



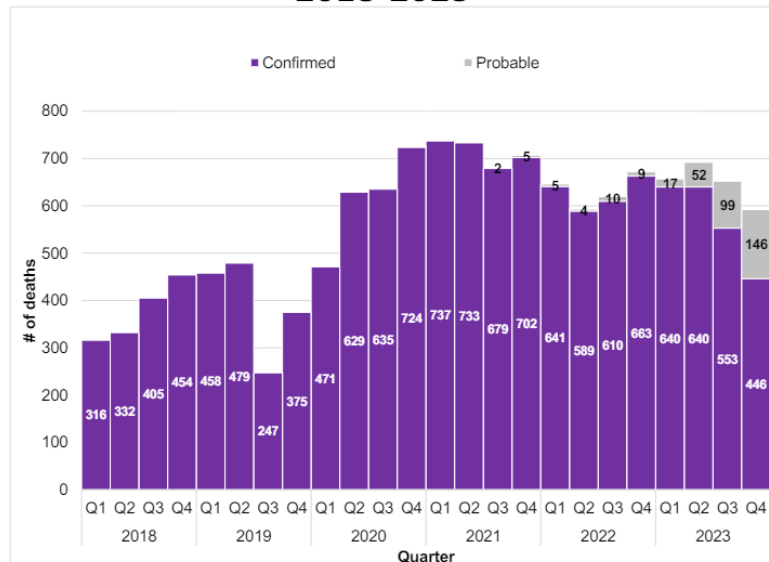
## Drug Strategy Framework Position Paper

**Updated on: July 23, 2024**

In December 2020, in response to a Canadian Association of Chiefs of Police (CACPP) paper on decriminalization, the Ontario Association of Chiefs of Police (OACP) released a position on the drug strategy framework that could support the decriminalization of simple possession of drugs in Ontario.

The need for an Ontario drug strategy remains a priority of the OACP. The province has seen a slight decrease in the number of opioid-related deaths following 2021 (COVID-19 pandemic period). The goal is to support efforts that continue to decrease deaths resulting from toxic drugs and increase access to health and social service support for those dealing with substance-related issues.

**Opioid toxicity deaths in Ontario by quarter,  
2018-2023**



The number of opioid-related deaths\* in the most recent quarter (Q4 2023; 592 deaths) is 9% lower than the number of deaths in quarter prior (Q3 2023; 652 deaths) (preliminary).

Ontario's police leaders acknowledge that the opioid crisis is a public health issue that requires a public health response. A health-centered approach to the opioid crisis means timely and low-barrier access to health, social, and community supports to provide those with substance use issues/disorders with the assessment, stabilization, withdrawal management, and treatment services required. This is the first step in prioritizing a response that ensures a continuum of care for some of our most vulnerable people.

The policing community continues to learn, assess, and evaluate the public safety elements related to the opioid crisis and substance use disorder to better inform position and decision-making. Ontario police leaders believe that to improve health outcomes, support people in their journey of recovery, reduce the toxic drug supply, and address related criminal activity, a multifaceted approach must, at a minimum, include:

- **Prevention/Education** to minimize the number of Canadians developing substance use disorder.
- **Harm Reduction** to minimize the number of Canadians dying from overdose.
- **Treatment** to minimize the number of Canadians living with substance use disorder on an ongoing basis.
- **Supply Reduction** to disrupt the illicit supply of harmful and toxic substances coming into our communities by targeting organized crime groups and individuals who import, produce, or distribute illegal drugs and related substances.
- **Recovery and Reintegration** to provide ongoing support to people living with substance-related challenges.

A health-centered approach to substance use disorder does not negate the involvement and role of law enforcement. Police have a critical role to play in terms of preventing illicit drug distribution, curbing the toxic supply, and safeguarding communities through prevention and education. Frontline police officers are also the first point of contact with people who use substances or drugs, and often, they are the ones who can assist individuals in their pathways of care.

The OACP's perspective that substance use issues require a multifaceted approach is in line with the recently released *Canadian Drugs and Substances Strategy*. The Government of Canada recognizes that substance use is complex and there is no one-size-fits-all solution to preventing or reducing its harms. Substance use exists across a spectrum with varying stages of benefits and harms. Substance use is different from one person to another, and a person's pattern of use can change over time. The government also recognizes that effective approaches to substance misuse are a shared responsibility across health and social systems, the criminal justice system, and law and border

enforcement, all of whom must work collaboratively to reduce the harms through common goals.

