



Ministry of
Mental Health
and Addictions

Law Enforcement Implementation Working Group

Decriminalization

January 12, 2023

CONFIDENTIAL



We acknowledge, with gratitude and humility, that the work we do takes place on the traditional, ancestral and unceded territories of Indigenous Peoples across the province.

Today's Plan

1. Law Enforcement Training Updates (webinar uptake)
2. Baseline Police Survey Data
3. Resource Cards Update
4. Public Health Guidance for Municipalities
5. Roundtable and Next Steps

Law Enforcement Training

- The Phase 1 webinar training was launched December 14th
- Additional learning resources for front line police officers will be added to the webinar page by the end of January (FAQ and a myth busting document)
- RCMP and some municipal forces (e.g., VPD) have made Phase 1 training mandatory for officers.
- A modified version for public safety professionals (non-police) will be available on CPKN mid-January
- Curriculum development for Phase 2 training is in progress
- The launch of Phase 2 training is scheduled and on track for Spring 2023

Webinar Uptake

As of Jan 9, 2023, 1,731 out of 5,822 RCMP members completed the course (30% compliance).
Regional compliance rate below:

- E-division Headquarters 26%
- Island 44%
- Lower Mainland District 28%
- North 37%
- Southeast 22%

As of Jan 5, 2023, 808 municipal police services members have completed the course. Regional numbers are:

- Abbotsford Police Department 13%
- Metro Vancouver Transit Police 67%
- New Westminster Police Department 48%
- Surrey Police Service 27%
- Vancouver Police Department 28%
- Victoria Police Department 10%

Baseline Police Survey Data

- Baseline Police Survey has been implemented on Dec 14, 2023, as part of phase 1 training.
- As of Jan 10, 2023, we have 1846 submissions: 1102 from RCMP, 624 from Municipal police services, 120 selected “Prefer not to say.”
- Analysis will be conducted in Feb 2023.
- Early results suggest police officers have questions about:
 - Police liability
 - Impact on the police ability to address community safety
 - Health system readiness
- These results will help inform Phase 2 training.

2023-02-21

Resource Cards

- Resource cards have been printed and are being distributed to municipal police forces via health authorities, and directly to RCMP districts.
- The ministry continues to meet monthly with health authorities.
- The Decriminalization Project Managers have also established a Community of Practice.
- Health System Partners continue to work through emerging policy issues (e.g., possession in care settings) and are reviewing policies and procedures that may need revisions to align with decriminalization.
- A letter providing an update on decriminalization and key messages and Qs and As will be sent to Chief Medical Health Officers and Medical Health Officers ahead of January 31st.

Discussion:

Resource Cards – Printable Version

- There have been requests for 'digital' printable versions.
- How will these be used? e.g., Printed for bulletin boards? Accessed from phones?
- Internal websites (intranet) or public facing?

Public Health Guidance for Municipalities

- MMHA and UBCM have convened a Local Government Working Group (LGWG) to support local governments.
- The LGWG is developing tools including communications materials (FAQ, backgrounder, presentation) and a public health guidance document on public substance use (lead: BCCDC).
- A webinar for local government elected officials and staff (e.g., executive, bylaw, parks and rec) is planned for mid-February. Health Authority public health leadership are also engaging local governments in some regions.
- MMHA is also engaging with bylaw officers through the Licencing Inspectors' and Bylaw Officers' Association to ensure awareness of decriminalization.

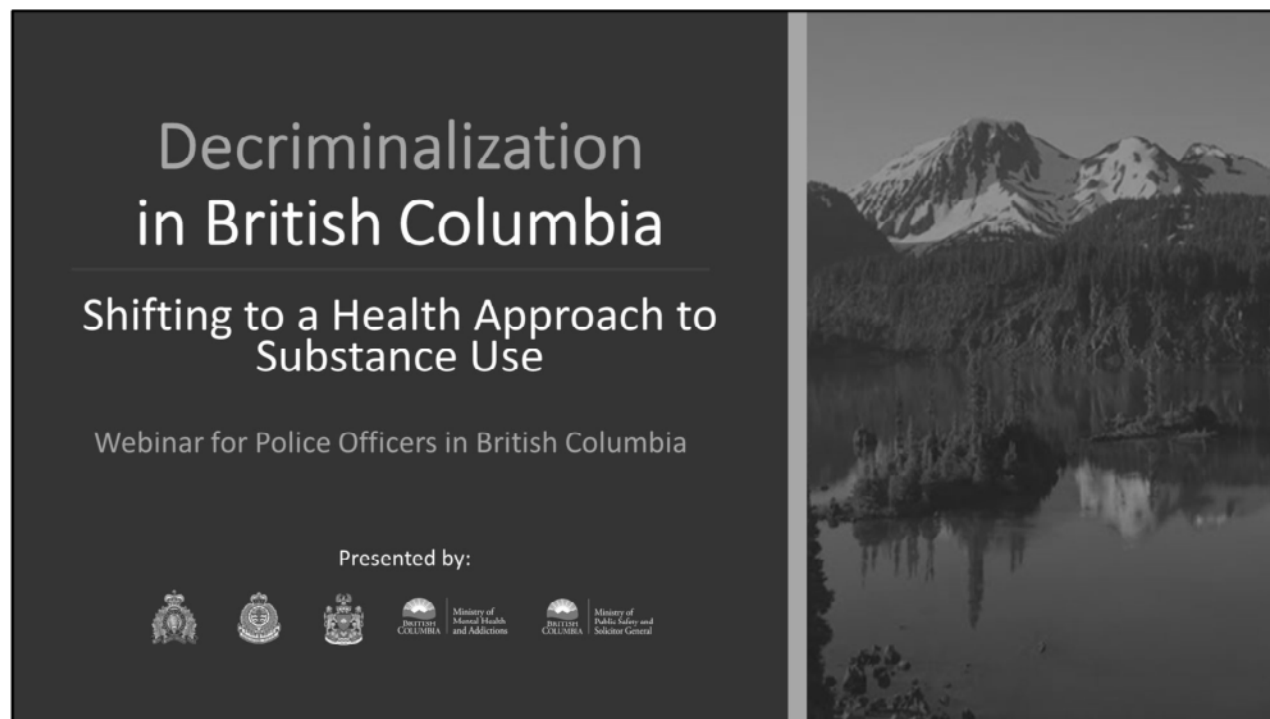
Roundtable and Next Steps

- Finalize distribution of resource cards
- Continue to monitor webinar uptake
- Develop content for Phase 2 police training
- Continue to engage with local governments
- **January 31st - IMPLEMENTATION DAY!**
- Next LEWG meeting- February 15th

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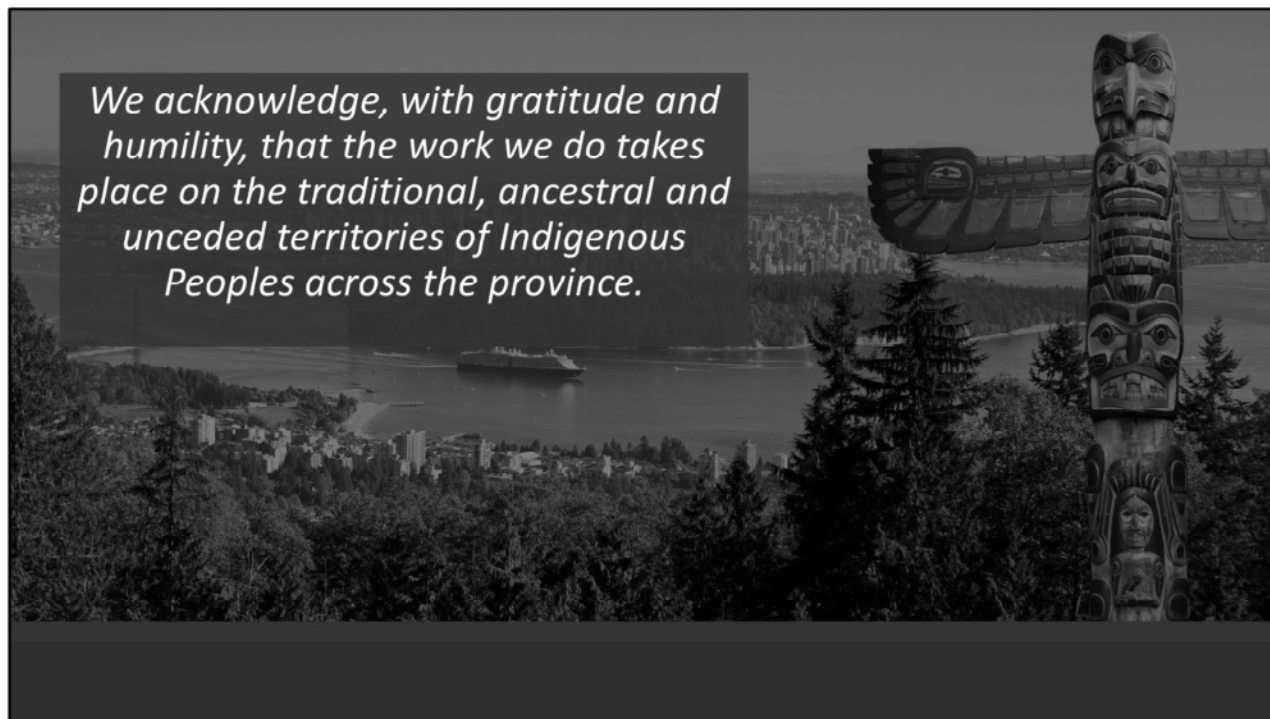
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s.13 ; s.15 ; s.19



[Narration]

This presentation will provide an overview of the subsection 56 (1) *Controlled Drugs and Substances Act* class exemption relating to the personal possession of small amounts of certain illegal drugs in BC.



We acknowledge, with gratitude and humility, that the work we do takes place on the traditional, ancestral and unceded territories of Indigenous Peoples across the province.

[Narration]

Before we get started, I would like to acknowledge that we are coming together from a number of ancestral, traditional and unceded territories. We acknowledge, with gratitude and humility, that the work we do takes place on the traditional, ancestral and unceded territories of Indigenous Peoples across the province.



[Narration]

I'm Mike Serr, Chief Constable from the Abbotsford Police Department.

The increased toxicity of the illicit drug supply, due to the introduction of fentanyl and its analogues, has contributed to the current public health emergency. First responders, health professionals, and the scale-up of harm reduction initiatives, such as naloxone availability, have saved approximately 6,000 lives from fatal drug overdose deaths.

Despite the scale up of a range of effective evidence-based interventions, rates of death remain at unacceptably high levels. This is why the provincial government requested, and was granted, an exemption under subsection 56(1) of the *Controlled Drugs and Substances Act (CDSA)*.

The British Columbia Association of Chiefs of Police supports the province's initiative to decriminalize personal amounts of illegal substances, as part of an integrated approach to divert persons who use drugs away from the criminal justice system and towards health services and pathways of care, with the goal of improving health and safety outcomes for those individuals.

In the next slide, we will hear some opening remarks from BC's Minister of Mental Health and Addictions.

[Not for narration]

<https://www150.statcan.gc.ca/n1/pub/11-633-x/11-633-x2021003-eng.htm>



No narration required for this slide

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(closed captioning text]

Hello everyone, my name is Jennifer Whiteside. I'm BC's Minister of Mental Health and Addictions.

Thank you for helping to implement decriminalization. We hope this training session will outline your role in this historic change, and how you will help connect people to care. I'm so grateful for your work.

More than 10,000 people have tragically been lost to the poisoned drug supply since the 2016 public health emergency was declared.

We must to do everything we can, to stem the tide on this terrible crisis.

That's why BC made the bold step to decriminalize people who use drugs. We're the first in Canada to do so, and we got here largely because police called for it.

And here's the rationale: The majority of people dying are dying alone in their own homes. The fear of being criminalized leads many to hide their substance use, and use drugs alone, and that can be fatal.

Decriminalization will break down the stigma, the fear and shame that prevents people from getting help.

Because addiction is a public health matter – not a criminal justice one.

Decriminalization will create new pathways to life-saving services.

And you will be on the frontlines of this major change.

And you'll be the example, should other provinces follow suit.

So we're doing all we can, to make sure you're prepared.

I want to thank you for ALL you do to protect people and keep our community safe.

And I look forward to working together, in the weeks and months to come.

Learning Outcomes

1. Examine British Columbia's integrated approach to decriminalization.
 - Review legislation and guidelines that were implemented to reduce drug possession charges.
 - Define decriminalization.
2. Explain how decriminalization is being accomplished in British Columbia through a subsection 56(1) CDSA exemption.
 - Identify the key features of decriminalization in British Columbia.
 - Outline the scope of the exemption.
 - Identify the conditions of the exemption.
3. Apply a workflow chart related to drug possession to a variety of scenarios.
 - Examine the workflow related to drug possession.

[Narration]

At the end of this webinar you will be able to:

1. Examine British Columbia's integrated approach to decriminalization.
2. Explain how decriminalization is being accomplished in British Columbia through a subsection 56(1) CDSA exemption.
3. Apply a workflow chart related to drug possession to a variety of scenarios.



[Narration]

Decriminalization involves removing an action or behaviour from the scope of the criminal justice system.

Decriminalization removes criminal penalties for drug seizures, arrests, criminal charges and convictions for possession of 2.5 grams or less of certain illegal substances for personal use.

Decriminalization does not legalize drugs and drug trafficking remains illegal.

Decriminalization in BC: An Integrated Approach

BC's comprehensive package of evidence-based supports and services includes:



Treatment and
recovery services



Take-Home
Naloxone program



Overdose
prevention services



Drug checking
programs



Opioid Agonist
Treatments



Prescribed
safer supply



Overdose Outreach
and Team-Based Care



Nurse Prescribed



Detox



Lifeguard App

Decriminalization is key to increasing access to safer supply, treatments, and recovery by reducing stigma and encouraging connections to care.

(Henry, B., 2019; Ministry of Mental Health and Addictions, 2021)

Narration:

The provincial government is in the process of enhancing the ability to quickly connect people who use drugs, to a range of evidence-based treatment and other social services.

The decriminalization of certain illegal substances is being implemented because the province believes this initiative will complement their integrated approach to reducing drug overdose fatalities, reduce stigma and encourage connections to care.

Legislation / Guidelines

Legislation and guidelines to recognize illegal substance possession as a health issue and reduce criminal convictions for illegal substance possession.

May 4, 2017	March 30, 2020	August 17, 2020	November 17, 2022
<i>Good Samaritan Drug Overdose Act</i>	Bail Conditions to Address Opioid Overdoses	Prosecution of Possession of Controlled Substances Contrary to ss. 4(1) CDSA	Evidence-based Diversion Measures
(CDSA s. 4.1)	(PPSC Guideline 3.19)	(PPSC Guideline 5.13)	(CDSA s. 10.1 to 10.7)

Narration:

In addition to the building up of harm reduction and support services, legislation and Public Prosecution Service of Canada (PPSC) guidelines were implemented to reduce criminal convictions for drug possession.

