriminalization for simple possession does not increase substance use
- Decriminalization can save money in health, legal, and law enforcement costs
- Simple possession charges disproportionately affect BIPOC communities
- Decriminalization can reduce health inequities and foster reconciliation
- Decriminalization decreases the incidence of new HIV/AIDS cases, which Saskatoon has inflated rates
- Decriminalization is best undertaken in alignment with additional harm reduction measures (i.e., regulated supply, supervised consumption, culturally informed care)

List of Report Acronyms

| | |
|--------------------------|--|
| BIPOC | Black, Indigenous, and People of Colour |
| CDSA | Controlled Drug and Substance Act |
| Criminalization | Production, distribution, and possession of a controlled substance are subject to criminal sanctions (i.e., incarceration, fines), with conviction resulting in a criminal record. ¹ |
| Decriminalization | Non-criminal responses, such as fines and warnings, are applied to designated activities, such as possession of small quantities of a controlled substance with no criminal record. ¹ Decriminalization may involve |
| IVDU | Intravenous Drug Use |
| Legalization | Criminal sanctions are removed with acceptable actions of regulated retail and commercial production. Regulatory controls can still apply, as with alcohol and tobacco. |
| PWLE | People with Lived or Living Experience |
| PWUD | People Who Use Drugs |
| STBBI | Sexually Transmitted Blood-Borne Infection |

Background:

Substance use and the overdose crisis are recognized around the world as public health issues. Bolstered by the Canadian Association of Chiefs of Police (CACP) report entitled *Decriminalization for Simple Possession of Illicit Drugs: Exploring Impacts on Public Safety & Policing*,² several Canadian cities* are calling for recognition of drug criminalization harms by considering the amendment of laws that criminalize simple possession of substances. The CACP report recommends decriminalization in part because this approach will ensure that people who use drugs (PWUD) will not fear arrest or be unduly inhibited from accessing harm reduction and other healthcare services. Decriminalization can occur in numerous ways that are both *de facto* and *de jure* and as the CACP report notes, various cities have already decriminalized aspects of drug use (safe consumption sites, distribution of unused drug paraphernalia, etc.). Ultimately, the report sets the stage for decriminalization for simple possession without the necessary repeal of legislation.² Of note, the federal Health Minister has broad power to exempt people and / or jurisdictions including municipalities and provinces from any or all of the provisions in the Controlled Drugs and Substances Act (CDSA) without needing to amend or pass legislation in parliament.³ All of this means that cities such as Saskatoon or Regina can take immediate steps to minimize the harms and stem the tide of overdose deaths.

* Vancouver, Toronto, Halifax, and others

In the past ten years 1681 people have died from overdose in the province of Saskatchewan.⁴ In 2020, there were 73 confirmed overdose deaths in Saskatoon, with numbers rising significantly since the onset of the COVID-19 pandemic.⁴ The 73 deaths recorded are likely an underestimation as some cases are still being investigated.⁴ In 2019, Medavie reported a total of 11 overdose calls for the month of May.⁵ Calls increased significantly in 2021, as Medavie reported 21 overdose calls in the span of the five days between May 25th to 30th.⁵

Several topics that are intended to foster discussion of decriminalization for the city were identified through the review and in conversation with the mayor's office and the SPS. A rapid review and summary of key points on these topics follows.

Community safety and drug use:

Saskatoon's City Council wants to "foster a more integrated and effective system of services in response to crime and community well-being".⁶

- Drug prohibition does not reduce drug use,³ and decriminalization does not increase drug use.⁷
- From 2014-19, police in Canada made over 540,000 arrests for drug offences, of which 69% were simple drug possession.³
- There is no relationship between the "strictness" of a country's enforcement of drug possession laws and levels of drug use;⁸ countries with the highest rates of drug-related deaths have the most punitive approaches to substance use.¹
- In Portugal, overdose death rates dropped by >80% after partial decriminalization.⁹
- Criminalization of simple possession often pushes PWUD into less safe substance use behaviours (i.e., rushed injection, sharing paraphernalia, etc.).^{3,8}
- Methamphetamine possession charges are up from 15 charges in 2012 to 408 charges in 2018.¹⁰

Economic Benefit:

The cost for incarcerating someone for simple possession or for the use of emergency services is high.

- People with criminal records face adversity finding employment,¹¹ housing issues, food insecurity, and stigma,¹⁰ which generates an increase in use of income assistance and social services.
- The average cost of having an individual incarcerated in Saskatchewan (provincial) prison is \$64,970 annually as of the 2018/2019 fiscal year.¹²
- In Portugal, the per capita social cost of substance use dropped by 18% following decriminalization efforts.⁹

- Admissions for opioid-related harms at Saskatoon Emergency Departments increased from 224 to 445 from 2019-2020. Similarly, admissions for methamphetamine rose from 685 to 919.¹³

Impacts on Law Enforcement:

The nature of police work and law enforcement can be burdensome. The CACP report suggests that decriminalization would allow officers to navigate individuals towards healthcare services, as opposed to incarceration, promoting rapport between police officers and the community.²

- In 2020, there were 811 arrests by the SPS under the Controlled Drug and Substance Act (CDSA).¹⁴
- SPS responded to 117,000 calls in 2020, but only 10.4% resulted in charges being laid, as many of these calls were for mental health-related issues.¹⁴
- Collectively, front-line workers/first responders experience first-hand the consequences of under-funding social services, leading to burnout.¹⁵

Fostering Stronger Relationships in the Saskatoon Community:

Reconciliation with Black, Indigenous, and People of Colour (BIPOC) Communities

SPS has stated they are interested in promoting transparency and support for BIPOC communities; decriminalization is one way of applying these values in practice.