### Canadian Drugs and Substances Strategy

Our approach to substance use related harms and the overdose crisis



- [Prevention and education](#)
- [Evidence](#)
- [Substance use services and supports](#)
- [Substance controls](#)
- [Download the full strategy](#)

### **Possession of Substances under the *Controlled Drugs and Substances Act***

Canada, like many other countries around the world, has historically taken a criminalization approach to controlled substances. However, governments, the criminal justice system, members of the public and people who use drugs recognize that the stigma associated with criminalizing the use of drugs, or the labelling of drug users as criminals, has negative consequences. Stigma can lead to discrimination, exclusion, and negative attitudes from society. People who use drugs may face social isolation, job loss, and limited access to housing and healthcare. Criminalization may also be a barrier to treatment, and the fear of legal repercussions may discourage those with problematic substance use from seeking assistance and treatment.

In line with reducing stigma and decreasing the criminalization of personal substance use, in August 2020, the Public Prosecution Service of Canada (PPSC) released Deskbook Chapter 5.13. This provides guidelines for prosecutors in determining the appropriate approach to charges laid under section 4(1) of the *Controlled Drugs & Substances Act* (CDSA), commonly known as “simple possession”. This layer of sober second thought, proposes prosecutors focus on the most serious cases where simple possession charges have been laid. For example, in cases where there is a risk to the safety or well-being of children or young persons; risks to the health or safety of others, including driving under the influence of a drug; or in cases where the possession offence is associated with another offence contrary to the CDSA, including production, trafficking, or importation. If there is no risk to public health and safety, prosecutors are advised to pursue suitable alternative measures and diversion from the criminal justice system for charges laid under section 4(1).

In further support of reducing the criminalization of individuals who use illicit substances, on November 17, 2022, the government ratified Bill C-5. The principles outlined in the Bill signify a pivotal shift in the government's approach to criminal law, where evidence-based methods align with compassion, human rights, and community well-being. Specifically, section 10.2 (1) indicates that *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.***

The policy and legislative changes related to the removal or reduction of the likelihood of criminalization for the possession of illicit substances have been touted by many supporters as an important step in the destigmatization of problematic substance use. From an enforcement perspective, it also allows police to focus on more serious illicit drug trafficking and production offences, particularly those linked to organized crime groups who profit by preying on Canada's most vulnerable populations. Removing criminal penalties is procedurally and fiscally easy to attain, and success has been achieved without a formalized legislative framework. Criminal justice system partners have been able to initiate a self-correct through guidelines, innovation, community support, and diversion.

While the removal of criminal penalties can reduce barriers to accessing help, it does not create a continuum of care or ensure persons who use drugs are better connected with health supports, thereby improving health outcomes and reducing harms associated with illicit drug use – most importantly, overdose deaths.

Since the release of the PPSC Directive and Bill C-5, prosecution of section 4(1) offences has decreased significantly. The PPSC directive has also had a significant impact on police laying simple possession charges where there are no serious risk factors, as prescribed in the PPSC Deskbook. Police members have vocalized that, in most cases, bringing individuals with substance use disorder before criminal court is not an effective or appropriate course of action. It is clear that the criminal justice system does not have the training, tools, and support systems in place to respond to what are considered the health needs of a person using substances. Some police services have developed non-criminalization approaches to keep individuals found in possession of illicit drugs or those who commit minor related offences (e.g., theft) out of the criminal justice system.

In the past four years, these procedural, policy, and operational reforms, as well as training, have led to a significant shift in police and public perception. However, the criminal justice system reforms are not the solution to substance use disorders. The call

from police services in Ontario, and across the country, is for a health-centered approach to substance use issues. Recognizing there are many elements to establishing and maintaining a health-led response to problematic substance use, the focus cannot solely be on the criminal justice response and the criminalization or decriminalization of the possession of illicit substances.

Truly understanding the effect of removing the criminalization barrier (decriminalization) starts by recognizing it must be part of a spectrum of principles, policies, practices, and initiatives, implemented through strong and ongoing connections and collaboration between health/social, community, law enforcement, and justice partners. This is why police leaders continue to emphasize the critical importance of having the appropriate health and social service infrastructure in place before proceeding with legislative decriminalization.