In May 2017, the *Good Samaritan Drug Overdose Act* amended the *CDSA* by adding section 4.1. This amendment exempts a person from criminal charges for drug possession, if they seek emergency medical or law enforcement assistance for themselves, or another person, following an overdose on a controlled substance.

In March 2020, PPSC created guideline 3.19 to minimize or eliminate the use of broad area restrictions and certain bail order conditions for individuals with a substance use disorder. Generally, conditions such as, “not to be in possession of controlled substances” and “not to be in possession of drug use paraphernalia”, should be avoided.

Then, in August 2020, PPSC established Guideline 5.13 related to the prosecution of the possession of a controlled substance under subsection 4(1) of the *CDSA*. This guideline recognizes that drug possession is a health-related issue while acknowledging that certain substance use may present particular public safety concerns. Federal prosecutors are

required to consider alternatives to possession charges, unless there are serious manifestations of harm. Aggravating factors, such as risk to the safety or wellbeing of children or young persons, and risk to the health and safety of the public, are considered to be serious manifestations of harm.

This guideline has dramatically reduced drug possession convictions in BC. For example, prior to the implementation of this guideline, there were 50 convictions for drug possession in all RCMP jurisdictions in BC, when possession was the only offence. After this guideline was implemented, convictions for drug possession were reduced down to 14.

And lastly, in November 2022, the government of Canada introduced amendments to the CDSA. The amendments aim at providing more opportunities for pre-charge diversion for drug possession. Under the new section 10.2, police officers must consider whether it would be preferable to take no further action, to warn the individual, or with consent of the individual to refer them to a program, when dealing with an alleged subsection 4(1) offence.

Later in this presentation, we will share a workflow document with you, that shows how the PPSC Guidelines and the legislation work into the subsection 56(1) CDSA exemption to decriminalize certain illegal substances.

[Not for Narration]

Reference

Good Samaritan Drug Overdose Act: https://laws-lois.justice.gc.ca/eng/annualstatutes/2017_4/page-1.html

PPS Guideline 3.19: <https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p3/ch19.html?wbdisable=true>

PPSC Guideline 5.13: <https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p5/ch13.html>

Act to Amend the Criminal Code and the Controlled Drugs and Substances Act:
<https://www.parl.ca/DocumentViewer/en/44-1/bill/C-5/royal-assent>

What Is a Subsection 56 (1) CDSA Exemption?

Provides authority to grant exemptions from any or all of the provisions in the *CDSA*, if, in the opinion of the Minister, the exemption is necessary for a medical or scientific purpose or is otherwise in the public interest.



QR code for subsection
56(1) *CDSA* exemption

(*CDSA* ss. 56(1))

Narration:

The *CDSA* has a dual purpose to protect public health and maintain public safety. Under the *CDSA*, most activities with controlled substances are illegal, unless specifically allowed through a regulation or an exemption granted by the federal Minister of Health.

Subsection 56(1) in the *CDSA* provides authority to grant exemptions from any or all of the provisions in the *CDSA*, if, in the opinion of the Minister, the exemption is necessary for a medical or scientific purpose, or is otherwise in the public interest. A subsection 56(1) *CDSA* exemption is a formal document issued to a person or a group of people for a predetermined period.

The exemption is posted on the Health Canada website and can be accessed through this QR code. I would encourage you to read this 10-page document, to better understand this exemption.

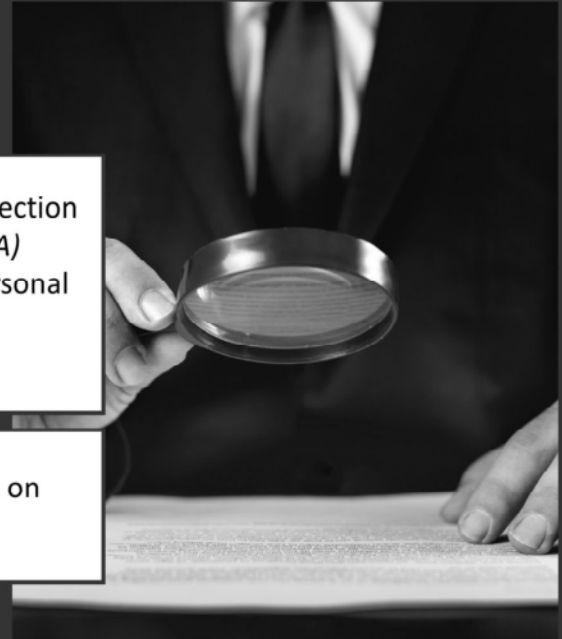
It is important to note that the decriminalization of certain illegal substances is NOT being accomplished through new legislation; it is being accomplished through an exemption granted under subsection 56(1) in the *CDSA*.

Decriminalization in BC: Subsection 56 (1) CDSA Exemption

Health Canada approved BC's request for a subsection 56(1) *Controlled Drugs and Substances Act (CDSA)* exemption on May 31, 2022, decriminalizing personal possession of certain illegal substances in the Province of British Columbia.



Decriminalization will come into effect on **January 31, 2023** for a 3-year period.



(CDSA ss. 56(1); CDSA ss. 4(1))

[Narration]

To support decriminalization of illegal substances, the provincial government applied to Health Canada and was granted a class exemption to allow persons, 18 years-of-age and older, to possess certain illegal substances and be exempt from a drug possession charge under subsection 4(1) CDSA, if they abide by the scope and conditions of the exemption.

The exemption will come into effect on January 31, 2023 for a 3-year period and expires on January 31, 2026. The provincial government will need to reapply to Health Canada if this exemption is to continue beyond the initial 3-year period.

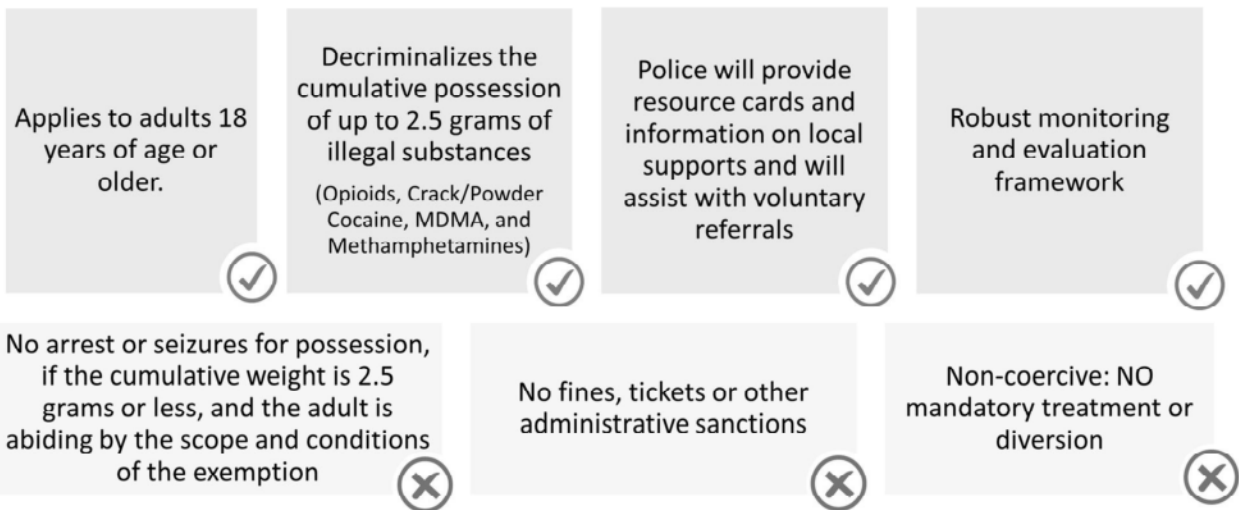
[Not for Narration]

References

[Exemption from Controlled Drugs and Substances Act: Personal possession of small amounts of certain illegal drugs in British Columbia \(January 31, 2023 to January 31, 2026\) - Canada.ca](#)

Decriminalization in BC: Key Features

BC's Decriminalization Model



(Criminal Code, 1985; CDSA ss. 56(1); CDSA ss. 4(1))

[Narration]

Before discussing the scope and conditions of the exemption, let's start with some of the key features.

The exemption applies to adults 18 years-of-age and older to align with the federal age of majority. This creates a unique situation in BC where 18 year-olds will be able to possess certain illegal substances, but not possess cigarettes or liquor, which are regulated under provincial legislation.

The exemption decriminalizes the cumulative possession of up to 2.5 grams of certain illegal substances such as opioids - including heroin and fentanyl; cocaine, crack cocaine, MDMA and methamphetamine. Cumulative means that the adult could possess a combination of these substances that weigh up to 2.5 grams.

Police will offer a resource card with information on local health and social services to individuals in possession of illegal substances. The resource card will only be distributed when there is a police interaction in progress, for example another violation or a reason for police contact, or the person makes a request to pursue a service, resource, program or treatment.

The BC Ministry of Mental Health and Addictions will be implementing a robust monitoring and evaluation framework to ensure objectives of the exemption are met and that any identified risks are managed appropriately.

There will be NO arrests or seizures under the authority of subsection 4(1) CDSA when an adult possesses up to 2.5 grams of these illegal substances and is abiding by the scope and conditions of the exemption. This means that an adult who is arrested and found in possession of up to 2.5 gram of methamphetamine would have their drugs returned to them upon release from custody, if they were abiding by scope and conditions in the exemption.

The exemption does NOT create any fines, tickets, or administration sanctions like we currently have for other substances that are regulated under provincial legislation.

And lastly, this exemption does not require any mandatory treatment or diversion when an adult is found in possession of illegal substances listed in the exemption.

[Not for narration]

References:

[Exemption from Controlled Drugs and Substances Act: Personal possession of small amounts of certain illegal drugs in British Columbia \(January 31, 2023 to January 31, 2026\) - Canada.ca](#)

Scope of the Exemption

Police officers will continue to have arrest, search and seizure authorities for drug possession offences under subsection 4(1) of the *CDSA* in the following situations:



On K-12 school premises



On childcare facility premises (licensed)



In airports (certified)



On Canadian Coast Guard vessels and helicopters



Canada

For Canadian Forces members subject to the *Code of Service Discipline*



In a motor vehicle or watercraft operated by a minor

(*CDSA* ss. 56(1); *CDSA* ss. 4(1))

[Narration]

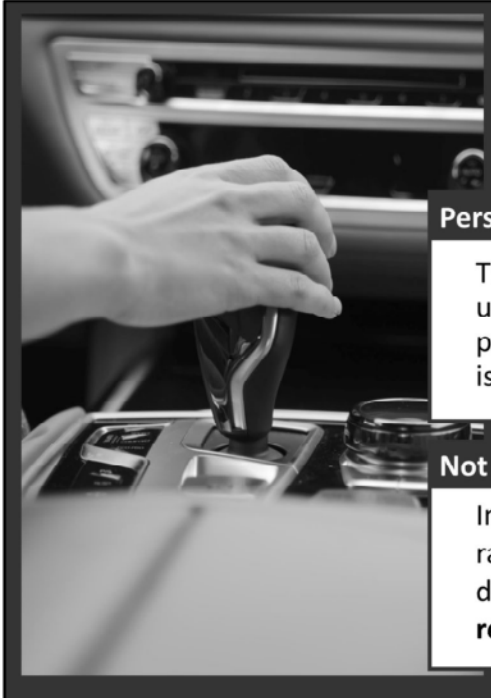
Within the scope of the exemption, police officers will continue to have arrest, search and seizure authority under subsection 4(1) of the *CDSA*, for any amount of illegal substances, including 2.5 grams or less, in the following situations:

- On K-12 school premises;
- On licensed child care facility premises;
- In certified airports;
- On Canadian Coast Guard vessels or in Canadian coast guard helicopters;
- To a Canadian Armed Forces member who is subject to the *Code of Service Discipline*;
- In a motor vehicle that is driven or operated by a minor, whether or not the vehicle is in motion;
- In a watercraft that is operated by a minor, whether or not the watercraft is in motion.

If there is a vehicle or motor craft being operated by a minor, the exemption wouldn't apply to any passenger.

*If a location is not listed here, it means you will NOT be able to exercise your authority under subsection 4(1) of the *CDSA* when an adult is possessing up to 2.5 grams or less of

illegal substances listed in the exemption.



Conditions of the Exemption

The exemption **is applicable only if:**

- Personal use**
The possession of the illegal substance is for personal use with **no intent to traffic**, to export or to use in the production of a controlled substance in a manner that is not authorized under the *CDSA*.
- Not readily accessible (Adults)**
In the case where the illegal substance is possessed on rail transportation or in a motor vehicle or a watercraft driven or operated by an adult, the substance is **not readily accessible to the driver or operator**.

(CDSA ss. 56(1))

[Narration]

There are two conditions in the exemption:

- The possession of the illegal substance is for personal use with no intent to traffic, export or use in the production of a controlled substance in a manner that is not authorized under the CDSA; and
- In the case where the illegal substance is possessed on rail transportation or in a motor vehicle or a watercraft, driven or operated by an adult, the substance is not readily accessible to the driver or operator.


Readily accessible means within arm's reach. So the presence of illegal substances in an unlocked glove compartment, driver's console, area underneath the driver's seat, and any open storage area including the cup holders and driver's side door would be considered readily accessible. Illegal substances on a passenger's lap would be considered, "in the open" and readily accessible.

For example, an adult could be driving a vehicle with up to 2.5 grams of fentanyl in their vehicle as long as it is not readily accessible. In another example, the driver could have

multiple passengers, each with up to 2.5 grams of fentanyl on their person, as long as they are not readily accessible to the driver.

What Remains Criminal Under this Exemption?

Unless otherwise authorized, any quantity of the illegal substances listed in the exemption in any amount, including 2.5 grams and less, cannot be:

				
Trafficked	Produced	Imported or exported	In your possession for purposes other than personal use	Taken across a domestic or international border, even if for personal use

If members seize over 2.5 grams of illegal substances listed in the exemption, the entire amount is subject to seizure.

(CDSA ss. 56(1))

[Narration]

Any quantity of the illegal substances listed in the exemption in any amount, including 2.5 grams and less, cannot be:

- Trafficked
- Produced
- Imported or exported
- In your possession for purposes other than personal use.
- Taken across a domestic or international border, even if for personal use

Possession above 2.5 grams remains subject to the *CDSA*. If members seize an amount of illegal substances over 2.5 grams, they shall not return any portion of that substance. The entire amount is subject to seizure.

