



SASKATOON POLICE SERVICE

TO: Shirley Greyeyes, Chairperson
Board of Police Commissioners

From: Cameron McBride
Office of the Chief

Date: 2024 December 04

Subject: Saskatoon Police Service’s current enforcement response to possession of illicit drugs contrary to Section 4(1) of the *Controlled Drug and Substances Act (CDSA)*

ISSUE:

To provide an update on the national and provincial landscape with respect to illicit drug decriminalization and the Saskatoon Police Service’s current approach to addressing simple possession of illicit drugs within our community.

RECOMMENDATION:

That this report be received as information.

STRATEGIC PRIORITY:

Saskatoon Police Service (SPS) Strategic Plan 2024 Theme Crime and Safety:

Goal 1 – Implement effective strategies to combat crime and protect the public.

- Strategy 1.2 – Continue to create strategies to disrupt gun violence, gang activity and illicit drug and human trafficking.
 - Activity 1.2.2 Target drug dealers who continue to harm our community’s most vulnerable while advocating for harm reduction with treatment solutions.

DISCUSSION:

Background

In June of 2024, the Saskatoon Board of Police Commissioners requested an update with respect to the current national landscape around drug decriminalization and the SPS response in our community with

respect to enforcement around personal possession of illicit drugs contrary to Section 4(1) of the *Controlled Drug and Substances Act*.

National Landscape Review

In 2016, the Public Health Agency of Canada (PHAC) began tracking opioid-related deaths and other harms. In 2020, they began to see a significant rise in these deaths across our nation with every province being affected. *“Canada has seen substantially elevated numbers of opioid-related deaths and other harms since national surveillance began in 2016 by the Public Health Agency of Canada. This public health crisis is having a tragic impact on people who use substances, their families, and communities across the country, and is shaped by a wide range of factors. The COVID-19 pandemic may have exacerbated the crisis, as several jurisdictions reported higher rates of fatal overdoses and other harms following the onset of the pandemic”*¹.

In 2020, Canada’s police leaders through the Canadian Association Chiefs of Police (CACCP), recommended adopting a public health led diversionary approach to illicit substance use. *“We the Canadian Association of Chiefs of Police recognize substance use disorder as a public health issue....endorse alternatives to criminal sanctions for simple possession of illicit drugs, requiring integrated partnerships and access to diversion measures”*².

This same year, the Public Prosecution Service of Canada (PPSC) introduced guideline 5.13 with respect to the prosecution of possession of illicit drugs contrary to S. 4(1) of the *Controlled Drugs and Substances Act*. In brief, prosecutors were now required to consider alternatives to possession charges for illicit drugs, unless there were “serious manifestations” of harm that justified a criminal prosecution.

In May of 2022, Health Canada announced that British Columbia (BC) had been granted a three-year exemption (January 31, 2023 to January 31, 2026) under section 56(1) of the *Controlled Drugs and Substances Act* to decriminalize possession of certain illegal drugs for personal use in specific locations. This exemption, on a trial basis, was felt to be a way to find a solution to the growing opioid crisis in our country. This took effect in January of 2023. The main conditions to be met for the exemption was that the person needed to be an Adult (18 years of age or older), the certain illegal drugs possessed was not more than 2.5 grams, and the person was not in public spaces like hospitals, businesses, on transit or in parks.³

On November 17, 2022, Bill C-5 received royal assent⁴. Part of this bill amended the *Controlled Drug and Substances Act*, with the approach to look at substance abuse be a health or social issue, not to criminalize it. As part of the amendment, “Evidence-based Diversion Measures” were introduced that introduced a “Declaration of Principles” and “Warnings and Referrals”. It was now law, under the CDSA for the following;

10.1 The following principles apply in this Part:

¹ Government of Canada. <https://health-infobase.canada.ca/substance-related-harms/opioids-stimulants/>

² https://www.cacp.ca/Library/resources/202007081322111653496031_decriminalizationreportjuly2020.pdf

³ <https://www2.gov.bc.ca/gov/content/overdose/decriminalization#What-remains-illegal>