### **What We Have Learned**

#### ***Portugal***

In dissecting the Portugal model, the OACP has recognized that Portugal did not simply decriminalize possession of illicit substances; the country adopted a health care model to appropriately support people suffering from problematic substance use disorder. Individuals who come into contact with police are not simply sent on their way. The continuum of care means these individuals are diverted into treatment programs that are comprehensive, immediately available, and funded by the national government.

Opioid agonist therapies such as Suboxone and Methadone are readily available, monitored and adapted for each individual. Harm reduction initiatives such as needle exchange are available and help to reduce stigma, and businesses are encouraged to employ persons who are in recovery. There can also be consequences for those who refuse treatment and escalating sanctions for repeated incidents with illicit substances.

#### ***British Columbia Section 56 Exemption***

Section 56(1) of the Controlled Drugs and Substances Act by Health Canada to decriminalize the possession of drugs took effect on January 31, 2023. The exemption is part of a three-year pilot that aims to take a health-led approach to substance use, as opposed to one led by the criminal justice system.

In April 2016, British Columbia (B.C.) declared a public health emergency due to the severity of accidental drug deaths. Since then, more than 14,000 individuals have lost their lives. In recognition of the magnitude of the crisis, police leaders in B.C. agree that people should not be criminalized for their personal drug use, and they support decriminalization and a medically led, supervised approach to substance use.

The B.C. Section 56 Exemptions for decriminalization include a drug threshold amount of 2.5 grams of any drug. In terms of police data, across B.C., there has been a more than 90% reduction in drug seizures at or below the 2.5-gram threshold. A review of data from the Vancouver Police Department found that there were no seizures at or below the 2.5-gram threshold (as per the decriminalization exemption), a result that shows 100% compliance with the exemption. Based on these results, frontline police officers in B.C. have implemented the decriminalization exemption in support of a health-led approach to substance use.

While the short-term police data demonstrates B.C. police are compliant with the Exemption, the implementation of decriminalization has not occurred without criticism or concern. There are also some unintended, but not completely unexpected, consequences of the Section 56 Exemption. B.C. police leaders were unequivocal about the need to prevent unintended impacts on community safety and well-being, especially among youth.

The B.C. Association of Chiefs of Police identified some potential consequences prior to the submission of the exemption. These concerns included, but were not limited to, the matters of public consumption, consumption in licensed establishments and other semi-public spaces; driving-related concerns; and the lack of transparency around availability and access to treatment and other social service support. However, the implementation of decriminalization occurred before more fulsome restrictions on public consumption and problematic substance use could be adopted and before adequate health and social services were put in place.

While several unintended consequences remain, on May 7, 2024, Health Canada granted B.C. a request to prohibit illicit drug use in all public spaces (hospitals, restaurants, transit, parks, and beaches). The amendment will allow police to again have the power to step in when they see illicit drug use in public spaces. Recognizing that decriminalization helps to remove stigma and supports people reaching out for help, police still require the tools to address extraordinary circumstances where people are compromising community safety and well-being through their drug use.

Police leaders in B.C. continue to advocate for community safety and well-being. They also recognize that working towards better health outcomes for people who use drugs must take into consideration the needs, impact, safety, and well-being of the broader public.

## **Persons Who Use Substances or Drugs and Chaotic Behavior**

The unintended consequences that led to B.C.'s urgent change to the Section 56 Exemption is a common situation in most Ontario municipalities. By nature of the PPSC directive, Ontario has de-facto-decriminalized simple possession of illicit substances, but with no legislative decriminalization, public drug use remains an illegal offence. Open drug use can be disconcerting for people who do not use illicit substances. Depending on where this open drug use is carried out, police may be required to intervene to safeguard community members' well-being.

There are people who use substances or drugs who exhibit chaotic and/or disruptive behaviour that cause community safety concerns. The chaotic and/or disruptive substance user is frequently involved in property crimes, mischief, disturbances, aggressive panhandling, and threatening and/or assaultive actions, all requiring police intervention.

Ontario police officers already use discretion, referrals, and diversion programs to support connecting individuals to pathways to care. When these approaches are unsuccessful, police must have the legislative ability to apprehend/arrest an individual to keep all members of the public safe.