Trafficking remains an offence in the *CDSA*. Trafficking includes giving away, supplied to anyone, sold, administered, transferred, transported, sent or delivered. So if one adult gives another adult, any quantity of an illegal substance listed in the exemption, it would be considered a trafficking offence.

[Not for narration]

References

Exemption from Controlled Drugs and Substances Act: Personal possession of small amounts of certain illegal drugs in British Columbia (January 31, 2023 to January 31, 2026) - Canada.ca



Enforcement Related to Public Consumption

- Enforcement related to public consumption of illegal substances listed in the exemption will now fall under the **bylaws of the municipality and policies of private establishments**, e.g., a bar, restaurant or shopping mall, as well as the *Trespass Act* (2018).
- **Owners/Operators can request police assistance** in removing individuals from their premises if requested to leave due to illegal substance possession or substance use.
- New and existing **local government bylaws** concerning public consumption will be enforceable, and the regulatory offence of **intoxication in public**, which includes intoxication by illegal substances, will remain.

(*Trespass Act*, 2018)

[Narration]

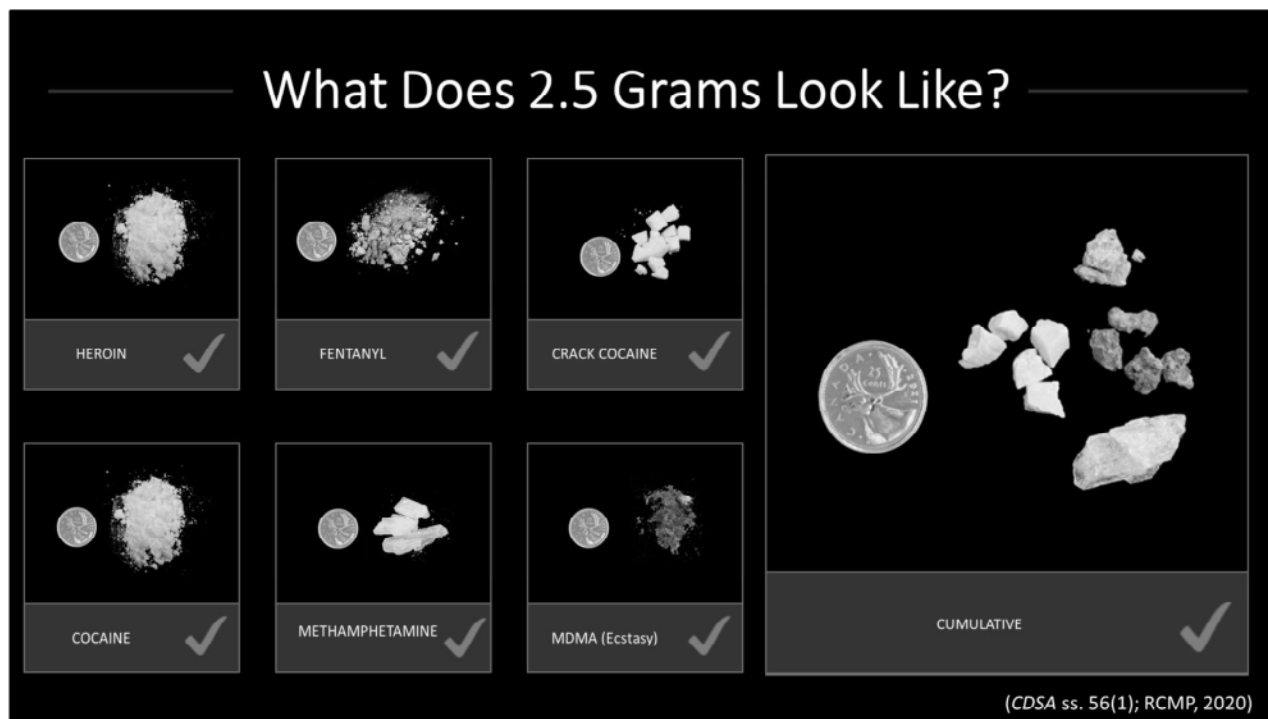
Until the exemption is implemented on January 31, 2023, public consumption is prohibited because the possession of the illegal substance is prohibited. **By decriminalizing the possession of up to 2.5 grams of illegal substances listed in the exemption, there will no longer be a CDSA enforcement option for public consumption of those substances.**

Enforcement related to public consumption of illegal substances listed in the exemption, will now fall under the bylaws of the municipality and policies of private establishments. You still have the discretion to remove people from these types of premises under the *Trespass Act*, if open substance use is occurring, and the property owner wants them removed.

You will notice that a bar or licensed establishment is not listed as exceptions in the exemption. This means you cannot arrest, search or seize illegal substances listed in the exemption under subsection 4(1) of the *CDSA* from an adult who possessed them for personal use inside a bar.

You will also notice that playgrounds, parks, campsites, concerts, swimming pools, and skating rinks are also not listed in the scope of the exemption. Although you may not have

the arrest, search and seizure authorities under subsection 4(1) CDSA at these locations, it is important to remember that trafficking remains an offence, and depending on the circumstances, other avenues of enforcement may be available, which include the *Trespass Act*, Municipal bylaws, *Liquor Control and Licensing Act*, and other *Criminal Code* offences.



[Narration]

Here are some examples of what 2.5 grams of heroin, fentanyl, crack cocaine, cocaine, methamphetamine, and MDMA look like without packaging in relation to the size of a quarter.

Cumulative means they can possess one of the substances listed in the exemption or a combination of those substances that does not exceed 2.5 grams, not including the weight of the packaging.

There are a number of challenges in identifying these substances because they come in various purities and colors and can range from liquid to a crystalized form. The only way to know exactly what the drug is would be to send a sample to Health Canada for analysis. Police officers will NOT be sending samples to Health Canada for analysis in cases where they come across an adult in possession of illegal substances listed in the exemption.

Health Canada and the provincial government know that some of the substances may be mixed with non-decriminalized substances. For example, fentanyl is often mixed with benzodiazepines, such as valium and Xanax, which are not listed in the exemption. In the

absence of a Health Canada analysis, you will not be able to determine the purity/toxicity of the illegal substance or what other substances are mixed in.

In most cases, you will need to ask the adult what they believe the illegal substance to be. If it is predominately believed to be fentanyl, for example, then you would treat the illegal substance as fentanyl.

2.5 Grams With Packaging



[Narration]

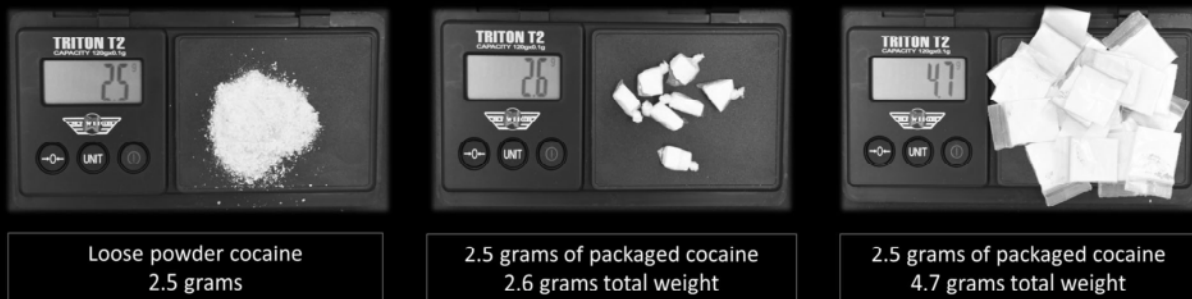
Generally, illegal substances are packaged at the dose or point level which represents 100 milligrams or point 1 (0.1) of a gram. This means that 2.5 grams of illegal substances could be contained within 25 separate packages or 25 separate capsules.

In these photos you see:

- heroin packaged in one small Ziploc-type baggie,
- fentanyl packaged in tied plastic baggies, and
- MDMA in flaps of paper.

The last image is of a cumulative amount in a variety of packaging.

2.5 Grams of Cocaine Example



[Narration]

Due to the weight of the packaging material, 2.5 grams of illegal substances will weigh more than 2.5 grams. In this example, 2.5 grams of cocaine in tied plastic baggies, weighs 2.6 grams. The last image is 25 small Ziploc-type baggies each with .1 of a gram. The packaging weight brings the total weight up to 4.7 grams.

We know that illegal substances are toxic and police agencies have policies and procedures in place to handle these substances. You will have to act in good faith to determine the weights of these substances. It is not practical, nor safe, to take illegal substances out of the packaging. In this case, you would ask the adult how much they possess and take the weight of the packaging into consideration.

A 2020 study of illegal substance seizures by the RCMP indicated the average weight was 1.18 grams. Therefore, it will be more common to come across illegal substances that weigh less than 2.5 grams, including the packaging weight.

Police Oversight

The **Independent Investigations Office of BC** conducts investigations into incidents of death or serious harm that may have been the result of the actions or inactions of a police officer, whether on or off duty.

Municipal Agencies	RCMP
<p>The Office of the Police Complaints Commissioner will thoroughly review the reasonableness of the officer's conduct, in light of all the circumstances, including the member's skills, knowledge, training, and experience. Those will be important factors for assessing complaints.</p>	<p>The Civilian Review and Complaints Commission will thoroughly review all relevant materials which may include prevailing laws, RCMP or governmental policy, regulations, and case law, and will assess RCMP member's conduct against a standard of reasonableness.</p>

(CDSA ss. 56(1); IIO, 2022; OPCC, 2022; CRCC, 2021)

[Narration]

Police officers' adherence or lack of adherence to the exemption may be factors considered when responding to allegations of misconduct by police.

Police officers will be required to adhere to the exemption while continuing to provide lawful enforcement of drug laws, when appropriate. In these circumstances police officers' inherent discretion, good faith acts, and the reasonable expectations of the public that the policy objectives of the exemption will be met, will be important contextual factors in assessing any allegations of misconduct.

When you arrest an adult and find them in possession of 2.5 grams of illegal substances, that are listed in the exemption, you will return those illegal substances to them upon release.

The exemption requires that police officers do not seize illegal substances, listed in the exemption in quantities of 2.5 grams or less, when possessed by an adult who is compliant with the scope and conditions of the exemption.

In situations where illegal substances listed in the exemption are returned to the adult, it is

best practices to take notes, document the PRIME file and offer a resource card with information about how to access local health and social supports.

Call for Services or Support 24/7

HealthLinkBC.ca to find services
8 1 1

Mental Health Crisis Line
310-6789 (no area code)

Drug & Alcohol Information Referral Line
1-800-663-1441

Indigenous KUSUS Crisis Line
1-800-588-8717

BC211.ca for BC-wide social supports
2-1-1 (toll or text)

Find mental health and substance use resources near you.

Wellbeing.gov.bc.ca

Multilingual

Stay Safer if You Use Drugs

Get a naloxone kit. They're free.
TowardTheHeart.com/ Site Finder

Access an overdose prevention site.
DrugChasingBC.ca

Test your drugs.
DrugChasingBC.ca

Get the Lifeguard App. It can call 9-1-1 if you can't.
Lifeguarddb.com

Start low, go slow.

Try to use with buddy.

Wellbeing.gov.bc.ca/StaySafer

Did you Know?

When you help someone having an overdose you have legal protection through the Good Samaritan Drug Overdose Act.

Until Jan. 31, 2026, adults (18+) in BC will be allowed to carry small amounts of opioids, cocaine, meth and MDMA for personal use. Some exceptions apply. Learn more: gov.bc.ca/decriminalization

Help for families and youth

FoundryBC.ca

First Nations Doctor of the Day

1-855-344-3800

LGBTQ2S+ supports

QMinistry.ca or 1-800-566-1170

TransCareBC navigation support

1-866-999-1514

Connections to Care in BC

Resource Card

Resources in Interior Health

Call the Interior Access Line to learn about treatment and harm reduction supports (24/7)
310-881511 (6478)

Text 'JOIN' to get toxic drug alerts
ALERTS (253787)

Interior Health Crisis Line
1-888-353-2273

InteriorHealth.ca/placeholder

Interior Health

Vancouver Island Resources

Call Island Health Local Services to learn about treatment and harm reduction supports (24/7)
1-888-885-8824

Text 'JOIN' to get toxic drug alerts
ALERTS (253787)

Vancouver Island Crisis Line
1-888-353-2273

Main Nation BC Vancouver Island
1-778-312-0871

IslandHealth.ca/placeholder

Island Health

Resources in Fraser Health

Call Fraser Virtual Care to learn about treatment and harm reduction supports (10am-10pm, 7 days/week)
1-800-314-0999

Text 'JOIN' to get toxic drug alerts
ALERTS (253787)

Fraser Health Crisis Line
1-877-820-7444

FraserHealth.ca/placeholder

Fraser Health

Vancouver Coastal Resources

Call Vancouver Coastal Health to learn about treatment and harm reduction supports (24/7)
1-888-888-8888

Text 'JOIN' to get drug alerts for Vancouver Coastal Health
ALERTS (253787)

Vancouver Crisis Line
1-604-872-3211

VCH.ca/placeholder

Vancouver Coastal Health

Northern Health Supports & Services

Call Northern Health Virtual Clinic to learn about treatment and harm reduction supports (10am-10pm, 7 days/week)
1-844-645-7811

Text 'JOIN' to get drug alerts for Northern Health
ALERTS (253787)

Northern BC Crisis Line (24/7)
1-888-562-1214

NorthernHealth.ca/placeholder

Northern Health

Police will, at minimum, provide people found in possession of a small amount of illegal substances listed in the exemption, with information about how to access local health and social supports (Gov. of Canada, 2022)

[Narration]

Regional Health Authorities will be providing police agencies with resource cards. These cards will be the size of a business card and fold out into sections. They will include local community resources, 24/7 resources, information about using illegal substances in a safer manner, and some additional supporting information.

You are NOT required to approach individuals to offer resource cards. The cards will only be distributed when there is a police interaction in progress, for example another violation or a reason for police contact, or the person makes a request to pursue a service, resource, program or treatment.

For example, when an adult is arrested for a criminal offence and is found in possession of 2.5 grams or less of cocaine for personal use, you will return the cocaine upon release and offer them a resource card. It is recommended that you document the return of the cocaine and offering of the resource card and whether or not they required any assistance from you in connecting them with those resources.

Follow your agencies policy and procedures related to the handing out of resource cards.

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Reporting Requirements

- No new amendments to PRIME. However, it is recommended that officers document any resources or referrals offered.
- When police seize, find, or acquire illegal substances listed in the exemption weighing 2.5 grams or under from an adult, they are not required to complete the Health Canada Seizure and Disposition Report (Form CS FRM 013).
- When an adult is booked into cells and is found in possession of illegal substances listed in the exemption weighing 2.5 grams or less, the substances will be recorded on the booking form and treated as property.