- BIPOC communities are disproportionately affected by possession charges.³ There is documented fear and mistrust by BIPOC communities regarding arrests and police violence.^{3, 16}
- In Vancouver, 18% of trafficking and possession charges are against Indigenous Peoples, though they represent only 2.2% of the city's population.³
- Substance use disorders among Indigenous people is often a way of coping with intergenerational trauma and the effects of colonialism.¹⁶ Criminalization of substance use perpetuates violence and discrimination against Indigenous people.^{10, 16}
- Sexually transmitted blood-borne infections (STBBIs) are over-represented in BIPOC communities in Saskatoon.^{17,18}

HIV/AIDS

Saskatoon has some of the highest rates of HIV/AIDS in Canada.^{17,18} Decriminalization offers the opportunity for PWUD to access unused paraphernalia and harm reduction services without fear of incarceration. Reduction in HIV/AIDS rates in Saskatoon will alleviate the burden on healthcare services.

- In a corrections environment, there is an increased risk of STBBI transmission and fewer resources for harm reduction despite access to substances within correctional facilities.^{3,19}
- In 2018, Saskatoon reported the highest proportion of HIV diagnoses in the province.^{17,18}

- In Saskatoon, ⅔ of new HIV/AIDS cases are primarily linked to intravenous drug use (IVDU).¹⁸
- In Portugal, the prevalence of HIV/AIDS has dropped from 52% to 6% in new diagnoses in those who use drugs.⁹

People with Lived and Living Experience (PWLLE) of substance use

Amplifying and centring the voices of PWLLE of substance use is essential when developing and implementing decriminalization policy to assure successful uptake.¹⁹ Respecting the autonomy and knowledge of PWLLE allows for a more comprehensive understanding of substance use as a health issue and. Two fundamental assumptions in the research on substance use in Canada and elsewhere:

- PWLLE are experts on their own substance use.
- PWLLE are the individuals most affected by criminalization, and their voices must be amplified when determining policy reform.

Conclusion

This rapid review of the literature has provided evidence that suggests that criminalization for simple possession is largely ineffective in deterring people from using substances, is expensive, is burdensome for police officers, and is inequitable as it disproportionately affects BIPOC communities. Promisingly, it also appears that decriminalizing simple possession of substances in the City of Saskatoon could enhance community safety, increase economic benefits to the municipality, enhance law enforcement safety and community engagement, reduce the risk of harms for PWUD, promote pathways to reconciliation, improve BIPOC relationships with law enforcement, and reduce the spread of HIV/AIDS in Saskatoon. These changes would benefit all of Saskatoon's citizens including those who use substances and those who do not.

As public health researchers, we encourage decision-makers to utilize the best evidence available to improve population health. The best evidence on decriminalizing simple possession of drugs is a vital tool in creating change to stem the tide of overdose deaths in our city. This document offers a quick summary of research evidence on the effects of decriminalization from peer-reviewed and non-peer-reviewed sources. We anticipate a future need for a more thorough examination of evidence on the various models of decriminalization employed to date and welcome the opportunity to work with all stakeholders in so doing. In Canada the evidence so far indicates that the process of developing a framework for the decriminalization of personal possession for the city of Saskatoon should be done with the input of PWLLE, health providers, local police services and community organizations who are providing services in this area of care.²⁰ We look forward to next steps.

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Appendix C: Vancouver/B.C. Case Study

Lessons from decriminalization for simple possession in Vancouver (and British Columbia provincially)

Research report prepared by Jack Hicks

Adjunct, Dep't of Community Health & Epidemiology, University of Saskatchewan

***For the Perspectives, Pathways and Priorities of People with lived and living
experience of substance use: Informing Policies (P5 Project YXE) research project
at the University of Saskatchewan***

April 5, 2022

Executive Summary

The experiences of the city of Vancouver and the province of British Columbia re: decriminalization for simple drug possession are critically important for any other jurisdiction in the country to understand and consider if it is experiencing an increase in substance use and also wishes to take evidence-informed action to address it.

- Vancouver has the highest rate of drug toxicity deaths in Canada, and drug fatalities are now the highest cause of “unnatural deaths” in the province – killing more British Columbians than murders, suicides and car accidents *combined*. First Nations people die from overdose at rate 5.6 times higher than other BC residents. “By every metric, drug prohibition has failed.” (Pivot Legal Society, 2021) The public health crisis of rising numbers of unintentional drug toxicity deaths driven by an unpredictable unregulated drug supply resulted in B.C.’s Provincial Health Officer declaring a State of Emergency in April 2016 – which intensified policy work within governments.
- The announcement by the Canadian Association of Chiefs of Police in July 2020 that it advocates decriminalization of illicit drugs for personal use had a significant impact on public opinion. And as the media reported, “B.C. police chiefs convinced other top cops to change course on hard drugs.” (Canadian Association of Chiefs of Police, 2020; Daflos, 2020)
- Vancouver has strong community-based groups of people who use drugs (PWUD) and legal advocates who felt that their experiences and perspectives received only token consideration during development of the City of Vancouver’s request to Health Canada.
- The City of Vancouver made a preliminary exemption request to Health Canada for an exemption from the *Controlled Drugs and Substances Act* (CDSA) pursuant to section 56(1) of the CDSA on March 1, 2021 (<https://tinyurl.com/437m8aci>) and transmitted its’ Final Submission just under three months later on May 28 (<https://tinyurl.com/yckjhepi>). The Province of British Columbia submitted a province-wide request in November 2021 (<https://tinyurl.com/bd6jafuk>). Vancouver was the first city, and B.C. is so far the only province, to submit exemption requests to Health Canada.
- It is now up to the federal government to respond. Vancouver and B.C. have been joined by the City of Toronto, which submitted its request to Health Canada in January 2022 (<https://tinyurl.com/2p9exrrn>). Vancouver and Toronto’s requests have been supported by mayors across both provinces. Vancouver and Toronto’s requests have been supported by mayors across both provinces. Prior to the federal election of September 20, 2021, Prime Minister Justin Trudeau stated that he “would not back decriminalization of drugs as a public-health response to the country’s escalating opioid crisis, ... saying the government is prioritizing other options such as greater access to a safe supply of opioids.” Since the election the Prime Minister has stated that he is “looking at the issue of decriminalizing hard drugs with the provinces and is open to further action, a departure from his previous resistance to the idea.”