⁴ <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-5/royal-assent>

- (a) problematic substance use should be addressed primarily as a health and social issue;*
- (b) interventions should be founded on evidence-based best practices and should aim to protect the health, dignity and human rights of individuals who use drugs and to reduce harm to those individuals, their families and their communities;*
- (c) criminal sanctions imposed in respect of the possession of drugs for personal use can increase the stigma associated with drug use and are not consistent with established public health evidence;*
- (d) interventions should address the root causes of problematic substance use, including by encouraging measures such as education, treatment, aftercare, rehabilitation and social reintegration; and*
- (e) judicial resources are more appropriately used in relation to offences that pose a risk to public safety.*

10.2 (1) *A peace officer shall, instead of laying an information against an individual alleged to have committed an offence under subsection 4(1), consider whether it would be preferable, having regard to the principles set out in section 10.1, to take no further action, to warn the individual or, with the consent of the individual, to refer the individual to a program or to an agency or other service provider in the community that may assist the individual.*

Meanwhile, in the province of BC, their exemption trial process was not having the results they had hoped for. Opioid toxicity deaths in the province of BC had not decreased through 2023, and the unintended consequences of open public drug use consumption became concerning for public safety. *“Decriminalization has been a massive challenge for the police because it’s taken away our ability to arrest someone. We don’t have any grounds to approach a person who is publicly using illicit drugs in the absence of any other criminality”* stated Fiona Wilson, Deputy Chief Constable of the Vancouver Police⁵.

On April 26, 2024, BC Premier David Eby announced plans to make illicit drug use illegal in all public spaces. *“Keeping people safe is our highest priority. While we are caring and compassionate for those struggling with addiction, we do not accept street disorder that makes communities feel unsafe”*.⁶

The BC government submitted an amendment request to the Government of Canada, that was granted, to prohibit any amount of illicit drugs in public spaces moving forward. Exemptions of places were identified as being only; private residences, designated healthcare clinics by the province, places where people were sheltering in accordance with all applicable laws and overdose/drug checking sites.⁷

On April 29, 2024, the CACP released a statement supporting the decision; *“as an essential solution to address the inappropriate public consumption that has generated significant public concern and led to public disturbances and disorder in BC... We believe in a multifaceted approach to substance use that includes prevention, harm reduction, treatment, and supply reduction...As police leaders, public safety is our primary concern. The public consumption of illicit drugs in public spaces has unnecessarily*

⁵ The Telegraph: How decriminalization made Vancouver the fentanyl capital of the world. <https://www.telegraph.co.uk/global-health/climate-and-people/vancouver-opioid-crisis-drug-addiction-british-columbia-canada/>

⁶ <https://news.gov.bc.ca/releases/2024PREM0021-000643>

⁷ <https://www.canada.ca/en/health-canada/news/2024/05/personal-possession-of-small-amounts-of-certain-illegal-drugs-in-british-columbia.html>.

*exposed individuals, and especially youth, to products, practices and behaviors that are considered to be undesirable by a strong proportion of the population in communities across the country”.*⁸

Then, on November 27, 2024, the CACP solidified its stance of non-support for decriminalization of any amount of illicit drugs for personal use with the release of their recent statement; *“As a result of the experience in British Columbia associated to the January 2023 three-year exemption under the Controlled Drugs and Substances Act that decriminalized the possession of small amounts of certain illicit drugs for personal use in British Columbia, the CACP Board no longer supports the decriminalization of any amount of illicit drugs for personal use.....While robust, evidence-based healthcare, addiction, and social programs are vital, drug enforcement remains an essential tool to address the public safety risks linked to illicit drug use. Beyond mitigating drug-related crime, police-led enforcement can serve as a gateway to treatment through pre-charge/post-charge diversion and judicially supervised treatment programs for individuals in need of critical medical and social services....We call on the Federal Government to reconsider its current approach and to engage law enforcement, healthcare providers, and community stakeholders in developing more effective mental health and addictions solutions. Protecting the safety and well-being of all Canadians must remain the highest priority.”*⁹