[Narration]

The exemption does not create any new amendments in PRIME and there are NO study fields or templates that need to be completed. However, it is recommended that whenever a PRIME file is being generated in relation to a person in possession of certain illegal substances that weigh 2.5 grams and under, that you document that a resource card was offered and whether it was accepted or not. Any other steps taken to connect a person to health resources should also be documented. By documenting this in PRIME or your notebook, it will provide a record that the interaction took place.

Police agencies will not be completing the Health Canada Seizure and Disposition report when illegal substances listed in the exemption that weigh 2.5 grams or less are returned to an adult.

When an adult is booked into jail or cells and found in possession of illegal substances listed in the exemption, weighing 2.5 grams or less, the substances will be recorded on the booking form and treated as property. Illegal substances, such as fentanyl, should be placed in a sealed plastic bag and clearly labelled. Follow your agencies policies and procedures related to the handling and recording of illegal substances.

For those adults who will be held in custody for a court appearance, their illegal substances will be treated as property and transported by the sheriffs to the courthouse with their other personal effects.

Not for Narration:
(insert reference)

s.15; s.19

[Narration]

Here is a basic flowchart that can be followed when you arrest a person for an offence and find them in possession of illegal substances.

s.15; s.19

Let's take what we have learned and apply it to three different scenarios.

Adult Possessing/Consuming Methamphetamine in Public

You are conducting routine patrols in a residential neighbourhood. While walking through a community park, you observe an adult sitting quietly on a park bench smoking from a glass pipe. The adult has the glass pipe and a lighter in their hands and there is a small plastic bag of suspected methamphetamine located next to them on the bench. From your observation, the methamphetamine does not appear to weigh more than 2.5 grams.

Do you have reasonable grounds to believe this adult is committing an offence under subsection 4(1) of the CDSA? Why?

[Narration]

You are conducting routine patrols in a residential neighbourhood. While walking through a community park, you observe an adult sitting quietly on a park bench smoking from a glass pipe. The adult has the glass pipe and a lighter in their hands and there is a small plastic bag of suspected methamphetamine located next to them on the bench. From your observation, the methamphetamine does not appear to weigh more than 2.5 grams.

Do you have reasonable grounds to believe this adult is committing an offence under subsection 4(1) of the CDSA? Why?

[pause]

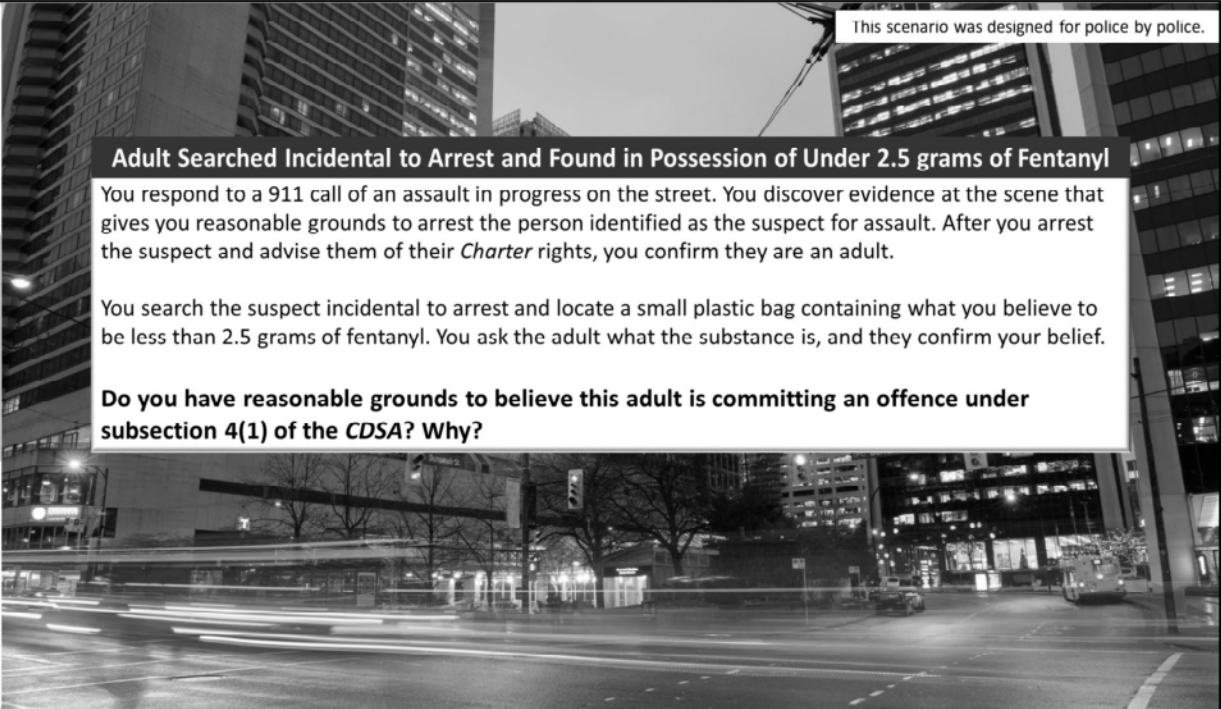
s.15; s.19

[Narration]

s.15; s.19

Different communities may have differing opinions about public consumption. Some

communities may have developed bylaws so please refer to your agency's policies related to public possession and consumption.



This scenario was designed for police by police.

Adult Searched Incidental to Arrest and Found in Possession of Under 2.5 grams of Fentanyl

You respond to a 911 call of an assault in progress on the street. You discover evidence at the scene that gives you reasonable grounds to arrest the person identified as the suspect for assault. After you arrest the suspect and advise them of their *Charter* rights, you confirm they are an adult.

You search the suspect incidental to arrest and locate a small plastic bag containing what you believe to be less than 2.5 grams of fentanyl. You ask the adult what the substance is, and they confirm your belief.

Do you have reasonable grounds to believe this adult is committing an offence under subsection 4(1) of the *CDSA*? Why?

Scenario 2

[Narration]

You respond to a 911 call of an assault in progress on the street. You discover evidence at the scene that gives you reasonable grounds to arrest the person identified as the suspect for assault. After you arrest the suspect and advise them of their Charter rights, you confirm they are an adult.

You search the suspect incidental to arrest and locate a small plastic bag containing what you believe to be less than 2.5 grams of fentanyl. You ask the adult what the substance is, and they confirm your belief.

Do you have reasonable grounds to believe this adult is committing an offence under subsection 4(1) of the *CDSA*? Why?

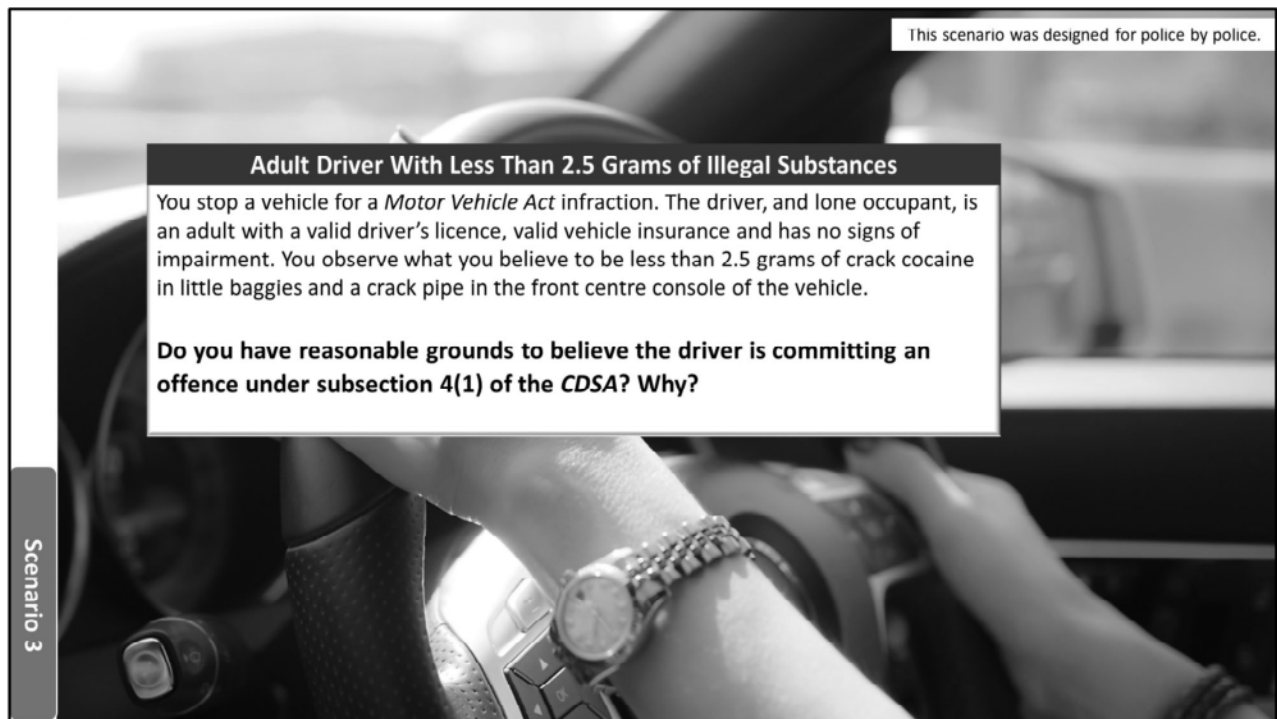
[pause]

s.15; s.19

[Narration]

s.15; s.19

A resource card should be offered to the adult upon their release. It is recommended that whenever a PRIME file is being generated in relation to the non-seizure of illegal substances, that you document that a resource card was offered and whether it was accepted or not. Any other steps taken to connect a person to health resources should also be documented.



[Narration]

You stop a vehicle for a *Motor Vehicle Act* infraction. The driver, and lone occupant, is an adult with a valid driver's licence, valid vehicle insurance and has no signs of impairment. You observe what you believe to be less than 2.5 grams of crack cocaine in little baggies and a crack pipe in the front centre console of the vehicle.

Do you have reasonable grounds to believe the driver is committing an offence under subsection 4(1) of the *CDSA*? Why?

[pause]

s.15; s.19

[Narration]

s.15; s.19

Regardless of how you chose to proceed, it is recommended that whenever a PRIME file is being generated in relation to the non-seizure of illegal substances, that you document that a resource card was provided and whether it was accepted or not. Any other steps taken to connect a person to health resources should also be documented.

Resources and Next Steps



QR Code for Ministry of
Mental Health and
Addictions Website



Resources

- Decriminalization Flowchart
- Infographics
- Email: Decrim@gov.bc.ca



Next Steps

- eLearning course

[Narration]

In addition to this webinar, the following resources are also available:

- Decriminalization Flowchart
- Infographics from the RCMP, VPD and Health Canada
- For additional information from the provincial government regarding the exemption please email Decrim@gov.bc.ca

You may also scan the QR code to access the Ministry of Mental Health and Addictions website for additional information.

There will be an eLearning course related to *Decriminalization in British Columbia* available in 2023.

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[No narration required]

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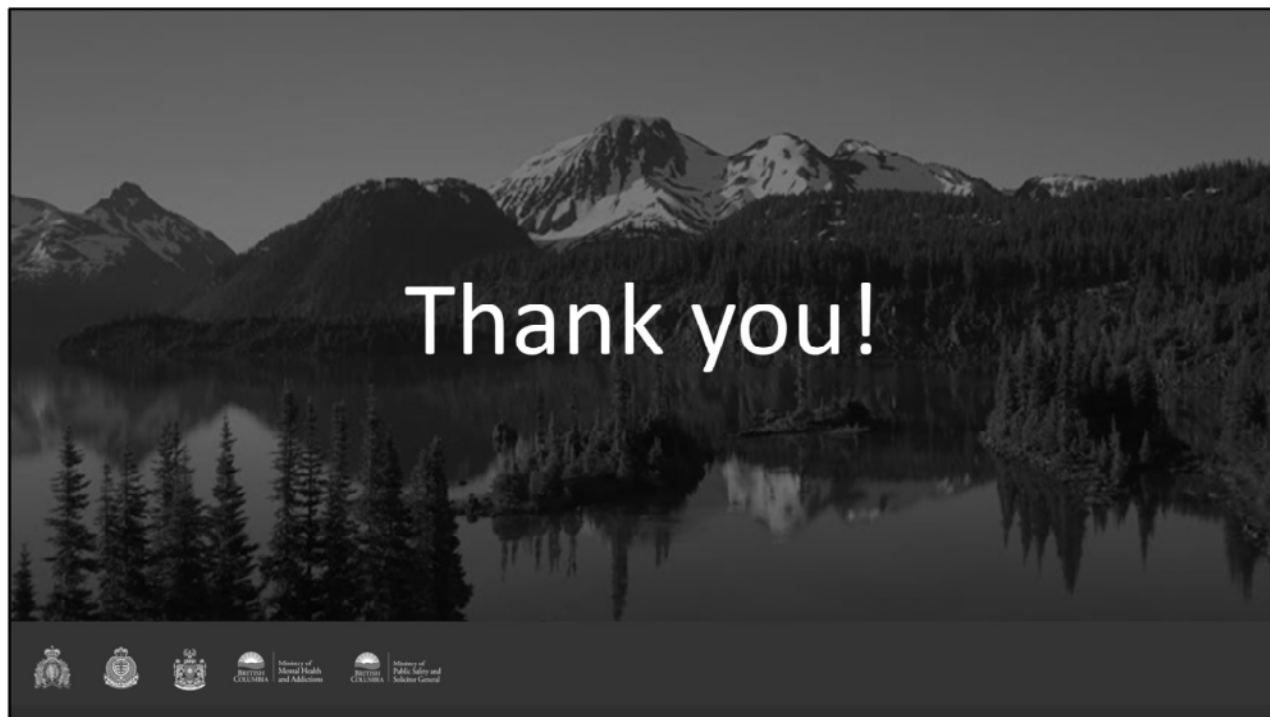
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[No narration required]



Thank you for engaging in this presentation. I hope it has enhanced your understanding of the changes that will be implemented starting on January 31, 2023.

Take care and stay safe.



FAQ – Decriminalization

Overview

What does 'decriminalization' mean?

Health Canada has granted the Province of B.C. an exemption from s. 4(1) of the Controlled Drugs and Substances Act until January 31, 2026.

This means that starting January 31, 2023, adults in B.C. will not be subject to criminal charges for the personal possession of small amounts of certain illegal drugs.

The total amount of illegal drugs must be 2.5 grams or less. This includes opioids, crack and powder cocaine, methamphetamine and MDMA.

The trafficking of these drugs or the possession of quantities above these limits remains illegal and subject to criminal charges.