Momentum towards decriminalization is clearly building, especially as mortality from opioid-related overdose in Canada has increased by 88% since the onset of the COVID-19 pandemic. It is clear to police, policy makers and politicians in B.C. that a continued over-reliance on the criminalization of drug use is failing both PWUD and society as a whole.

With regard to the role of police services, a recent study of the attitudes and opinions of police officers in B.C. (Zakimi et al, 2022) has documented that “officers who enforce drugs in B.C. can experience role strain from taking on a health and social support roles in their everyday work. Officers took this work on in spite of what most perceived as their main role: enforcing laws and fighting crime.” The study concluded that “Future policy could redefine police roles by considering the expectations of officers themselves as well as those of the communities in which they work, highlighting the importance of the local context, the gaps in other service

systems, and the needs of PWUD. Furthermore, while some police officers may still believe in the traditional, punitive drug enforcement approach, others are actively changing the way they deal with PWUD, as many officers in our sample did. In that sense, police may be able to push forward change in the way drugs are policed, focusing more on harm reduction, before these changes are reflected in the law.”

Three key take-aways from the experiences of the City of Vancouver and the province of British Columbia are:

1. After several years of intense political and public discussion, there is growing and widespread support for the principle of decriminalization in B.C. There is widespread recognition that the evidence suggests that a multi-faceted approach including decriminalization and safe supply programs may effectively reduce drug toxicity deaths by reducing exposure to a toxic and unregulated drug supply. Polling shows that a majority of the public is in favour, the Vancouver Police Department and the B.C. Association of Police Chiefs are in favour, all parties in the Legislature are in favour, and cities across the province support Vancouver’s request to Health Canada. It is understood that decriminalization of illicit drugs for personal use is not a ‘magical solution’ to the overdose crisis.
2. PWUD are well-organized and vocal supporters of “full decriminalization,” with effective organizations advocating on their behalf. The Vancouver Area Network of Drug Users (VANDU) and Pivot Legal Society feel that the City of Vancouver failed to adequately/meaningfully consult strong community-based groups in the development of its request to Health Canada. This resulted in VANDU and Pivot withdrawing their support from the specifics of the request. The provincial government apparently did a better job of engagement with PWUD; while VANDU and Pivot disagreed with some of the details of the province’s request (Vancouver Area Network of Drug Users, Pivot Legal Service, et al, 2021 May 10) it was generally regarded as “a step in the right direction” and was not rejected in the way that the City of Vancouver’s request was. Toronto’s request to Health Canada contains a 70-page summary of consultations conducted by Toronto Public Health as part of the development of the document.
3. The most contentious issue is that of thresholds. Over the objection of PWUD groups, the City of Vancouver adopted thresholds based on its calculations of the amounts required for three days of use of different substances (opioids at 2 grams, cocaine at 3 grams, crack cocaine at 1 gram, and amphetamines at 1.5 grams). These amounts may be difficult to verify for enforcement absent safe supply options. There is great likelihood for substance contamination or mixing in the illicit market. However, in Portugal individual thresholds were established and are equal to a ten-day supply for the individual who uses the substance (Statista, 2020; Transform Drug Policy Institute, 2021). Some advocates and advocacy groups have expressed concern that threshold amounts set ‘too low’ will result in continued criminalization (Canadian Drug Policy Coalition, 2021). The Health Canada Expert Task Force on Substance Use published recommendations for alternatives to criminal penalties, suggesting that thresholds be developed with the “presumption of innocence and... set high enough to account for the purchasing and consumption habits of all people who use drugs” (Canada, Health Canada- Health Canada Expert Task Force on Substance Use, 2021)

The provincial government took a different approach, requesting a cumulative threshold of 4.5 grams of substances where there is no evidence of trafficking. Rather than requesting a numerical threshold, the City of Toronto chose to empower the community. “In the absence of a national framework, a panel with drug researchers, people who use drugs, harm reduction workers, and police is proposed to determine the appropriate quantity for personal possession, meeting on an annual basis to review quantities as necessary. Any consideration for how much a person may carry needs to consider more than personal use, and should also take into consideration purchasing, sharing, and using patterns, which may differ from person to person.” PWUD argue strenuously that thresholds must be set “appropriately high” in order to eliminate both the abuse of police discretion and the enforcement and confiscation of below-threshold amounts. It remains to be seen how Health Canada will respond to these different approaches.

Introduction

The experiences of the city of Vancouver and the province of British Columbia re: decriminalization for simple drug possession are critically important for any other jurisdiction in the country to understand and consider if it is experiencing an increase in substance use and also wishes to take evidence-informed action to address it. This report will summarize the situation in Vancouver (and British Columbia more broadly), what actions have occurred, and what the key debates have been about. Limited information is also provided about the recent (January 2022) request made to Health Canada by the City of Toronto.