Our Provincial Landscape

Within the province of Saskatchewan, the Saskatchewan Association of Chiefs of Police (SACP) is a collective body of all municipal police leadership including the RCMP and the Saskatchewan Marshals Service. The SACP as a collective group work cooperatively, share information, and strategically assess issues that affect the safety of our Saskatchewan residents. The SACP has also provided a recent statement on decriminalization of illicit drugs, that supports the CACP’s new position released on November 27, 2024; *“The Saskatchewan Association of Chiefs of Police (SACP) fully supports the Canadian Association of Chiefs of Police’s (CACP’s) new position on the decriminalization of illicit drugs...The SACP is committed to protecting the safety and well-being of all Saskatchewan residents. While we support health-based responses to addiction, the SACP believes that decriminalization alone is not an adequate solution to the challenges posed by illicit drug use. A comprehensive, coordinated approach—one that includes both robust healthcare solutions and continued law enforcement efforts—is essential for achieving the dual goals of public health and public safety...”*¹⁰

Saskatoon Police Service’s Approach

History of Pre-Charge Diversion at the SPS

With the changes of the national policy created by PPSC in 2020, SPS began advocating for community resources to provide pre-charge diversion programming for S. 4(1) CDSA offences. Pre-charge diversion would take the management of these files out of the hands of PPSC, keeping the administrative work within SPS and allow for the direct partnership with community-based organizations.

⁸ CACP Statement: British Columbia decision to make the consumption of illicit drugs illegal in public places.

https://www.cacp.ca/Library/Position_Statements/CACP_Statement_-_Consuming_illicit_drugs_in_public_spaces_-_2024-04-29.pdf

⁹ https://www.cacp.ca/cgi/page.cgi/zine.html/news/CACP_Statement_-_Decriminalization_for_simple_possession_of_illicit_drugs

¹⁰ <https://www.sacp.ca/>

By mid-2021 the Saskatoon Tribal Council (STC) invited SPS to collaborate with the creation of a harm reduction oriented, evidence-based drug awareness program that would be utilized for such diversions. The diversion programming would be facilitated by STC, with SPS being an active stakeholder in the mediation.

As the STC program was developed, SPS amended policy and forms for pre-charge diversion applications to include S.4(1) CDSA offences.

Additionally, as part of the alternative strategy, SPS, through the work of the Restorative Justice Program Coordinator, delivered education and developed procedures for all officers on pre-charge diversion in relation to S.4(1) CDSA and other *Criminal Code* offences. This education continues with all new recruits receiving training on pre-charge diversions from the Restorative Justice Coordinator, STC, and Public Prosecutions after having three months of patrol experience. Special Constables in the Alternative Response Unit also receive this training.

Unanticipated Results

With the introduction of the new PPSC guidelines, the PPSC now reserves prosecution of S. 4(1) CDSA offences for the most serious manifestations of the offence. As such, it did not make sense for the SPS to utilize pre-charge diversion for S. 4(1) CDSA offences as the PPSC would not prosecute, should the pre-charge diversion be unsuccessful. The policy governing pre-charge diversion allows for the offender to take responsibility, be accountable and make reparations. When a pre-charge diversion is determined to be unsuccessful (i.e. the offender does not attend programing, complete the agreement or the offender does not take responsibility), the police are required to lay the information against the offender and proceed through the criminal justice process. For S.4(1) CDSA offences, based on the PPSC guidelines, prosecution of S.4(1) CDSA charges would not occur because it does not meet the threshold for prosecution. As a result, SPS had to pivot and re-directed officers to connect offenders to community supports through community referrals, specifically the STC’s Drug Awareness Program. An internal referral form was created to simplify the process for officers to submit.

The uptake has been slow for community referrals to STC’s Drug Awareness Program. A couple reasons might include; offenders are often not suitable/eligible or officers are still unfamiliar with the program.