This exemption from prosecution for possession does not mean that the possession of narcotics is permitted in all contexts or that the consumption of drugs cannot be regulated or controlled under other legal authority (including provincial legislation or municipal by-laws).

Why is B.C. decriminalizing the possession of certain illegal drugs?

The decriminalization of people who possess illegal drugs for personal use is a critical step in B.C.'s fight against the toxic drug crisis.

It will help reduce the barriers and stigma that prevent people from accessing lifesaving supports and services. Substance use is a public health matter, not a criminal justice issue.

Licensed Establishments

What does this mean for licensees?

As restaurants, bars and liquor manufacturers are private businesses, licensees retain the right to refuse service and set house rules governing their establishments. This

includes prohibiting patrons from possessing or consuming any illegal drugs within their premises.

Further, the Liquor Control and Licensing Act continues to prohibit licensees from admitting intoxicated patrons, allowing patrons to become intoxicated, and allowing intoxicated patrons to remain in the licensed establishment. This includes intoxication from narcotics.

What if an individual is found using drugs on a business' property?

If a licensee observes drug use, the licensee may request that the individual(s) leave the premises. Additionally, police retain legal authority, under the Trespass Act, to remove people from these premises where the latter have not complied with an establishment's request that they leave. Public intoxication – whether by drugs or alcohol – remains illegal.

Under the Liquor Control and Licensing Act (LCLA), police may issue a ticket to a person who is intoxicated, including by the effect of illegal drugs, in a public place (which includes a bar or restaurant).

What resources are available if patrons possess/use illegal drugs?

If open drug use is occurring in an establishment or if unlawful activities are taking place, you may ask the person to cease the activity or to depart. If they do not comply, police can remove people from the establishment under the authority of the provincial Trespass Act.

Trespass laws allow licensees to refuse entry, or require patrons to leave their establishments, including when the licensee determines it is necessary to maintain the safe operation of the establishment and to comply with licence terms and conditions.

However, adults who are removed by police and found in personal possession of illegal drugs that add up to a combined total of 2.5 grams or less will not be subject to criminal charges, and the drugs will not be seized. Instead, they will be offered information about health and social supports, including local treatment and recovery services, if requested.

KMQA – Decriminalization

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Key Messages:

- Substance use is a public health matter – not a criminal justice one.
- Criminalization can drive people to hide their drug use and often use alone. Given the increasingly toxic drug supply – using alone can be fatal.
- The federal government has approved BC's exemption request so that adults (18 years and older) in BC are not subject to criminal penalties for small amounts of certain illegal drugs for personal use.
- This will help break down the barriers that prevent people from getting support and create new pathways to life-saving services.
- This exemption is not legalization. Drug trafficking and other activities involving any illegal substances in any amounts remains illegal.
- Reducing stigma around drug use is a vital part of BC's work to build a comprehensive system of mental health and substance use care for people throughout the province.
- The province has worked – and will continue to work -- closely with the federal government, health authorities, local governments, Indigenous partners, police, people with lived experience and community service providers to implement, monitor and evaluate this exemption in BC from January 31, 2023 until January 31, 2026.

What is decriminalization in BC?

- Under B.C.'s decriminalization framework, adults aged 18 and older will no longer be subject to criminal penalties for possessing up to 2.5g cumulative of opioids, cocaine, methamphetamine, and MDMA.
- Police will also not be allowed to seize drugs at or below this threshold.
- In place of criminal penalties, police will provide individuals found in possession of illicit substances at or below the threshold with a resource card, which includes contact information for local health and social services.
- When requested by an individual, a police officer may assist with a referral to these services (e.g. facilitating a referral through a phone call, or navigating the Wellbeing.ca website).
- Possession for the purposes of trafficking will remain illegal, even below the 2.5g threshold.
- There are certain exceptions where decriminalization does not apply.

Why is BC doing this?

- Fear of being criminalized drives people to hide their drug use and use alone. Given the increasingly toxic drug supply – using alone can be fatal.
- Decriminalization will help reduce the stigma about substance use, so people feel more comfortable seeking care and life-saving services.
- The Government needs to use every tool at its disposal against the toxic drug crisis.
- Reducing stigma about drug use is a vital part of BC's work to build a system of mental health and addictions care for people in British Columbia.

How does decriminalization relate to broader work underway to build the substance use system of care?

- Decriminalization of people is an important step to break down the fear and stigma associated with substance use and connect people to services and the health care system.
- Reducing stigma is a vital part of B.C.'s work to build a comprehensive system of mental health and addictions care as laid out in *A Pathway to Hope: A roadmap for making mental health and addictions care better for people in British Columbia*.
- Decriminalization is just one tool in BC's fight against the toxic drug crisis.
- In addition, the Government is urgently working to build a system of mental health and addictions care that works for all British Columbians.
- A \$500-million investment will help to build that system, including \$132 million for treatment and recovery across the full continuum of care. We're also:
 - The first province to introduce prescribed safer supply;
 - Adding hundreds of new treatment and recovery beds across the province;
 - Enabling registered nurses to prescribe addictions treatment medications – a first in Canada;
 - Building more access to low- or no cost counselling;

- Adding 13 Foundry centres across BC for youth between the ages of 12-24 with mental health and substance use challenges and their families. There are currently 10 in development, for a total of 23 province-wide once complete;
- Implementing new Urgent and Primary Care Centres where people can be connected to mental health and addictions support 24/7, 365 days a year.

Is decriminalization the same as legalization?

- Decriminalization is **not** legalization.
- This is a time-limited exemption granted for specific substances under certain conditions and will be supported by rigorous monitoring and evaluation. It is not a change to Canada's drug laws.
- It is not the same as what the federal government did with cannabis, which was legalization. Alcohol and tobacco are also legalized substances.
- The illegal drugs specified in the exemption will not be sold in stores.
- Drug trafficking and other activities involving any illegal substances in any amounts remains illegal.

In many cases, illegal drug use continues to be prohibited on private property, including places like shopping malls, bars and cafes. Police retain legal authority to remove people from these premises under the authority of the Trespass Act if open drug use is occurring against the wishes of the owner.

What does decriminalization mean for the province's work to implement safe supply?

- Decriminalization and safer supply are distinct and different - but both are important in the Government's response to the toxic drug crisis.
- Decriminalization removes criminal penalties so people will no longer be arrested or charged, or have their drugs confiscated if they possess certain illegal drugs for personal use in an amount equal to or under a 2.5g cumulative threshold.
- BC's Prescribed Safer Supply program enables prescribers – meaning doctors and nurse practitioners – to provide access to a wider range of pharmaceutical-grade medications that are safer alternatives to illegal street drugs.
- Both, in their own distinct ways, will help save lives, but neither will do so alone. They are important parts of the Government's commitment to build a system of care that also includes increasing access to treatment and recovery.

Are there any settings where decriminalization doesn't apply?

- This exemption does not apply on the premises of K-12 schools and licensed child care facilities, at airports, on Canadian Coast Guard vessels and helicopters, in a motor vehicle or watercraft operated by a minor, or when illegal substances are within reach of the operator of a motor vehicle or watercraft.
- The exemption also does not apply to youth aged 17 or younger or to Canadian Armed Forces members subject to the Code of Service Discipline.

When will the exemption come into effect?

- The exemption comes into effect on January 31, 2023 and will be in place until January 31, 2026.

How will this stop people dying from toxic illegal substances?

- Substance use is a public health issue and not a criminal justice one.
- Shame and fear make people hide addictions and use drugs alone. Given the increasingly toxic drug supply – using alone can be fatal.
- Decriminalization will help reduce the stigma associated with substance use that prevents people from accessing life-saving supports.
- There is no one magic bullet in the fight against the increasingly toxic drug supply, but the Government of BC must use every tool at its disposal to respond to this ongoing public health emergency.

What legislative changes are required to implement decriminalization?

- No provincial legislative changes are planned. BC's decriminalization framework is designed to be implemented within the scope of a subsection 56(1) exemption under the federal *Controlled Drugs and Substances Act*.
- The Ministry of Mental Health and Addictions worked with federal counterparts to ensure that the exemption considers the policies needed to successfully implement decriminalization in BC.
- The Ministry continues to work closely with public health, police, local governments and other partners to update policies and practice guidelines pertaining to substance use where necessary to mitigate any outstanding issues that arise.

How will public drug use be addressed going forward under decriminalization?

- Possession of illegal substances included in the exemption shouldn't be confused with issues surrounding public consumption.
- In many cases, illegal drug use continues to be prohibited on private property, including places like shopping malls, bars and cafes. Police retain legal authority to remove people from these premises under the authority of the Trespass Act if open drug use is occurring against the wishes of the owner.
- Local governments already have a range of outreach regulatory tools that address issues related to substance use (e.g. smoking, nuisance bylaws). Decriminalization will not change the ability of local governments to pass bylaws. RCMP and local police will still be able to assist in the enforcement of bylaws, when and where required.
- The regulatory offence of intoxication in public will also remain, including intoxication by illegal drugs.
- The Ministry of Mental Health and Addictions continues to work with UBCM, public health, and local governments as necessary to develop tools to support municipalities in adopting a public health approach to substance use in the context of decriminalization.

- Together, the federal and provincial governments will be working closely to evaluate and monitor the exemption to address any unintended consequences and ensure that people are not being recriminalized.
- The Government of BC is also mindful that enforcement activities can drive people to use drugs alone and can elevate risk of death. The preference is to emphasize referral to health and social supports, including overdose prevention sites.

How does decriminalization impact driving and RoadSafetyBC?

- Operating a motor vehicle while impaired will continue to be a criminal offence.
- Just like alcohol, where illegal drugs are found to be within reach of the operator of a motor vehicle, criminal penalties will continue to apply.

What evidence was used to inform the development of BC's exemption?

- BC examined all available provincial evidence on drug seizures, use rates, and purchasing patterns, including:
 - Evidence from a rapid survey conducted by a Vancouver drug user organization which examined purchasing and possession patterns.
 - Data from the Vancouver Police Department and the RCMP provided additional evidence on common drug seizure amounts.
 - Academic research on drug use patterns.
 - Consultation with addictions medicine physicians on typical daily consumption amounts, based on their experiences with patients who use drugs.
- Ministry staff also conducted a jurisdictional scan and review of academic literature to identify best practices for threshold setting, alternatives to criminal penalties, and other key policy considerations.

How will BC monitor the impact of this policy?

- BC drew on research evidence, public health, clinical expertise from addiction medicine doctors, police seizure data and people with lived experience to inform our approach to decriminalize people who use drugs.
- Together, the federal and provincial governments will be working closely to evaluate and monitor the exemption, including the policy design and implementation outcomes, to address any unintended consequences and ensure that people are not being recriminalized.
- BC will be considering a range of indicators related to criminal justice, health, and how we are addressing the stigma related to substance use.
- BC will examine a range of quantitative and qualitative data to support the analysis, and work with third party researchers, community groups, police agencies, and Indigenous nations and organizations to better understand the impacts of decriminalization on the ground.
- BC's monitoring and evaluation plan aims to generate timely findings to inform ongoing implementation adjustments.

- If evidence emerges to suggest that the current model is not helping BC reach its intended outcomes, the government will work with Health Canada as required.
- In addition, separate from BC's evaluation, the Canadian Institutes for Health Research has funded a third-party evaluation of certain aspects of decriminalization and the exemption.

Who did you consult with in the development of the exemption and subsequent implementation planning? What was the engagement process?

- Since August 2021, the Ministry of Mental Health and Addictions has been meeting regularly with a Core Planning Table which includes representation from a wide range of stakeholders and partners from across the province, including people with lived and living experience, law enforcement, Indigenous partners, public health experts, municipalities, and advocacy groups.
- MMHA staff also continue to meet with additional stakeholders – to date this has included the Office of the Provincial Health Officer, the Representative for Children and Youth, the Chief Coroner, medical health officers, addictions medicine clinicians, health authority MHSU leads, and additional advocacy organizations, including those representing racialized groups and the LGBTQ2S+ community.
- The ministry continues to work with UBCM and individual local governments as necessary to develop tools to support municipalities in adopting a public health approach to substance use in the context of decriminalization.
- MMHA is also working closely with Indigenous partners, including the First Nations Health Authority, Métis Nation BC, the BC First Nations Justice Council, and the BC Association of Aboriginal Friendship Centres throughout the process. All these organizations are represented on the Core Planning Table. Engagement activities are ongoing as part of implementation.
- The ministry is also engaging regularly with our policing partners, both through the Core Planning Table and regular meetings with law enforcement. This includes representatives from the BC Association of Chiefs of Police, the Vancouver Police Department, and the RCMP.

What has BC done to get ready to implement the exemption?

- This is a historical change that requires significant preparation. That's why the Government is focused on building new connections to care, so people can get supports by:
 - Increasing healthcare pathways to ensure people with substance use challenges can get the help they need and deserve.
 - Preparing police agencies across the province to implement decriminalization in a safe and effective way.
 - Continuing to build a voluntary system of mental health and addictions care that works for all British Columbians, including investments in treatment and recovery.

- Consulting with First Nations and Métis leaders and communities to ensure that decriminalization is implemented in a culturally safe way that honors their needs and perspectives.
- Continuing to engage with partners and stakeholders across sectors to understand and respond to their unique needs.
- Together, the BC and federal governments are working closely to evaluate and monitor the exemption to address any unintended consequences and ensure that people are not being recriminalized.

Why did you wait so long to implement decriminalization during a toxic drug crisis?

- This exemption is the first of its kind in Canada. It's a significant change that will impact people who use drugs, police, municipalities, and health system partners and others.
- The Government of BC is committed to getting it right and ensuring decriminalization is having its intended impacts and people are not being recriminalized.
- Since the exemption was granted in May, the Government of BC has been working to ensure successful implementation, including:
 - Training and guidance for police, who will offer people information about health and social supports, including treatment and recovery services, if requested.
 - Working with health authorities to add new connections to care facilitators to help connect people to local mental health and addictions services, as well as treatment and recovery, as requested.
 - Consulting with First Nations and Métis leaders and communities, to ensure decriminalization is implemented in a culturally safe way that honours their needs and perspectives.
 - Developing a robust monitoring and evaluation framework to ensure that decriminalization is having its intended impacts and any unintended consequences are identified and addressed.
 - Continuing to engage with partners and stakeholders across sectors to understand and respond to their unique needs.

This threshold is much lower than what the government of BC originally proposed. Why was the threshold lowered? Are you concerned you will recriminalize people?

- The Ministry of Mental Health and Addictions worked with medical experts, police, Indigenous partners, local governments and people with lived experiences to develop its request for this exemption.
- One critical part of the request – and this exemption – is ongoing monitoring and evaluation. The Government of BC understands this is a novel approach and wants to ensure decriminalization does not lead to unintended harms.
- If evidence emerges to suggest that the model is not helping BC reach its intended outcomes, we will work with Health Canada as required.