Background

- Vancouver has the highest rate of drug toxicity deaths in Canada, and drug fatalities are now the highest cause of “unnatural deaths” in the province – killing more British Columbians than murders, suicides and car accidents *combined*. First Nations people die from overdose at rate 5.6 times higher than other BC residents. “By every metric, drug prohibition has failed.” (Pivot Legal Society, 2021) The public health crisis of rising numbers of unintentional drug toxicity deaths driven by an unpredictable unregulated drug supply resulted in B.C.’s Provincial Health Officer declaring a State of Emergency in April 2016 – which intensified policy work within governments.
- The announcement by the Canadian Association of Chiefs of Police in July 2020 that it advocates decriminalization of illicit drugs for personal use had a significant impact on public opinion. And as the media reported, “B.C. police chiefs convinced other top cops to change course on hard drugs.” (Canadian Association of Chiefs of Police, 2020; Daflos, 2020)
- Vancouver has strong community-based groups of people who use drugs (PWUD) and legal advocates who felt that their experiences and perspectives received only token consideration during development of the City of Vancouver’s request to Health Canada.
- The City of Vancouver made a preliminary exemption request to Health Canada for an exemption from the *Controlled Drugs and Substances Act* (CDSA) pursuant to section 56(1) of the CDSA on March 1, 2021 (<https://tinyurl.com/437m8acj>) and transmitted its’ Final Submission just under three months later on May 28 (<https://tinyurl.com/yckjhepj>). The Province of British Columbia submitted a province-wide request in November 2021 (<https://tinyurl.com/bd6jafuk>). Vancouver was the first city, and B.C. is so far the only province, to submit exemption requests to Health Canada.
- It is now up to the federal government to respond. Vancouver and B.C. have been joined by the City of Toronto, which submitted its request to Health Canada in January 2022 (<https://tinyurl.com/2p9exrrn>). Vancouver and Toronto’s requests have been supported by mayors across both provinces. Prior to the federal election of September 20, 2021, Prime Minister Justin Trudeau stated that he “would not back decriminalization of drugs as a public-health response to the country’s escalating opioid crisis, ... saying the government is prioritizing other options such as greater access to a safe supply of opioids.” (CBC News, 2020 September 3) Since the election the Prime Minister has stated that he is “looking at the issue of decriminalizing hard drugs with the provinces and is open to further action, a departure from his previous resistance to the idea.” (Bond, 2021 December 15)

A timeline of events in Vancouver and provincially in British Columbia can be found as the last two pages of this report.

As Vancouver and B.C.’s exemption applications contain two somewhat different models of decriminalizing simple drug possession, it is unclear whether the two models will co-exist or whether the federal government will prefer a single, unified model for every city in B.C. – and perhaps for every city in the country.

The Vancouver Model

The City of Vancouver's submission to Health Canada is sometimes referred to as the Vancouver Model. The term appears to refer to the basket of measures set out in Vancouver's 'ask' – perhaps to differentiate it, in the early days of discussion, from what is termed the 'Portuguese Model' of drug policy (Rêgo et al., 2021).

The essence of the 'Vancouver Model' is described in the City's Preliminary Submission to Health Canada:

“Under a Vancouver citywide exemption from the offense of simple possession, individuals found to be in possession of controlled substances for personal use would not be subject to criminal sanctions within the municipal boundaries. If approved, all adults would be exempted from enforcement under the CDSA when found to be in possession of an established threshold personal supply of any illegal drug, where there is no drug trafficking involvement.

The City of Vancouver's move to decriminalize personal possession is not being made in isolation, but rather as a part of a comprehensive approach, which complements local and provincial investments in safe supply, treatment, harm reduction, outreach, and housing.

The need for this exemption has been well documented in numerous reports and studies. Substance use is best addressed as a health issue, rather than a criminal justice issue. Criminalization has terrible consequences for individuals, families, the community, and the economy.” (<https://tinyurl.com/437m8aci>, p. 2)

The process is also a part of the Vancouver Model. Once Vancouver City Council voted to pursue an exemption from Health Canada, the city administration formed a Working Group to prepare the submission:

“The model was developed by the City of Vancouver, Vancouver Police Department, Vancouver Coastal Health, addictions doctors, and research scientists. Conversations with people who use drugs and representatives of groups that face disproportionate discrimination and exclusion have informed the model.” (Vancouver, n.d.)

“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. ...

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. ... 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.” (Vancouver 2021, pp. 2 and 30)

A numerical determination of an “appropriate” personal use threshold is a key aspect of the Vancouver Model.

The submission acknowledges that “some groups and individuals have felt excluded from the decision-making process. ... Concern was expressed that drug users themselves were not represented in the formal process to

design the model.” (Vancouver 2021, pp. 30 and 32) The strenuous objections of 15 different organizations and many supporting individuals to both the development process and the contents of the submission were included as an appendix of the City’s request to Health Canada.

The role of police services

A recent study of the attitudes and opinions of police officers in B.C. (Zakimi et al, 2022) has documented that:

“While simple drug possession remains criminalized in most countries, including Canada, the role of police in drug markets is not strictly a criminal matter. Police engage in street- and high-level strategies to target the supply and/or demand for drugs, which can involve arresting PWUD and dealers, seizing large quantities of drugs, or seizing paraphernalia. In addition, PWUDs often need medical attention and social support, particularly during overdoses or when trying to access harm reduction services and treatment. This creates a challenge for police who are not adequately resourced or trained to meet the non-criminogenic needs of PWUD.” (p. 2-3)

“Qualitative interviews with officers who enforce drug laws showed that they take on multiple, overlapping, and sometimes conflicting roles in the community that go above-and-beyond enforcing the law. Although most experiences described by police officers in this study did not portray strict drug law enforcement, understanding the entirety of roles taken on by police officers who are tasked with enforcing drug laws offers important insights. Drug enforcement policing seems to invoke strain caused by competing demands, but these experiences are positioned within larger social, medical, and justice systems.