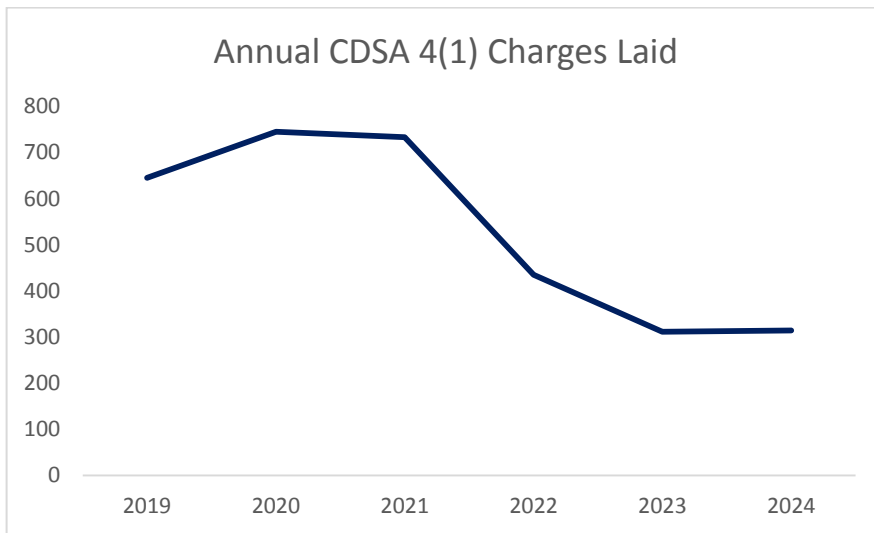
Parade presentations were completed on pre-charge diversion and community referrals during the summer of 2024. As well, each Platoon’s Operational Staff Sergeant, has the necessary information to ensure their officers have all the tools to consider alternatives to justice when appropriate. Training has also occurred across the service to include the Community Engagement Division, Alternative Response Officers, as well as new recruits during their in-service training.

Warning of Simple Possession for Illicit Drugs by the SPS

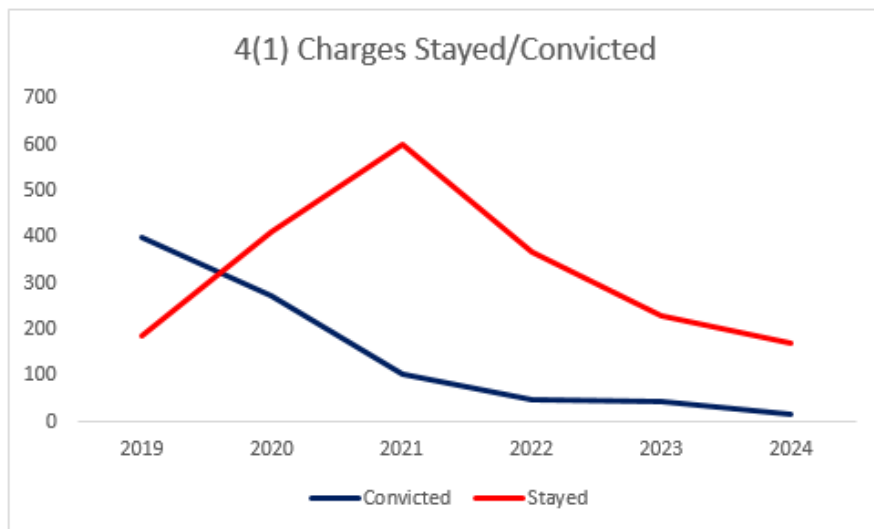
As previously stated, in November of 2022, amendments to the CDSA came into effect under Bill C-5. The approach was to look at substance abuse as a health or social issue, not criminal in nature. Section 10.2(1) of the CDSA was enacted, and now states;

10.2 (1) *A peace officer shall, instead of laying an information against an individual alleged to have committed an offence under subsection 4(1), consider whether it would be preferable, having regard to the principles set out in section 10.1, to take no further action, to warn the individual or, with the consent of the individual, to refer the individual to a program or to an agency or other service provider in the community that may assist the individual.*

Highlighted in the chart on the following page, displays the number of S. 4(1) CDSA charges laid by SPS officers over the past five years. Although our member’s adoption of community referrals to the STC Drug Awareness program remains low, it is quite clear that our Service, as a whole, has embraced the shift in mindset of illicit drug possession from using punitive measures to recognizing that drug use is a public health concern.