- Together, the BC and federal governments will be working closely to evaluate and monitor decriminalization to address any unintended consequences and ensure that people are not being recriminalized.

Police have said the thresholds are too high – why are you moving forward with this threshold?

- The Government of BC is grateful for the input from police organizations and the work they do every day to keep our communities safe.
- BC Association of Chiefs of Police – who had originally proposed 1g -- supports the 2.5g threshold approved by Health Canada.
- The Ministry of Mental Health and Addictions has been and continues to work closely with police agencies to hear their feedback and are committed to addressing them throughout implementation.
- Since Health Canada granted the exemption in May, the Government of BC has been working closely with law enforcement partners to implement decriminalization.
 - This includes training and guidance for police to ensure that they understand how decriminalization will address stigma, their role in the successful implementation of decriminalization, and the importance of a public health approach to substance use.
- Together, the BC and federal governments will be working closely to evaluate and monitor this exemption to address any unintended consequences; this includes monitoring of the impact of the threshold amount to ensure that people are not being recriminalized.

Why isn't BC implementing mandatory treatment referrals or fines like other countries have done with decriminalization?

- In developing BC's exemption request, the Ministry of Mental Health and Addictions considered the strengths and limitations of other decriminalization models to learn from their experiences.
- This exemption includes progressive and innovative approaches that have been guided by public health, including:
 - No mandatory treatment referrals,
 - No issuing fines or other administrative penalties, and
 - No drug seizures.
- Under this exemption, people found to be in possession of small amounts of certain illegal drugs will not have their drugs seized or face fines or criminal charges. Instead, they will be given information about voluntary mental health and substance use services.
- Decriminalization is a critical step to taking meaningful action to combat the toxic drug crisis and save lives.
- In addition, the Government of BC is focused on building a voluntary system of mental health and addictions care that works for everyone.

- A \$500-million investment is helping to build that system, including \$132 million for treatment and recovery across the full spectrum of care.

Will decriminalization increase drug use overall?

- Decriminalization has been implemented in many other jurisdictions, including Portugal, Australia, the Czech Republic and Oregon state in the United States.
- Decriminalization has not led to an increase in substance use at a population level in other jurisdictions that have taken this step.
- The Government of BC remains focused on preventing problematic substance use, minimizing harms for those who are using, and ensuring that people with addictions have access to treatment and recovery options.
- Together, the BC and federal governments will be working closely to evaluate and monitor this exemption to address any unintended consequences, including impacts to overall rates of drug use, and ensuring that people are not being recriminalized.

Isn't this sending a message to kids that drugs are okay?

- Talking to kids about drugs and toxic drug poisonings can be challenging. But decriminalizing people who use drugs is not legalization.
- The exemption does not apply to youth 17 and under.
- Part of the Ministry of Mental Health and Addictions' work to implement this exemption includes education and awareness about decriminalization, such as providing evidence-based information to the public, including parents, that will address how to talk about these topics, health and safety issues related to drug use, and key differences between decriminalization, legalization, and safe supply.
- The Ministry of Education and Child Care's [Expect Respect and A Safe Education](#) (ERASE) website provides students, parents/guardians, caring adults and educators with information and resources to support healthy and effective learning environments, including how to have conversations about substance use.
- Existing resources for BC K-12 education staff on evidence-based approaches to substance use education and related school-based prevention and harm reduction efforts are also being updated.
- To support children and youth, Government is investing nearly \$175 million for mental health support in schools to embed mental health and substance use programs and services in the education system.

Even if people want help with their substance use/addiction, they often can't get it. How will you ensure that people can access treatment and other health support as an alternative to decriminalization?

- Decriminalization will help reduce the stigma – the fear and shame – associated with substance use that prevents many people from reaching out for life-saving supports.
- Decriminalization is just one tool in BC's fight against the toxic drug crisis.

- In addition, Government is urgently working to build a system of mental health and addictions care that works for all British Columbians.
- A \$500-million investment is helping to build that system, including \$132 million for treatment and recovery across the full spectrum of care. The Province of BC is also:
 - The first and only province to introduce prescribed safer supply;
 - Adding hundreds of new treatment and recovery beds across the province;
 - Enabling registered nurses to prescribe addictions treatment medications – a first in Canada;
 - Building more access to low- or no cost counselling;
 - Adding 13 Foundry centres across BC for youth between the ages of 12-24 with mental health and substance use challenges and their families, with 10 in development, for a total of 23 province-wide;
 - Adding new Urgent and Primary Care Centres where people can be connected to mental health and addictions support, 24/7, 365 days a year.

What are the financial implications of implementing decriminalization in the province?

- Criminal justice costs related to substance use in Canada were roughly \$9.2 billion, which includes costs for policing, courts and corrections, in 2017.
- Costs related to police training and new health authority referral pathways will be determined as the Government of BC moves through the implementation process.
- Together, the federal and provincial governments will be working closely to evaluate and monitor decriminalization to address any unintended consequences, including the economic impacts, and ensure that people are not being recriminalized.
- Decriminalization will also free up valuable police resources and allow them to focus on serious crimes.

How does a section 56 exemption work?

- Under the *Controlled Drugs and Substances Act* (CDSA), most activities with controlled substances are illegal, unless specifically authorized by regulation or an exemption granted by the responsible federal Minister.
- The responsible Minister granted BC's request for an exemption under subsection 56(1) of the CDSA related to the possession of certain illegal drugs for personal use.
- Under this exemption, adults 18 and older in BC, are exempt from the drug possession offence in subsection 4(1) of the CDSA if they possess up to 2.5 grams of certain illegal drugs for personal use, subject to certain exceptions.

First Nations/Indigenous Q&A

How will decriminalization impact Indigenous communities, given the toxic drug crisis disproportionately affects these communities more than others?

- The toxic drug crisis and criminalization has had a disproportionately devastating impact on Indigenous peoples, including First Nations, Métis and Inuit communities.

- Decriminalization will help address these inequities, promoting pathways to supports, including traditional treatments and culturally safe services for Indigenous people who are at risk of toxic drug poisonings.
- The Ministry of Mental Health and Addictions will continue to engage with Indigenous partners, including the BC Association of Aboriginal Friendship Centres, BC First Nations Justice Council, the First Nations Health Authority, Métis Nation BC and First Nations leaders to ensure decriminalization is implemented in a culturally-safe and appropriate way.
- This includes engaging with individual Indigenous communities through town hall discussions and one-on-one meetings as needed. This will be a key part of implementation, monitoring and evaluation.

Which Indigenous partners did you consult in developing the exemption in BC?

- The Ministry of Mental Health and Addictions worked closely with Indigenous partners, including the First Nations Health Authority, Métis Nation BC, the BC First Nations Justice Council, and the BC Association of Aboriginal Friendship Centres to develop this exemption. These organizations are represented on the Core Planning Table.
- Five regional town halls were hosted throughout November and December of 2022 to engage with First Nations communities about decriminalization, with ongoing engagement opportunities planned ahead of January 31 and throughout the three-year exemption period.
- The ministry welcomes the opportunity to meet with Indigenous communities one-on-one to discuss considerations for implementation in their community. This can be at any time during the three-year exemption period, and is not restricted to the period before January 31.
- We will continue to work with Indigenous partners to implement decriminalization in a culturally safe and appropriate way. This will be a key part of implementation.

Will First Nation communities be able to opt out of decriminalization?

- Decriminalization is made possible through an exemption under subsection 56(1) of the CDSA; this exemption has been granted by Health Canada at the request of the Province of BC.
- If a First Nation would prefer that the exemption not apply to them, that would involve an amendment to the exemption.
- Ministry staff welcome the opportunity to talk about the implementation of decriminalization with individual First Nations communities to explore options for implementation in ways that meets the specific needs of their community.

What about dry communities and other existing community protocols?

- The Government of BC understands that First Nations communities have their own considerations and practices around the impacts of substance use.
- It is not the intention of decriminalization to alter community protocols.

- Dry communities and zero-tolerance community policies will continue to be respected.
- Police will not proceed with arresting and charging adults found with 2.5g or less of the illegal drugs listed in the exemption, but will work with communities to ensure that protocols are respected.

How will/have Indigenous perspectives been included in law enforcement training and readiness activities?

- Training for law enforcement will be ongoing and responsive to police needs.
- Early training materials have been reviewed by the Core Planning Table, as well as the Law-Enforcement Working Group sub-committee. Both groups include representatives from First Nations Justice Council and other Indigenous organizations.
- The next phase of police training will be informed by ongoing engagement with Indigenous partners and include a full module about considerations for Indigenous communities.

How will you monitor to ensure that decriminalization doesn't have negative impacts on First Nations, Métis and Inuit communities?

- The Government of BC has developed a robust evaluation process to closely monitor and address any unintended consequences of decriminalization, including impacts on Indigenous communities.
- The evaluation process will be relevant, capture the complexity and diversity of realities, and meet the informational needs of Indigenous communities.
- The ministry welcomes feedback from Indigenous communities in BC to inform our planning.

Local government/municipality: Q&A

How will municipalities be involved in implementing decriminalization at the municipal level?

- Local governments are key partners in responding to the toxic drug crisis through their work with law enforcement, regional health authorities, and community service providers.
- Under decriminalization, these partnerships will continue to be important.
- BC is committed to implementing decriminalization in a way that recognizes community needs and unique settings.
- The Government of BC has engaged with the Union of BC Municipalities throughout the development of BC's decriminalization framework, and will continue to work closely with them through Local Government Working Groups.
- The Ministry of Mental Health and Addictions will work closely with UBCM, public health, police, and local governments to develop tools to support municipalities in adopting a public health approach to substance use in the context of decriminalization, and to update policies and practice guidelines where necessary.

How will the Government of BC support local governments in addressing public drug use?

- The Ministry of Mental Health and Addictions will work closely with UBCM, public health, police, and local governments to develop tools to support municipalities in adopting a public health approach to substance use in the context of decriminalization, and to update policies and practice guidelines where necessary.
- This includes the Local Government Working Group, which is co-chaired by UBCM and is an important avenue for local government feedback.
- The working group will help develop communications tools and other supports to raise awareness of decriminalization and provide guidance in how local governments can make decriminalization a success.

Will the Government of BC be implementing a regulatory framework to address public use? Are there any bylaw or other legislative changes that will need to be implemented?

- No provincial legislative changes have been identified. BC's decriminalization framework is designed to be implemented within the scope of a subsection 56(1) exemption under the federal *Controlled Drugs and Substances Act*.
- Local governments already have a range of outreach regulatory tools that address issues related to substance use (e.g. smoking, nuisance bylaws). Decriminalization will not change the ability of local governments to pass bylaws.
- The Ministry of Mental Health and Addictions will work closely with UBCM, public health, police, and local governments to develop tools to support municipalities in adopting a public health approach to substance use in the context of decriminalization, and to update policies and practice guidelines where necessary.

What happens if adults are found or using drugs in local parks/recreation centres, etc?

- Public intoxication – whether by drugs or alcohol – remains illegal.
- In many cases, illegal drug use continues to be prohibited on private property, including places like shopping malls, bars and cafes. Police retain legal authority to remove people from these premises under the authority of the Trespass Act if open drug use is occurring against the wishes of the owner. This would include private facilities, such as recreation centres.
- Outside of private facilities, local governments already have a range of outreach regulatory tools that address issues related to substance use (e.g. smoking, nuisance bylaws). Decriminalization will not change the ability of local governments to pass bylaws.
- The Ministry of Mental Health and Addictions will work closely with UBCM, public health, police, and local governments to develop tools to support municipalities in

adopting a public health approach to substance use in the context of decriminalization, and to update policies and practice guidelines where necessary.

- The Government of BC is mindful that enforcement activities can drive people to use drugs alone and can elevate risk of death. The preference is to emphasize referral to health and social supports, including overdose prevention sites.

What happens if youth are found in possession of/or using drugs in local parks/recreation centres, etc?

- The exemption only applies to adults 18 and older in BC. Youth, ages 17 years and under, who possess illegal drugs are subject to the federal Youth Criminal Justice Act, which authorizes the use of alternative measures to criminal charges in some cases, such as referral by law enforcement to appropriate community or health services.
- The Government of BC will continue to work with key partners and stakeholders, including Health Canada, to ensure that the approach to youth is proportionate and does not create unintended harms.

Even if our municipality were to pass a public use bylaw, we don't have enough bylaw officers to enforce it. Will you be providing resources to municipalities to hire more bylaw officers?

- Decriminalization is a critical step in the Government of BC's fight against the toxic drug crisis. It will help break down barriers that prevent people from accessing life-saving supports.
- Local governments already have a range of outreach regulatory tools that address issues related to substance use (e.g. smoking, nuisance bylaws). Decriminalization will not change the ability of local governments to pass bylaws.
- Police will still be able to assist in the enforcement of bylaws, when and where required.
- The Government of BC is mindful that enforcement activities can drive people to use drugs alone and can elevate risk of death. The preference is to emphasize referral to health and social supports, including overdose prevention sites.
- The Ministry of Mental Health and Addictions will work closely with UBCM, public health, police, and local governments to develop tools to support municipalities in adopting a public health approach to substance use in the context of decriminalization, and to update policies and practice guidelines where necessary, but at this time new funding is not available to assist with implementation of these policies or to hire new bylaw officers.

How can we provide feedback on decriminalization to the Province?

- The Local Government Working Group is currently developing mechanisms for engaging more broadly with local governments across BC.
- Details about engagement activities will be communicated to local governments through UBCM's Compass newsletter.

- For more information, local governments can contact Chris Van Veen, senior director, decriminalization, MMHA at chris.vanveen@gov.bc.ca or Marilyn Chiang, senior policy analyst, UBCM at mchiang@ubcm.ca

Schools: Q&A

Does decriminalization apply to students and young people under 18 years old?

- No. The exemption only applies to adults 18 years of age and older in BC.

What does this mean for my child's school?

- This exemption only applies to adults 18 years of age and older in BC.
- Decriminalization will not apply on K-12 school or licensed child care premises. It is critical that we continue to protect children and youth from risks associated with substance use in these settings.
- Youth aged 17 and younger who possess illegal drugs are subject to the federal *Youth Criminal Justice Act*, which authorizes the use of alternative measures to criminal charges in some cases, such as referral by law enforcement to appropriate community or health services.

What if students (under the age of 18) are found in possession of/using drugs on school property? How do we handle this?