As such, police officers provided social support in their helper role, responded to emergency health calls, especially in overdose situations, and were tasked with administrative duties that took them away from the community. These multiple roles interacted, coalesced, and interfered with officers’ feelings of ineffectiveness. Officers felt compelled to take on these roles, and yet were overburdened, conflicted, and frustrated from having to wear ‘too many hats’. The challenges faced by the various roles of officers underscore the gaps in health and social services and raise questions around the potential impact on our justice system and the community.

One of the main findings of this study is that officers who enforce drugs in BC can experience role strain from taking on a health and social support roles in their everyday work. Officers took this work on in spite of what most perceived as their main role: enforcing laws and fighting crime.

Officers’ experiences working with PWUD is consistent with the notion that police take on varied roles, including that of peacekeepers and social workers. However, they questioned their effectiveness in providing help and/or care for vulnerable communities, especially in rural or remote communities where social and health resources for PWUD were severely lacking” (p.11)

The study concluded that:

“Addressing police role conflict and associated strain would be beneficial for officers who are faced with frustrating situations daily, and also for the community of PWUD who bear the brunt of the inefficiencies and ineffectiveness of supports offered to them. Police role expectations should be clear, both for community members and police officers themselves, to promote equity for the community and ease service burden placed on police officers. Future policy could redefine police roles by considering the expectations of officers themselves as well as those of the communities in which they work, highlighting the importance of the local context, the gaps in other service systems, and the needs of PWUD. Furthermore, while some police officers may still believe in the traditional, punitive drug enforcement approach, others are actively changing the way they deal with PWUD, as many officers in

our sample did. In that sense, police may be able to push forward change in the way drugs are policed, focusing more on harm reduction, before these changes are reflected in the law.” (pp. 12-13)

The workload, role strain and stress that the ‘criminalized status quo’ results in for police officers undoubtedly contribute to the decision by the Canadian Association of Chiefs of Police to advocate decriminalization of illicit drugs for personal use.

The City of Vancouver’s Preliminary Submission to Health Canada lauds the role of the Vancouver Police Department in development of the request:

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*. [see: <https://tinyurl.com/y9vkycrm>] 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. (<https://tinyurl.com/437m8acj>, p. 5)

While the B.C. provincial government’s request thanks the BC Association of Chiefs of Police for its participation in the process of developing it, the extent of its participation was not specified. The request notes that “The recommendations put forth in this submission may not always represent the views of all members”, and as we shall see this was the case with the BC Association of Chiefs of Police regarding one critical policy question.

Key issues and take-aways

My review of the experience of Vancouver and the province of B.C. (and, in lesser detail, that of the City of Toronto) suggests that there are three key issues that may be of relevance to discussions underway in Saskatoon.

- Support of government, the police services, and PWUD for the decriminalization for simple drug possession as part of a multi-faceted response to the overdose crisis.
- The benefit of meaningfully engaging PWUD in the development of drug policies.
- The thorny question of thresholds.

Institutional and PWUD support for decriminalization

After several years of intense political and public discussion, there is growing and widespread support principle of decriminalization in B.C. Polling shows that a majority of the public is in favour, the Vancouver Police Department and the B.C. Association of Chiefs of Police are in favour, all parties in the Legislature are in support, and cities across the province support Vancouver’s request to Health Canada. PWUD are well-organized and vocal supporters of “full decriminalization”, with effective organizations (most notably the Vancouver Area Network of Drug Users (VANDU) and Pivot Legal Society) advocating on their behalf.

It is widely understood that decriminalization of illicit drugs for personal use is not a ‘magical solution’ to the overdose crisis, and that “the response to the overdose crisis must be broad and multi-pronged, informed by both evidence of the drivers of opioid-related harm and the expertise of people who use drugs. This includes an urgent need to scale-up proven harm reduction interventions, incorporate novel approaches such as safer supply and acknowledge and redress the harms caused by laws that criminalize people who use drugs.” (Kolla et al, 2022) The evidence suggests that safe supply programs may effectively reduce drug toxicity deaths by reducing exposure to a toxic and unregulated drug supply.

A lack of all-party consensus on the need to decriminalize – for example by police services or an unsupportive provincial government – could have derailed public discussion and policy development and resulted in no requests being made of Health Canada. That has clearly not been the case.

The benefit of meaningfully engaging PWUD in the development of drug policies

The Vancouver Area Network of Drug Users (VANDU) and Pivot Legal Society felt that the City of Vancouver failed to adequately/meaningfully consult strong community-based groups in the development of its request to Health Canada. This resulted in VANDU and Pivot withdrawing their support from the specifics of the request. The provincial government apparently did a better job of engagement with PWUD; while VANDU and Pivot disagreed with some of the details of the province’s request (Vancouver Area Network of Drug Users, Pivot Legal Service, et al, 2021 May 10) it was generally regarded as “a step in the right direction” and was not rejected in the way that the City of Vancouver’s request was. Toronto’s request to Health Canada contains a 70-page summary of consultations conducted by Toronto Public Health as part of the development of the document.

The coalition of 21 organizations (Canadian Drug Policy Coalition, B.C. Association of Aboriginal Friendship Centres, HIV Legal Network, Pivot Legal Society, and others) that released the statement *Decriminalization Done Right: A Rights-Based Path for Drug Policy* (Canadian Drug Policy Coalition et al, 2021 December 8) addressed the historical lack of meaningful and equitable engagement of those directly affected as follows:

“People who use drugs have not led, much less been meaningfully, respectfully or equitably engaged in, the design process for decriminalization in Vancouver. Amid a century-old system of criminalization founded on racism and colonialism, alternative drug policies must be grounded in the agency and expertise of those most affected. This requires people who use drugs to have true leadership in developing a decriminalized system. Ultimately, a system co-developed by those at the centre of the issue is far more likely to achieve the outcomes and aims of the policy change. We call on the City to meaningfully and equitably engage people who use drugs in all aspects of the design and planning of decriminalization within Vancouver, including incorporating them into the core committee developing the system.”