## **The Position Adopted by Ontario's Police Leaders**

The OACP recognizes communities differ, and these differences must be accepted to ensure diverse initiatives are implemented, embraced, and supported. Police have already moved beyond using traditional criminal justice responses to deal with substance use issues. More importantly, Ontario police services support a multifaceted approach (prevention/education, harm reduction, treatment, supply reduction and recovery/reintegration) to substance misuse and will continue to work to reduce stigma and discrimination by acknowledging that substance use disorder is not a moral failure but a medical disorder.

The response to substance use disorder must be balanced and comprehensive, with no one action standing on its own. Success is interdependent, and police services are committed to adjusting their operations and continue to support health and harm reduction initiatives while maintaining a focus on the organized crime groups and networks that provide the illicit drug supply.

## **The OACP Reaffirms Support for:**

### **Supervised Consumption Treatment Service Sites (Supervised Consumption Sites):**

Police services in Ontario and across the country are experiencing an important shift in addressing substance use disorder. Supporting harm reduction approaches like supervised consumption and treatment sites in communities improves life by preventing overdoses that could otherwise result in catastrophic health outcomes (e.g., brain damage, vital organ damage, or death), reducing the risk of disease transmission (e.g., HIV, Hep C, and other blood-borne infections), and increase access to health and social services, which are important elements to the public safety and well-being continuum. Establishing these sites must be done in a conscientious manner that does not result in unintended consequences negative to communities in terms of criminal activity.

### **Diverting Simple Possession Illicit Drug Offences from the Criminal Justice System:**

Ontario police services recognize the benefits of diverting individuals from the criminal justice system to health channels and pathways of care. Diversion must be accompanied by a framework of pathways options to health, rehabilitation, treatment and recovery supports. In addition, police will also maintain focus on public safety and well-being by combatting organized crime and targeting the illegal production, sale and import/export of drugs and the various substances used in their production.

### **Medically-led Supervised Substance Replacement:**

It is recognized that substance replacement programs can only be established for specific drugs and may not necessarily address the misuse of opioids and synthetic drugs. Ontario police services will, however, advocate and support public health and other partners in establishing substance replacement programs under a physician care model. This will assist in preventing and reducing harm to the person who is using illicit substances or drugs and related criminal activity in communities.

It is recognized that replacement substances can, in some cases, be diverted or trafficked on the illegal drug market. Therefore, it is important that police be included in conversations related to the establishment of such programs and the mechanisms to adequately track these substances to reduce the likelihood of them being diverted or sold on the illegal market to, for example, youth.



## **Recommendations**

The successful implementation of changes to address substance use disorder will require all partners to work together to achieve common goals and a more robust investment in evidence-based treatment, recovery and reintegration supports.

***Recommendation # 1:*** The Ontario Ministry of Health, in an expedited fashion, establish and invest in robust evidence-based detoxification (withdrawal management) and treatment programs and other support services to assist in the recovery/reintegration of those persons dealing with problematic substance use disorder. This includes consumption treatment service sites (including inhalation), medically led, supervised substance replacement programs, and other initiatives to reduce harm.

***Recommendation # 2:*** Support the development of a provincial framework for evidence-based diversion programs to connect individuals to pathways of care.

***Recommendation # 3:*** Establish a provincial task force to bring together police, health, community, and social service partners, to collectively develop the way forward on drug-related policies and issues, all of which should translate into a revitalized Ontario Drug Strategy with a focus on adequately funded, direct access pathways to withdrawal management and treatment.

***Recommendation # 4:*** In support of the Association of Municipalities of Ontario (AMO) report “*Addressing the Opioid Overdose Emergency in Ontario*”, appoint a dedicated coordinator to focus on a provincial response that includes building community partnerships and acting as a conduit between government and community agencies. The need for a provincial response is further emphasized in the December 20, 2018, Verdict of the Coroner’s Jury (jury recommendations) related to the death of Bradley John Chapman.

***Recommendation # 5:*** Maintain the legislative/regulatory tools to address disruptive, chaotic behaviour resulting from substance use.

***Recommendation # 6:*** Invest in a resiliency focused education/awareness/prevention framework for youth.

## **Conclusion**

Police play a pivotal role in community and public safety while working to balance the interests of citizens, businesses and people who use substances; therefore, police must be included in discussions at all levels of government. The OACP Substance Advisory Committee will lead in working directly with the Government of Ontario, police services across the province, and other health and community partners to effectively contribute to the collective goal of healthier and safer communities.

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