- This exemption does not apply to youth aged 17 and younger.
- School authorities can continue to enforce rules and regulations.
- If students aged 17 and younger are found in possession of or using drugs on school property, they are subject to the federal Youth Criminal Justice Act, which authorizes the use of alternative measures to criminal charges in some cases, such as: referral by law enforcement to appropriate community or health services.

What if parents/adults/teachers/students over 18 are found in possession of/using drugs on school property? How do we handle this?

- Under this exemption, adults, including students over the age of 18, continue to be prohibited from possessing illegal drugs on school properties.
- Adults found in possession of illegal drugs on school premises may be subject to arrest, and could face charges of possession under the *Controlled Drugs and Substances Act* and have their drugs confiscated.
- Drug trafficking and other activities with illegal drugs remains illegal and subject to criminal penalties.

What if someone is intoxicated on school property?

- Public intoxication – whether by drugs or alcohol – remains illegal.

- School administrators may call law enforcement to remove intoxicated individuals in accordance with school district policies.
- If the individual is intoxicated but no longer has illegal substances in their possession, they would not be subject to charges of simple possession, regardless of whether they were on school property.
- Depending on the circumstances, they may be charged with trespassing.

What if adults are found using drugs in the vicinity of the school, but not on school property?

- Under the exemption, adults 18 and over in BC will no longer be arrested or charged if they possess certain illegal drugs for personal use under the 2.5g cumulative threshold.
- Adults in possession of drugs under the threshold will not have their drugs seized or face fines or criminal charges; instead they will be offered information on local treatment and where they can get the support they need.
- However, public intoxication – whether by drugs or alcohol – remains illegal.
- The use of drugs in the vicinity of, but not on school property, will be subject to local bylaws.

Will the exemption apply on school buses? What about annex sites where school-related programming is held, such as sports facilities?

- The exemption does not apply to youth aged 17 and younger.
- In addition, the exemption does not apply on a motor vehicle (including a school bus) if the illegal substance is readily accessible to the driver of the vehicle. The exemption also does not apply on the premises of a K-12 school.
- The exemption will apply at facilities that are not owned or leased by a school board even if a school activity or programming is occurring there. This means adults who are found in possession of the exempted drugs for personal use, under the threshold at these facilities, will not have their drugs seized or face criminal charges.

Isn't this sending a message to kids that drugs are okay?

- Talking to kids about drugs and toxic drug poisonings can be challenging. But decriminalizing people who use drugs is not legalization.
- The exemption does not apply to youth 17 and under.
- Part of the Ministry of Mental Health and Addictions' work to implement this exemption includes education and awareness about decriminalization, such as providing evidence-based information to the public, including parents, that will address how to talk about these topics, health and safety issues related to drug use, and key differences between decriminalization, legalization, and safe supply.
- The Ministry of Education and Child Care's [Expect Respect and A Safe Education \(ERASE\)](#) website provides students, parents/guardians, caring adults and educators with

information and resources to support healthy and effective learning environments, including how to have conversations about substance use.

- Existing Resources for BC K-12 education staff on evidence-based approaches to substance use education and related school-based prevention and harm reduction efforts are also being updated.
- To support children and youth, Government is investing nearly \$175 million for mental health support in schools to embed mental health and substance use programs and services in the education system.

Child care providers: Q&A

What does this mean for my child's daycare?

- Daycare operators must continue to ensure that children do not have access to any substances that may be hazardous to the health or safety of a child.
- Under the exemption, adults in BC are prohibited from possessing any illegal substances, including those listed in the exemption, on the property of licensed child care facilities.

How does decriminalization apply to child care facilities?

- Decriminalizing people who use drugs is not legalization.
- Under the s.56 exemption, adults in BC are prohibited from possessing any illegal substances, including those listed in the exemption, on the property of licensed child care facilities.
- Adults found in possession of illegal drugs on the premises of a licensed child care facility may be subject to arrest, could have their drugs confiscated or could face charges of possession under the *Controlled Drugs and Substances Act*.

What if a child care provider or parent is found in possession of drugs on the property?

- Decriminalizing people who use drugs is not legalization.
- Under the exemption, adults in BC are prohibited from possessing any illegal substances, including those listed in the exemption, on the property of licensed child care facilities.
- Adults found in possession of illegal drugs on the premises of a licensed child care facility may be subject to arrest, could have their drugs confiscated or could face charges of possession under the *Controlled Drugs and Substances Act*.

Airport Q&A

How does decriminalization apply to airports?

- Under the exemption, adults are prohibited from possessing illegal substances on the property of certified airports.

- Adults found in possession of illegal drugs on the premises may be subject to arrest, charges of possession under the Controlled Drugs and Substances Act and confiscation of their drugs.
- It remains illegal to transport illegal substances across international or provincial borders.
- Decriminalizing people who use drugs is not legalization. Drug trafficking and activities with illegal drugs will remain illegal.

What if someone is traveling within BC? Will the exemption apply?

- The exemption will not apply in any certified airports, even if passengers are traveling within BC.

What if I arrive at the airport with drugs in my possession? How do I dispose of them?

- People in BC should not be in possession of illegal drugs when they arrive at an airport.
- Airports will have their own procedures and signage regarding disposal.

Will people be allowed to possess drugs in private aircraft hangars and on private planes?

- The exemption does not apply in airports possessing an airport certificate issued under Subpart 2 of Part III of the Canadian Aviation Regulations.
- This means that if an adult is found in possession of the listed illegal drugs at private aircraft hangars that are not part of a certified airport, the exemption may apply, however, Transport Canada rules and regulations will remain in place.

Police Q&A

How does decriminalization apply to police? What is the role of law enforcement?

- Decriminalizing people who use drugs is an important step in the Government of BC's response to the toxic drug crisis, and will help break down barriers that prevent people from getting support and access to life-saving services.
- The Canadian Association of Chiefs of Police endorses decriminalization as an effective way to reduce public health and public safety harms. In addition, decriminalization is expected to provide significant cost savings to the criminal justice system.
- Under this exemption, adults in BC will no longer be arrested or charged if they possess certain illegal drugs for personal use under the 2.5g cumulative threshold, subject to certain exceptions. Instead, adults will be offered information on local treatment and recovery services.
- Possession of the listed substances above the threshold remains illegal and could result in criminal charges.
- Decriminalizing people who use drugs is not legalization. Drug trafficking remains illegal.

- Police will continue to investigate drug trafficking and seize drugs where evidence of trafficking exists, even under threshold amounts. Possession for the purpose of trafficking is a separate offence that is not covered by the exemption.

What if an individual is found in possession of more than 2.5 grams of illegal substances for personal use?

- The exemption does not apply where an adult possesses a listed illegal substance above the 2.5 gram threshold. Police have the discretion to seize the full amount and charge/arrest an individual who is found in possession above the 2.5g threshold.

How will police connect people to mental health and substance use supports?

- The goal of decriminalization is to reduce the stigma around substance use and help break down the barriers that prevent people from getting support to life-saving services.
- A resource card will be distributed to law enforcement agencies in the weeks prior to implementation for police to have on-hand.
- When an adult is found in possession of the drugs listed in the exemption, under the cumulative threshold, police can give the person the card, which will include mental health and substance use services, so the individual can connect to voluntary supports, where and when they need it.
- When requested by an individual, a police officer may assist with a referral to these services (e.g. facilitating a referral through a phone call, or navigating the Wellbeing.ca website).

In what situations will police hand out resource cards?

- Resource cards will be distributed when there is a police interaction in progress (i.e. if there is another violation/reason why police are involved), and/or when people ask/make explicit their intent to pursue a service, resource, program, treatment.
- Police should not approach adults with the sole intention to distribute a resource card, unless that individual is in violation of a municipal bylaw prohibiting public substance use, in which case providing a resource card would be appropriate.

What if someone is caught driving and using drugs or under the influence of drugs?

- Operating a motor vehicle while impaired will continue to be a criminal offence.
- Just like alcohol, where illegal drugs are within reach of the operator of a motor vehicle, criminal penalties will continue to apply.

Do police need to return all drugs covered by the exemption and under the threshold?

- There will be no arrests or seizures when an adult possesses up to 2.5 grams and is abiding by the scope and conditions of the exemption.

Will police be considered liable if someone overdoses with the drugs that were returned?

- If police officers arrest an adult and find them in possession of 2.5 grams of drugs that are listed in the exemption, police officers will return the drugs to them upon release.
- If an individual is suspected of overdosing following an interaction where police returned or took no action with respect to their drugs, consideration should be given by the police agencies to report the incident to the Independent Investigations Office.
- The time and location of the police interaction prior to the use of illegal substances, and whether the scope and conditions were adhered to, should be considered before referral.
- In these circumstances police officers' inherent discretion, good faith acts, and the reasonable expectations of the public that the policy objectives of the exemption will be met, will be important contextual factors in assessing any allegations of misconduct.
- Police leaders continue to work with the Independent Investigations Office to clearly understand the impacts of the exemption on existing police oversight processes.

Can police arrest someone for using drugs on the property of a private establishment?

- In many cases, illegal drug use continues to be prohibited on private property, including places like shopping malls, bars and cafes. Police retain legal authority to remove people from these premises under the authority of the Trespass Act if open drug use is occurring against the wishes of the owner.
- Public intoxication – whether by drugs or alcohol – remains illegal.
- Under the Liquor Control and Licensing Act (LCLA), police may issue a ticket to a person who is intoxicated, including by the effect of illegal drugs, in a public place (which includes a bar or restaurant). However, this does not extend to the possession of illicit drugs where there is no evidence of intoxication.
- Additionally, under the LCLA, licensees (e.g., bars) must not:
 - (i) allow entry to anyone who appears to be intoxicated, including by illicit drugs,
 - (ii) allow a person in a service area to become intoxicated, including by illicit drugs.
- Police may issue tickets against a licensee in connection with these violations.

Can police arrest someone for bringing drugs into a private establishment?

- Workplaces and private businesses that have policies prohibiting possession and/or use of illegal substances on site will also continue to apply.
- Police retain legal authority to remove people from these premises at the request of the establishment if open possession is occurring against the policies of the owner or tenants.

How does Bill C-5 relate to the S.56 exemption?

- Former Bill C-5, which received Royal Assent on Nov. 17, 2022, repeals all six mandatory minimum penalties for offences under the CDSA.

- The exemption is an additional tool that the federal government is providing to BC and is specifically related to the personal possession for small amounts of certain illegal substances for adults (18 and over).
- The exemption is complementary to former Bill C-5 and is also in keeping with the Government's public-health approach to address substance use and the toxic drug crisis in Canada.

What if police don't follow this new exemption? Where can I file a complaint?

- The Government is committed to public accountability through thorough and transparent investigations into police misconduct.
- The Office of the Police Complaint Commissioner, the Civilian Review and Complaints Commission, and the Independent Investigations Office make up British Columbia's multi-layered police oversight system.
- Civilian oversight agencies provide an accessible way for the public to voice their concerns about the conduct of police officers in BC. These existing mechanisms, governed by federal and provincial legislation, including the Police Act, will apply to decriminalization.
- The province's monitoring and evaluation work will monitor for unintended consequences of decriminalization, including those related to law enforcement implementation of decriminalization, and inform timely adjustments to the implementation.

Workplaces Q&A

How does decriminalization apply in the workplace?

- The Province is committed to ensuring that decriminalization is implemented in a responsible way that prioritizes the safety of all British Columbians.
- Workplaces and private businesses that have policies prohibiting possession and/or use of illegal substances on site, such as schools, licensed child care facilities and airports, will be permitted to continue to apply their policies.
- BC has one of the most robust regulatory frameworks for workplace impairment in Canada.
- Under decriminalization, employers will still be able to establish their own workplace policies regarding psychoactive substances and implement impairment policies to ensure workplace safety.
- If employers currently have a policy in place, they may wish to consider updating this policy when the exemption comes into effect on January 31, 2023.
- Impairment policies may include restrictions on the presence or possession of substances in the workplace.
- The Province and WorkSafeBC does not mandate drug testing in the workplace. However, testing may be a feature of an employer's impairment management strategy.

Businesses Q & A

How does decriminalization apply to businesses?

- The Province is committed to ensuring that decriminalization is implemented in a responsible way that prioritizes the safety of all British Columbians.
- Workplaces and private businesses that have policies prohibiting possession and/or use of illegal substances on site will be permitted to continue to apply their policies.
- Police retain legal authority to remove people from these premises at the request of the establishment if open drug use is occurring.
- The Province must also be mindful that enforcement activities can drive people to use drugs alone and can elevate risk of death. The preference is to emphasize referral to health and social supports, including overdose prevention sites.

Do you anticipate this will increase drug use around businesses in downtown cores?

- Decriminalization of people who use drugs has not led to an increase in substance use at a population level in other jurisdictions that have taken this step.
- The Province remains focused on preventing problematic substance use, minimizing harms for those who are using, and ensuring that people with addictions have access to treatment and recovery options.
- The Ministry of Mental Health and Addictions continues to work with local governments on guidance regarding tools to address public substance use under decriminalization.
- Decriminalization is a novel approach. That's why the Province is developing a robust ongoing monitoring and evaluation process to ensure decriminalization does not lead to unintended harms.

What if an individual is found using drugs on a business' property?

- In many cases, illegal drug use continues to be prohibited on private property, including places like shopping malls, bars and cafes. Police retain legal authority to remove people from these premises under the authority of the Trespass Act if open drug use is occurring against the wishes of the owner.
- Public intoxication – whether by drugs or alcohol – remains illegal.
- Under the Liquor Control and Licensing Act (LCLA) police may issue a ticket to a person who is intoxicated, including by the effect of illegal drugs, in a public place (which includes a bar or restaurant). However, this does not extend to the possession of illegal drugs where there is no evidence of intoxication.
- Additionally, under the LCLA, licensees (e.g., bars) must not:
 - (i) allow entry to anyone who appears to be intoxicated, including by illicit drugs,
 - (ii) allow a person in a service area to become intoxicated, including by illicit drugs. Police may issue tickets against a licensee in connection with

these violations.

What if an individual brings drugs into a business?

- Workplaces and private businesses that have policies prohibiting possession and/or use of illegal substances on site will also continue to apply.
- Police retain legal authority to remove people from these premises at the request of the establishment if open possession is occurring against the policies of the owner or tenants.

Will patrons be allowed to openly possess and/or consume drugs in businesses that do not have policies prohibiting substance possession and/or use?

- The Province is committed to ensuring that decriminalization is implemented in a responsible way that prioritizes the safety of all British Columbians.
- Workplaces and private businesses that have policies prohibiting possession and/or use of illegal substances on site will be permitted to continue to apply their policies.
- Private businesses that are not licensed establishments will be able to ask individuals to leave their establishment in accordance with the Trespass Act.
- Police retain legal authority to remove people from these premises at the request of the establishment if open drug use is occurring.
- For businesses with a liquor license (e.g. bars, pubs), license terms and conditions prohibit licensees from allowing patrons to become intoxicated and from allowing intoxicated patrons to remain in their establishments.
- Similarly, licensees are able to refuse entry, or require patrons to leave their establishments, in accordance with the Trespass Act, their own “house rules” and as/when they determine necessary to maintain effective operations and compliance with their license terms and conditions.

