

Decriminalization Done Right: A Human Rights and Public Health Vision for Drug Policy Reform

As organizations and individuals committed to the liberation of people who use drugs, and progressive, rights-based drug policy reforms including decriminalization, we, the undersigned, **call on the City of Vancouver to address three major concerns** regarding its current application to the federal Health Minister to decriminalize simple drug possession locally. [We also call on Health Canada and the federal Health Minister, Patty Hajdu](#), to refrain from imposing unnecessary and unjustified restrictions on any exemption issued to enable decriminalization in Vancouver or other municipalities or provinces that may follow suit, and we **call on the Vancouver Police Department** to stand down, vacate the process of decriminalization, and sign off on community-established thresholds.

We support the City of Vancouver's initiative as the first jurisdiction in Canada to formally pursue decriminalization of simple drug possession. We are also keenly aware that the process leading to, and the substantive outcome of, this policy change are likely to become a precedent for jurisdictions considering similar initiatives, such as British Columbia. It is essential, therefore, that the "Vancouver Model" of decriminalization proceeds correctly. This means taking the utmost care to consider the lived and living realities of people who use drugs and ensuring the approach adopted does not lead to more harm than good.

Our three major concerns are as follows:

- 1) **Lack of meaningful and equitable engagement of those directly affected:** 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 who are 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.
- 2) **Threshold amounts for decriminalized possession:** Health Canada has requested that Vancouver's exemption application propose threshold amounts for each substance that a person may legally possess. Depending on how threshold quantities are set, and their legal meaning, they can provide clarity and advance the health, human rights, and dignity of people who use drugs. If executed poorly, however, threshold quantities can render a supposed decriminalization regime largely meaningless and can result in great harm.

The threshold amounts proposed by the City are far too low, failing to reflect the reality of current patterns of use and, more specifically, purchasing and possession in Vancouver. Based on three studies, which the City admits are dated, the proposed thresholds overlook that many people's drug tolerance and purchasing patterns have dramatically increased in the interim period, and that the drug market itself has changed because of COVID-19 and drug supply toxicity. Moreover, consultations with people who use drugs only occurred *after* the thresholds were submitted to Health Canada.

The thresholds currently being proposed threaten to undermine any potential benefit of the Vancouver Model, as they fail to capture the lived and living realities and expertise of people who use drugs who are most harmed by criminalization. The proposed thresholds are lower

than the current case law affords with respect to drug quantities, and would give police further license to harass, search, and arrest people, and confiscate their drugs, where they otherwise would not. Thresholds which are too low will also set a damaging precedent for other municipalities or provinces contemplating decriminalization via a similar exemption should Health Canada impose them as conditions on others. We call on the City to withdraw its submission to Health Canada and amend the proposed thresholds to more realistic levels after meaningful and equitable consultation with people who use drugs. We call on Health Canada to ensure that any provisions regarding threshold quantities in the exemptions are fully consistent with the goals of decriminalization.

- 3) **Police dictating the parameters of decriminalization:** As the City has routinely stated, the Vancouver Model is meant to be a public-health focused, evidence-based policy. Given the extent to which police actions have historically worked at cross-purposes with health and harm reduction efforts, we have significant concerns about the extensive role of the Vancouver Police Department (VPD) in this process so far. It is critical then that when the VPD input undermines health and harm reduction goals (e.g., in the form of uncompromising threshold quantities), other entities leading the process (the City, the Health Authority, Health Canada) prioritize public health, and proceed accordingly, rejecting these attempts to water down decriminalization. There is no legal or other basis requiring police to have the input they have so far provided in Vancouver's process, particularly not when it undermines public health and human rights.

Should referrals and services be offered to people who use drugs under the Vancouver Model, it is critical that these be provided by individuals with the appropriate training and relationships to do so, rather than police, who have no such training nor expertise in this area. It is well established that seemingly benign interactions with police are often experienced as oppressive and coercive, given the history of policing in Canada, including towards people who use drugs. We do not support a regime that positions police as gatekeepers to health services, and officers should not be directly involved in referrals, assessments, and other services. Rather, such services should be led by harm reduction and other organizations funded to provide services and engage with people who use drugs.

Politicians, at both the city and federal levels, have repeatedly declared they believe that drugs are a public health issue, not a criminal law issue; we call on them to live up to that assertion. Decriminalization is about prioritizing public health, and it is counter-productive to allow the VPD a veto power or undue influence in the process of designing decriminalization. It should be based on evidence and good public policy, not police objectives. We call on the City of Vancouver to remove police influence from the process and form of decriminalization being proposed to Health Canada. We call on Health Canada to stop insisting on police involvement.

An ill-conceived or poorly implemented shift to decriminalization is worse than the current state of criminalization. Having faulty processes or unrealistic mechanisms in place at the outset means that this effort will not only fail to achieve the outcomes of improving the health and human rights of people who use drugs, but will create a precedent that other jurisdictions will likely follow, or have imposed on them, dooming Canada's efforts to decriminalize simple drug possession in the interest of public health and human rights. Furthermore, the proposed model does not adequately address the intergenerational harm caused by the over-policing and structural stigma directed at Indigenous communities and people of colour who disproportionately feel the impacts of prohibition. Any proposal—if it is to succeed—must prioritize this reality.

Finally, the proposed model does not meet the needs of young people, and explicitly excludes youth under age 19 from the benefits of decriminalization. Instead, the model affirms the discretionary power of police, continuing a worrying trend of maintaining police as the primary resource available to young people. Youth are stigmatized and targeted for their drug use specifically because they are young. Any decriminalization model including significant police involvement will fail to eliminate harmful police presence in the lives of youth, particularly Indigenous, Black, and street-involved youth. Planning must meaningfully include youth as partners in policy development so we can work towards establishing sensible and just policies for young people that meet their needs.

The City and the federal Health Minister have the opportunity to decriminalize in a way that promotes successful outcomes and creates a positive model for other jurisdictions to follow. We call on the City and the federal government to make these urgent adjustments.

Now is not the time for a failure of imagination, ambition, or good sense; it is time for sensible, evidence-based, and bold changes to policy that will actually respect the human rights and protect the health and safety of people who use drugs.

We need #DecrimDoneRight

Signed,

Amnesty International Canada
Association des intervenants en dépendance du Québec (AIDQ)
BC Association of Aboriginal Friendship Centres
BC Civil Liberties Association
Canadian Association of People Who Use Drugs (CAPUD)
Canadian Drug Policy Coalition
Canadian Students for Sensible Drug Policy (National)
Canadian Students for Sensible Drug Policy Vancouver
Centre on Drug Policy Evaluation
Harm Reduction Nurses Association
HIV Legal Network
Moms Stop the Harm
Pivot Legal Society
South Riverdale Community Health Centre (Toronto)
Thunderbird Partnership Foundation



BCAFC | BC Association of
Aboriginal Friendship Centres



Canadian Drug
Policy Coalition
Coalition canadienne
des politiques
sur les drogues

CANADIAN ASSOCIATION OF PEOPLE WHO USE DRUGS



CENTRE ON
DRUG POLICY
EVALUATION



Harm Reduction
Nurses Association
Association des
infirmiers et infirmières
en réduction des méfaits



PIVOT
LEGAL SOCIETY



South Riverdale
COMMUNITY
HEALTH CENTRE