It is unlikely that PWUD in other jurisdictions considering decriminalization will accept anything less than meaningful, respectful, and equitable engagement.

Thresholds

Of all the many components of a jurisdiction’s request to Health Canada, surely the most contentious issue is that of thresholds. Over the objection of PWUD groups, the City of Vancouver adopted thresholds based on its calculations of the amounts required for three days of use of different substances (opioids at 2 grams, cocaine at 3 grams, crack cocaine at 1 gram, and amphetamines at 1.5 grams). These amounts may be difficult to verify for enforcement absent safe supply options. There is great likelihood for substance contamination or mixing in the illicit market. However, in Portugal individual thresholds were established

and are equal to a ten-day supply for the individual who uses the substance (Statista, 2020; Transform Drug Policy Institute, 2021). Some advocates and advocacy groups have expressed concern that threshold amounts set 'too low' will result in continued criminalization (Canadian Drug Policy Coalition et al, 2021). The Health Canada Expert Task Force on Substance Use published recommendations for alternatives to criminal penalties, suggesting that thresholds be developed with the "presumption of innocence and... set high enough to account for the purchasing and consumption habits of all people who use drugs" (Canada, Health Canada- Health Canada Expert Task Force on Substance Use, 2021).

The provincial government took a different approach, requesting a cumulative threshold of 4.5 grams of substances where there is no evidence of trafficking.

Key aspects of Vancouver's and B.C.'s requests are compared in a table on the next page, prepared by Pivot Legal Society as part of its December 2021 document *BC vs. Vancouver: A Comparison of Decriminalization Models*.

The position of VANDU and Pivot Legal Society on thresholds was spelled out in an open letter (<https://tinyurl.com/2p9fsr76>) to the Mayor of Vancouver:

"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 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."

And in a March 2022 letter (<https://tinyurl.com/ye2yp5pf>) from Pivot to Carolyn Bennett, Canada's first Minister of Mental Health and Addictions and a medical doctor from downtown Toronto:

"if set too low, threshold quantities will undermine the goals of decriminalization and, ultimately, cause more harm than good in the lives of people who use drugs (PWUD), especially Black, Indigenous and People of Colour (BIPOC) and people experiencing poverty. ...

Many PWUD purchase large quantities of drugs out of necessity: in particular, people in rural, remote, and/or Indigenous communities; people with mobility restrictions; people who use large quantities of drugs; people who purchase according to market rates and drug toxicity, etc. ...

[Evidence] shows that too-low thresholds pose a variety of unintended consequences, including: perpetuating stigma against PWUD; perpetuating criminalization and incarceration of PWUD; perpetuating criminalization's well-documented ill effects, such as drug use being driven underground and barriered access to services; producing more frequent interactions with the illicit drug market; and, 'net-widening', whereby higher numbers of people end up captured by the criminal justice system as compared with pre-implementation"

The B.C. Association of Chiefs of Police (BCACP) has a very different perspective. The Association stated emphatically in a news release (<https://tinyurl.com/2p9xr4hx>) that it does not support the province's recommendation to decriminalize 4.5 grams of illicit drugs for personal use:

"the BCACP said that although it supports the decriminalization of small amounts of illicit drugs for personal use, it recommends a more measured approach that will see incremental increases as required, and supported by evidence.

Vancouver Model

BC Model

Table prepared by
Pivot Legal Society
<https://tinyurl.com/5xbvjnyj>

| | | | | | | | | | | | | | | | | | | |
|---|---|--|-----|---------|-----|---------------|----------------|--------------|-------|--|---------|--|---------|--|---------------|------------------|--------------|--|
| Date submitted | May 28, 2021 | November 1, 2021 | | | | | | | | | | | | | | | | |
| Status | Awaiting response/approval from Health Canada | Awaiting response/approval from Health Canada | | | | | | | | | | | | | | | | |
| Jurisdictional scope | People in the City of Vancouver ¹ | People in the Province of BC | | | | | | | | | | | | | | | | |
| Age group protected | 19+ (minors remain criminalized) | 19+ (minors remain criminalized) | | | | | | | | | | | | | | | | |
| Substances included <i>Note: both models exclude psilocybin, MDMA, LSD, Ketamine, and GHB, among others.</i> | <ul style="list-style-type: none"> - Opioids² - Powder Cocaine - Crack Cocaine - Amphetamines | <ul style="list-style-type: none"> - Opioids - Powder cocaine - Crack cocaine - Methamphetamine | | | | | | | | | | | | | | | | |
| Threshold quantities³ <i>Note: Vancouver's thresholds are substance-by-substance (i.e. one can possess 2 g opioids + 3 g cocaine + 1.5 g amphetamines, etc.). BC's thresholds are cumulative (one can possess up to 4.5 g total of a substance or combination of substances)</i> | <table border="1"> <tr> <td>Opioids</td> <td>2 g</td> </tr> <tr> <td>Cocaine</td> <td>3 g</td> </tr> <tr> <td>Crack cocaine</td> <td>10 rocks (1 g)</td> </tr> <tr> <td>Amphetamines</td> <td>1.5 g</td> </tr> </table> | Opioids | 2 g | Cocaine | 3 g | Crack cocaine | 10 rocks (1 g) | Amphetamines | 1.5 g | <table border="1"> <tr> <td>Opioids</td> <td></td> </tr> <tr> <td>Cocaine</td> <td></td> </tr> <tr> <td>Crack cocaine</td> <td>4.5 g cumulative</td> </tr> <tr> <td>Amphetamines</td> <td></td> </tr> </table> | Opioids | | Cocaine | | Crack cocaine | 4.5 g cumulative | Amphetamines | |
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| Crack cocaine | 10 rocks (1 g) | | | | | | | | | | | | | | | | | |
| Amphetamines | 1.5 g | | | | | | | | | | | | | | | | | |
| Opioids | | | | | | | | | | | | | | | | | | |
| Cocaine | | | | | | | | | | | | | | | | | | |
| Crack cocaine | 4.5 g cumulative | | | | | | | | | | | | | | | | | |
| Amphetamines | | | | | | | | | | | | | | | | | | |
| Drug seizure | Police will not seize drugs at or below the individual threshold quantities where there is no evidence of trafficking | Police will not seize drugs at or below a total of 4.5 g where there is no evidence of trafficking | | | | | | | | | | | | | | | | |
| Sharing/possession for the purposes of trafficking | Trafficking at any amount, even below the threshold, remains illegal. Presumably, splitting and sharing of any amount remains illegal | Trafficking at any amount, even below the threshold, remains illegal. "Social supply" under 4.5 g is permitted (i.e. possessing substances with intent to share with another person where there is no profit motive). Note: this may not include the act of sharing itself | | | | | | | | | | | | | | | | |
| Administrative sanctions | No administrative or other penalties such as fines, document seizure, or mandatory referral to education or treatment | No administrative sanctions or penalties such as fines, document seizure, or mandatory referral to education or treatment | | | | | | | | | | | | | | | | |
| Referrals | People who possess drugs below the threshold may be given a voluntary referral by police to a health care resource – the VCH Overdose Outreach Team (OOT) | All people found in possession of personal amounts of substances at or below a total of 4.5 g will be given information by police in the form of a pamphlet or card "regarding local health and social services, as well as additional assistance to connect with services if desired. Harm reduction supply provision may also be provided where appropriate" | | | | | | | | | | | | | | | | |
| Role of Police | Police have discretion to provide the above information. | Police will be responsible for providing the above information. Referrals can only be provided upon request by individual. Police will be equipped with harm reduction supplies including naloxone and drug checking supplies to give individuals | | | | | | | | | | | | | | | | |