Additionally, this second graph, shows the discretion used from our Federal Prosecutions office in following their guidelines introduced in 2020, with respect to the prosecution of S.4(1) CDSA offences being reserved for only for the most serious manifestations of the offence.



Combined Offences with S. 4(1) CDSA Charges

If we delve deeper into analyzing the circumstances when S.4(1) CDSA charges are still being laid, it is interesting to recognize the following: between 2019 and 2023, of the 3182 incidents involving S. 4(1) charges, 750 or 24% were in combination with weapon incidents. Additionally, 441 of the charges, or nearly 14% were in conjunction with drug trafficking incidents. Plus, 245 of the incidents or 7.7% of the charges accompanied violent crimes.

Category	Quantity	% of Total
Drug Possession	1350	42.41%
Weapons*	750	23.56%
Drug Trafficking	441	13.85%
Violent Crime**	245	7.70%
Property Crime	238	7.48%
Other	138	4.34%
CC Traffic	11	0.35%
Drug Production	10	0.31%
Grand Total	3183	100.00%

*Weapons category includes possess, carry concealed and trafficking.

**Violent Crime Category includes offences of such as abduction, assault, aggravated assault, robbery, sexual assault, etc.

Further, in reviewing only the most recent 2024 year to date data, a large number of subjects charged with S.4(1) CDSA were also in breach of their court-imposed conditions. In nearly half of all charged incidents in 2024, a breach of conditions charge (i.e. not possess weapons, curfew, no contact or no having drugs/alcohol) also occurred. Within these breach incidents, 67 of them were specifically for breaching the court-imposed condition of not to be in possession or under the influence of drugs or alcohol.

Path Forward:

Our collected data reflects that our members have adapted to the legislative changes brought into effect across the nation over the past couple years and they are approaching problematic substance use through the lens of it being a health and social issue, not criminal.

As previously stated the SPS through the work of the Restorative Justice Program Coordinator, continues to deliver education on pre-charge diversion procedures and community referrals to STC’s Drug Awareness Program for all officers. This education will continue with all new recruits and our Special Constables in the Alternative Response Unit.

Finally, in 2025, a record keeping system in relation to warnings and/or referrals will be implemented at SPS to allow our Service the ability to track this data for a greater picture on our response and by doing so, it will also increase the awareness for such an approach. The data collected will be in accordance with S. 10.4 of the CDSA.

CONCLUSION:

As identified in the SPS Strategic Plan, we will continue to create strategies to disrupt illicit drug trafficking within our community by targeting drug dealers who continue to harm our community’s most vulnerable.

We will continue to reinforce to our members, through training and conversations, that substance abuse should be addressed primarily as a health and social issue, not a criminal one. Their encounters and interventions with substance abuse users, should be interactions of empathy and dignity, while aiming to offer deflection towards community services, more suitable in providing them with assistance. At the same time, we need to continue to strike a balanced approach between the harmful aspects of open public substance consumption and public safety.

Decriminalization alone is not sufficient. We realize that frontline police officers will always play a critical role in any diversion model as they are often the first point of contact to assist users onto a pathway of care. Unfortunately, without our community having a holistic multi-partner approach, with treatment services being readily available to those who are experiencing substance use disorder, our police officer response is extremely limited in guiding those in need to treatment.

As a Service, we support the Canadian Drugs and Substances Strategy that has a multifaceted focus on; prevention and education, evidence, substance use services & supports, and substance controls.¹¹

Written by: Blair Pellerin, Superintendent, Criminal Investigations Bureau
Reviewed by: Darren Pringle, Deputy Chief Operations
Approved/Submitted by: Cameron McBride, Chief of Police

¹¹ (<https://www.canada.ca/en/health-canada/services/substance-use/canadian-drugs-substances-strategy.html>)