¹ For both Vancouver and BC: the exemption will apply to all people located in that geographic boundary, residents and non-residents alike, at the time of possession

² For both Vancouver and BC: "Opioids" includes heroin, fentanyl, and other powder street opioids

³ "Threshold quantities" refer to the amount of substance at and under which simple possession is decriminalized. I.e. A threshold quantity of 3 grams means that one can possess that quantity (or less) for their own use. Possession of an amount greater than 3 grams remains criminalized. Possession for the purposes of trafficking or trafficking in any amount (above or below the threshold) remains criminalized

The BCACP said that in addition to the need for further evidence-based research, its concerns with the 4.5 grams threshold include: predatory drug traffickers will exploit this high threshold, creating public safety concerns; increase in public consumption; expanded online illicit sales; motor vehicle related offences; public consumption (e.g., schools, playgrounds); impacts to children and youth; and, absence of adequate treatment and health support options.

The BCACP said the devastating effects from the opioid crisis in British Columbia continue to escalate and it acknowledges the tragic toll this has had on communities across the province, affecting individuals from all walks of life. It said it remains committed to working collaboratively with its stakeholders in a manner that does not adversely compromise public safety.”

Rather than requesting a numerical threshold, the City of Toronto chose to empower the community. “In the absence of a national framework, a panel with drug researchers, people who use drugs, harm reduction workers, and police is proposed to determine the appropriate quantity for personal possession, meeting on an annual basis to review quantities as necessary. Any consideration for how much a person may carry needs to consider more than personal use, and should also take into consideration purchasing, sharing, and using patterns, which may differ from person to person.”

It remains to be seen how Health Canada will respond to the three different approaches; Toronto’s approach may be an attractive one for the federal government as it allows each city to establish community-based processes (which would certainly involve the police services) to set thresholds.

By way of conclusion

It is clear that there is considerable momentum behind calls for decriminalization for simple drug possession. The ball is essentially in the federal government’s court, as it now has three requests for under section 56 of the *Controlled Drugs and Substances Act* to respond to. Between those requests, a lawsuit against the federal government arguing that criminalization during the overdose crisis violates charter rights (Owen, 2021), and the introduction of a private member’s bill decriminalizing the possession of drugs for personal use (Canada, House of Commons, 2021), pressure is building for the federal government to decide on a nation-wide approach to decriminalization. **There will either be (A) a nation-wide approach to decriminalization; (B) decriminalization only in those jurisdictions which have requested exemptions under section 56 of the *Controlled Drugs and Substances Act* (and had them approved by Health Canada); or, (C) no *de jure* decriminalization allowed anywhere.**

Given the enormity of the drug crisis in this country, which is intensified during the COVID-19 pandemic, 2022 **may** be the year in which Canada sees “bold action and innovative responses” on drug toxicity deaths – as per this recent commentary in the journal *Addiction*:

“The over-medicalization of drug use, tied to [the] stigma and discrimination faced by people who use drugs has led to resistance to incorporating their perspectives into programming and policy development that directly affect their lives. This is exemplified by the success of pandemic-related loosening of take-home dosing requirements in methadone programs – a change that has been highlighted as a core barrier to treatment retention by people who use drugs for years. It is imperative that the perspectives of people who use drugs are equitably and meaningfully integrated into policy-making discussions, particularly when concerns are voiced about existing interventions. Given the failures of highly medicalized and criminalizing approaches, ensuring the expertise of people who use drugs is meaningfully included is necessary to ensure the healthcare system and response to the overdose crisis is effectively meeting their needs. It will also require openness to bold action and innovative responses like safer supply and decriminalization, rather than relying on incremental approaches, to effectively change the course of this crisis.” (Kolla et al, 2022)

Timeline of events

- 2016 April 14 Provincial Health Officer Dr. Perry Kendall declares a public health emergency re: opioids. <https://tinyurl.com/35vct93b>
- 2019 April 24 Provincial Health Officer Bonnie Henry releases *Stopping the Harm: Decriminalization of People Who Use Drugs in B.C.* <https://tinyurl.com/335d7cvh>
- 2020 May 14 Pivot Legal Centre, the Canadian Drug Policy Coalition, and the HIV Legal Network issue a call to the federal government to use its exemption power for the purposes of “fully decriminalizing” simple drug possession. <https://tinyurl.com/57jmyanm>
- 2020 July 9 The Canadian Association of Chiefs of Police advocates decriminalization of illicit drugs for personal use. <https://tinyurl.com/23benxbw> The CACP called for a decriminalization regime wherein the onus is taken off the individual user, though investigation and prosecution of illegal drug manufacturers and traffickers would persist. This means that police would still be involved in enforcing drug laws but would shift their focus to those that aim to disrupt the illicit drug supply.
- 2020 August 17 Public Prosecution Service of Canada issues guidelines to prosecutors acknowledging that criminal sanctions on simple possession have very limited effectiveness at reducing substance use, and the harms of incarceration and criminal charges are considerable. It urged prosecutors to only resort to criminal prosecution in ‘serious manifestations of the offence’, defined as those resulting in unsafe or violent conduct, impaired driving, or those associated with substance production, trafficking, etc. <https://tinyurl.com/48e3bzvt>
- 2020 November 19 Vancouver City Council unanimously passes a motion to ask the federal government to decriminalize the simple possession of illicit drugs in Vancouver. The Vancouver Area Network of Drug Users (VANDU) and Pivot Legal Society support the motion.
- 2020 November 26 Mandate letter of Sheila Malcomson, B.C.’s Minister of Mental Health & Addictions, released. In addition to “[Accelerating] B.C.’s response to the opioid crisis across the full continuum of care: prevention, harm reduction, safe prescription medications, treatment and recovery”, Minister Malcomson is to “Work with the Minister of Public Safety and Solicitor General and the Attorney General and Minister responsible for Housing to fast track the move toward decriminalization by working with police chiefs to push Ottawa to decriminalize simple possession of small amounts of illicit drugs for personal use. In the absence of prompt federal action, develop a made-in-B.C. solution that will help save lives.” <https://tinyurl.com/4u3c7h9e>
- 2021 March City of Vancouver submits proposal to Health Canada requesting decriminalizing for personal use, and that until that happens PWUD should be allowed to carry a three-day supply.
- 2021 May 10 Coalition of 15 community organizations slams “the phony ‘Vancouver Model’ of decriminalization”; says lack of meaningful consultation resulted in thresholds that are too low. <https://tinyurl.com/uknbbtww> VANDU resigns from the city’s decriminalization working group.

- 2021 May/June Federal government's Expert Task Force on Substance Use unanimously recommends that Health Canada end criminal penalties related to simple possession and most also recommend that Health Canada end all coercive measures related to simple possession and consumption. <https://tinyurl.com/5bd9n5jt>
- 2021 May 28 The City of Vancouver submits request to Health Canada under section 56 of the *Controlled Drugs and Substances Act* to become the first city in Canada where people can possess and use small amounts of drugs without fear of criminal penalties. <https://tinyurl.com/yckjhepi> Thresholds set at 2 g of opioids, 3 g of cocaine, 1 g of crack cocaine, 1.5 g of amphetamines.
- 2021 June 10 The mayors of Victoria, Saanich, Nanaimo, Kamloops, Burnaby, New Westminster, and Port Coquitlam sign a statement supporting the 'Vancouver Model' and urging the federal government to accept it. On June 21, Ontario's Big City Mayors also endorse decriminalization.
- 2021 October Vancouver City Council endorses proposal that urges Health Canada to allow drug clubs or co-ops to buy heroin, cocaine and methamphetamines, test them, repackage them, and give them away to members.
- 2021 September 2 Canadian Association of People Who Use Drugs files a lawsuit against the federal government seeking to decriminalize the possession of illicit drugs, arguing criminalization during the overdose crisis violates charter rights. <https://tinyurl.com/3msyudxt>
- 2021 November 1 The Province of BC applies to the federal government to remove criminal penalties for people who possess small amounts of illicit drugs for personal use. <https://tinyurl.com/bd6jafuk> Cumulative thresholds set at 4.5 g. User groups are more supportive of this approach than of the City of Vancouver's approach, but the BC Association of Chiefs of Police is not. It recommends "a more measured approach that will see incremental increases as required".
- 2021 December 15 Gord Johns, NDP MP for Courtenay-Alberni, introduces Bill C-216, the *Health-based Approach to the Substance Use Act*, into the House of Commons.
- 2021 December 16 Mandate letter of Carolyn Bennett, Canada's first Minister of Mental Health and Addictions, released. No mention of decriminalization – or of opioids at all. <https://tinyurl.com/3wvyacx9>
- 2022 January 4 The City of Toronto submits request to Health Canada under section 56 of the *Controlled Drugs and Substances Act*. <https://tinyurl.com/2p9exrrn> Re: thresholds: "In the absence of a national framework, a panel with drug researchers, people who use drugs, harm reduction workers, and police is proposed to determine the appropriate quantity for personal possession, meeting on an annual basis to review quantities as necessary. Any consideration for how much a person may carry needs to consider more than personal use, and should also take into consideration purchasing, sharing, and using patterns, which may differ from person to person."
- 2022 March 4 More than 20 advocacy organizations urge Minister Bennett to not require quantity limits from jurisdictions requesting to decriminalize simple drug possession. <https://www.theglobeandmail.com/canada/article-jurisdictions-looking-to-decriminalize-small-amounts-of-drugs-to-curb/>

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