Will businesses be able to advertise themselves as locations where people can possess and/or consume drugs?

- Decriminalizing people who use drugs is a critical step in the Province’s fight against the toxic drug crisis. It will help break down barriers that prevent people from accessing life-saving supports.
- Encouraging drug use in a private business would be a significant risk to the owner and would be subject to the terms of the establishment’s insurance policies.
- For businesses with a liquor license (e.g. bars, pubs), license terms and conditions prohibit licensees from allowing patrons to become intoxicated and from allowing intoxicated patrons to remain in their establishments.
- Local governments may also regulate the type of activities that a business may engage in within their community as a condition of their business license.
- For businesses with liquor licenses, LCRB has no provisions that specifically prohibit a business with a liquor license (e.g. bars, pubs) from promoting their business as a place to possess/consume drugs.

- However, all licensee advertising must comply with local bylaws etc. and relevant CRTC Codes for Advertisers.

Health System (e.g. facilities, hospitals, emergency health services) Q&A

What happens if someone comes into a health care setting with drugs in their possession?

- There are a number of existing policies and procedures in place in care settings that may be impacted by decriminalization.
- Health authorities should review existing policies (e.g. harm reduction policies) and procedures to determine if there are changes required due to the implementation of decriminalization.
- Hospital and acute care settings often have site-specific policies when it comes to storing/destroying personal possessions including drugs, alcohol, medications, etc.
- Depending on clinical context, if adults are in possession of illegal substances under the threshold in acute care settings, where possible/appropriate, their substances can be stored and returned to them with other personal belongings upon discharge.
- It is also possible that, in some care contexts, health authorities determine that they want to maintain policies prohibiting possession of substances. However, in these cases, these policies cannot be enforced by law enforcement where an adult possesses a listed illegal substance under the 2.5 gram threshold for personal use and hospital settings will not rely on police to retrieve and store drugs under the threshold.

Is the Province providing funding to make sure people can access treatment and other health supports as an alternative to criminalization?

- Decriminalization is an important step to help break down the fear and stigma associated with substance use and connect people to services and the health care system.
- Decriminalization is just one tool in BC's fight against the toxic drug crisis. In addition, the Government is urgently working to build a system of mental health and addictions care that works for all British Columbians.
- Through a \$500-million investment, BC is building that system, including \$132 million for treatment and recovery across the full spectrum of care. We're also:
 - o The first and only province to introduce prescribed safer supply;
 - o Adding hundreds of new treatment and recovery beds across the province;
 - o Enabling registered nurses to prescribe addictions treatment medications – a first in Canada;
 - o Building more access to low- or no cost counselling;
 - o Adding 13 Foundry centres across BC for youth between the ages of 12-24 with mental health and substance use challenges and their families. There are currently 10 in development, for a total of 23 province-wide once complete;

- o New Urgent and Primary Care Centres where people can be connected to mental health and addictions support 24/7, 365 days a year.

Health Authority Q&A

What is the role of health authorities in implementing decriminalization?

- Health authorities across the province have all added new positions dedicated to implementing decriminalization on the ground, building connections with local service provider and police.
- This includes adding:
 - o Two workers in the Island Health region;
 - o Two workers in the Fraser Health region;
 - o Two workers in the Interior Health region;
 - o Two workers in the Vancouver Coastal Health region;
 - o Two workers in the Northern Health region;
 - o Two workers with First Nations Health Authority.
- These positions will also help connect people who are referred by police to voluntary mental health and addictions supports in their own community.
- Health authorities will also support the implementation of decriminalization by:
 - o Maintaining and enhancing health pathways and substance use services;
 - o Facilitating voluntary referrals;
 - o Managing the development, production and maintenance of resource cards and updating relevant health authority websites;
 - o Working with internal system partners, including hospitals, to address emerging issues, including where policies need to be amended to align with decriminalization (e.g. admissions to hospitals when individuals are in possession under the threshold);
 - o Liaising with law enforcement and ensuring law enforcement partners have sufficient and up to date information on health services; and
 - o Reporting data to the Ministry of Mental Health and Addictions.

Are health authorities being provided with additional resources to support the implementation of decriminalization?

- BC made a historic \$500-million investment to build a voluntary system of mental health and addictions care, including \$132 million for treatment and recovery across the full spectrum of care. We're also:
 - o The first and only province to introduce prescribed safer supply;
 - o Adding hundreds of new treatment and recovery beds across the province;
 - o Enabling registered nurses to prescribe addictions treatment medications – a first in Canada;

- Building more access to low- or no cost counselling;
- Adding 13 Foundry centres across BC for youth between the ages of 12-24 with mental health and substance use challenges and their families. There are currently 10 in development, for a total of 23 province-wide once complete;
- New Urgent and Primary Care Centres where people can be connected to mental health and addictions support 24/7, 365 days a year.
- In addition to these investments, health authorities across the province have added new positions dedicated to implementing decriminalization on the ground, building connections with local service providers and police, and reporting on progress.
- This includes adding:
 - Two workers in the Island Health region;
 - Two workers in the Fraser Health region;
 - Two workers in the Interior Health region;
 - Two workers in the Vancouver Coastal Health region;
 - Two workers in the Northern Health region;
 - Two workers with First Nations Health Authority to support First Nations communities' priorities related to decriminalization.
- These positions will also help connect people who are referred by police to voluntary mental health and addictions supports in their own community.
- Health authorities will also receive funding for enhancements to proactive peer outreach services to strengthen on-the-ground resources for PWUD and partner with police to minimize the need for police interaction/referral where possible and improve interactions between police and people who use drugs.
- Regional health authorities will also support the development and production of resource cards for police to distribute when necessary.

What is the role of decriminalization project managers?

- Decriminalization project managers are responsible for implementing decriminalization on-the-ground within health authorities across the province. These are not intended to be clinical roles.
- Decriminalization project managers will:
 - Liaise with the Ministry of Mental Health and Addictions for project administration, including implementation planning, progress reports and financial reporting, as required;
 - Project manage the life cycle of the resource card development process;
 - Work with local law enforcement partners;
 - Work with local community organizations including peer groups and people with lived experience to facilitate and monitor implementation and troubleshoot challenges;
 - Support navigation and referral pathways for referrals that come through law enforcement, as needed;
 - Support public awareness and communications related to decriminalization;

- Support change management and policy amendments as needed with system partners (e.g. hospitals); and
- Support data collection and reporting to support Health Canada requirements for monitoring and evaluation.
- Regional health authorities have some flexibility to determine the division of roles between the two project managers.

To what extent will decriminalization project managers be working with law enforcement?

- Decriminalization project managers are responsible for implementing decriminalization on-the-ground within health authorities across the province.
- In addition, project managers will work closely to build relationships with local law enforcement, support the distribution of resource cards, and answer questions about local services and pathways to care.
- The Ministry of Mental Health and Addictions will support project managers by making connections with law enforcement, as needed.

What will be included on resource cards?

- Resource cards will include information on local and provincial substance use and mental health services.
- The cards will also include information on how people who use drugs can stay safer.
- Regional health authorities will determine the most appropriate local resources to be included on the cards.

What policies and procedures should health authorities be reviewing as part of the implementation of decriminalization?

- There are a number of existing policies and procedures in place in healthcare settings that may be impacted by decriminalization.
- Health authorities should review existing policies (e.g. harm reduction policies) and procedures to determine if there are changes required due to the implementation of decriminalization.

Defer to Health Canada:

What does this mean for Vancouver's application?

- Defer to Health Canada.
- The Province has not been involved in any conversations between the City of Vancouver and Health Canada.
- However, the work that the City of Vancouver has done is to be commended – it has been a champion in moving the dialogue on decriminalization forward, and the Province would not be where we are today without their example.

What about people who already have drug charges? Will their records be expunged?

- Defer to Public Safety Canada and Justice Canada.
- Former Bill C-5, which received Royal Assent and came into force on Nov. 17, 2022, requires that all past and future records of conviction for simple possession of drugs must be kept separate and apart from other records of convictions.
- It also requires that police and prosecutors only proceed with criminal charges in cases of simple possession of drugs that pose a risk to public safety.
- These reforms recognize that criminal sanctions imposed in respect of the possession of drugs can increase the stigma associated with drug use and are not consistent with established public health evidence.

Police Training Stats - Decriminalization in BC: Shifting to a Health Approach to Substance Use

January 27, 2023

Independent Municipal Police Departments

Agency	Number of Completion	Total Authorized Strength *	Percent completion
Abbotsford Police Department	82	213	38%
Central Saanich Police Service	19	23	83%
Delta Police Department	167	194	86%
Justice Institute of British Columbia (JIBC)	31		
Metro Vancouver Transit Police	176	183	96%
Nelson Police Service		18	0%
New Westminster Police Department	91	113	81%
Oak Bay Police Department	15	23	65%
Port Moody Police Department	44	52	85%
Saanich Police Department	30	166	18%
Stl'atl'imx Tribal Police		14	0%
Surrey Police Service	197	315	63%
Vancouver Police Department	670	1348	50%
Victoria Police Department	74	249	30%
West Vancouver Police Department	31	81	38%
Total Munis	1627	2992	54%

RCMP by district

Districts	# Completed course	Total members	Compliance %
E HQ	865	1,368	63.20%
Island	467	653	71.50%
LMD	1,494	2,308	64.70%
North	426	630	67.60%
Southeast	465	864	53.80%
TOTAL	3,717	5,823	63.80%

High-level summary

Police Training Stats - Decriminalization in BC: Shifting to a Health Approach to Substance Use

January 27, 2023

Total Municipal	1627	2922
Total RCMP	3717	5823
Total All agencies	5344	8745


61% of all frontline officers trained as of January 27, 2023

Griffiths, Emily A MMHA:EX

From: Eldridge, Irina MMHA:EX
Sent: January 11, 2023 4:16 PM
To: Clow, Holly MMHA:EX
Subject: RE: Revised decrim "facts" for Phase 1 training

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Holly,

The myths/facts latest version is on Teams for your review- aligned with KMQA doc, except that public safety bit we talked about.  [Decrim myths draft nov2022 v6 Jan2023.docx](#)

I'll add the FAQ for police when I'm back, just need to add some final touches and make sure it's aligned with the master doc.

Have a great rest of the week!

From: Eldridge, Irina MMHA:EX
Sent: January 9, 2023 4:40 PM
To: Clow, Holly MMHA:EX <Holly.Clow@gov.bc.ca>
Subject: Revised decrim "facts" for Phase 1 training

Hi Holly,

Please find the revised "decrim facts" doc below. Most of it is aligned with the approved KMQA, and a couple of extra pieces that I think fit in there nicely and they were previously approved by our comms (see comments).

s.15

Let me know when you want them in e-approvals. I'm hoping to finish up the police QA doc tomorrow so we can put them both in the same e-app.

Thanks,
Irina

*Irina Eldridge (she/her)
Senior Policy Analyst, Decriminalization
Ministry of Mental Health and Addictions
Tel: (604) 660-6935*

Grateful to be living and learning on the ancestral, traditional and unceded territories of the Coast Salish Peoples, including the territories of the xʷməθkʷəʔəm (Musqueam), Skwxwú7mesh (Squamish), and Səlílwataʔ/Selilwitulh (Tsleil-Waututh) Nations.



Decriminalization in British Columbia: Shifting to a Health Approach to Substance Use

(45 min asynchronous narrated PowerPoint presentation)

Description: The *Decriminalization in British Columbia* narrated PowerPoint provides a high-level overview of the exemption granted under subsection 56(1) of the *Controlled Drugs and Substances Act (CDSA)*. Watching the presentation will help police officers understand what decriminalization is, their role in implementation of decriminalization, and provide information on the key features of the exemption.

Learning Outcomes:

The core learning outcomes of the narrated presentation are:

1. Examine British Columbia's integrated approach to decriminalization.
 - Review legislation and guidelines that were implemented to reduce drug possession charges.
 - Define decriminalization.
2. Explain how decriminalization is being accomplished in British Columbia through a subsection 56(1) CDSA exemption.
 - Identify the key features of decriminalization in British Columbia.
 - Outline the scope of the exemption.
 - Identify the conditions of the exemption.
3. Apply a workflow chart related to drug possession to a variety of scenarios.
 - Examine the workflow related to drug possession.

Learning Topics

The following is an overview of the topics presented in the narrated presentation:

- What Is Decriminalization?
 - o Decriminalization vs. legalization
- Decriminalization in BC: An Integrated Approach
 - o How the provincial government is in the process of enhancing the ability to connect people who use drugs to a range of evidence-based treatment and other social services.
- Legislation/Guidelines
 - o Good Samaritan Drug Overdose Act, Bail conditions, PPSC Guideline 5.13, and Bill C-5
- What Is a Subsection 56(1) CDSA Exemption?
- Decriminalization in BC: Subsection 56(1) CDSA Exemption
 - o Health Canada approval timeline and coming-into-effect date
- Decriminalization in BC: Key Features
 - o Applies to adults 18 years of age or older
 - o Decriminalizes cumulative possession of up to 2.5 grams of certain substances

- Police will offer a resource card with information on local health and social services to individuals in possession of illegal substances.
- Robust monitoring and evaluation framework
- No fines, tickets or administrative sanctions, no mandatory treatment or diversion
- No arrests or seizures under the authority of subsection 4(1) CDSA when an adult possesses up to 2.5 grams of these illegal substances and is abiding by the scope and conditions of the exemption.
- Scope of the Exemption
 - Exceptions to the exemption (K-12 school premises, childcare facilities, airports, Canadian Coast Guard vessels and helicopters, Canadian Forces members subject to Code of Service discipline, in motor vehicle or watercraft operated by a minor).
- Conditions of the Exemption
 - Substances cannot be readily accessible to the driver or operator of a motor vehicle or watercraft
- What Remains Criminal Under this Exemption
 - Trafficking, production, importation/exportation, and traveling across borders remains illegal, regardless of amount
- Enforcement Related to Public Consumption
 - Municipal bylaws and policies of private establishments
- What Does 2.5 Grams Look Like?
 - Photos of heroin, fentanyl, crack cocaine, cocaine, methamphetamine, and MDMA, including a cumulative amount
- Police Oversight
 - Roles of the Independent Investigations Office, Office of the Police Complaint Commissioner and the Civilian Review and Complaints Commission
 - Police officers are required to adhere to the exemption (i.e., do not seize decriminalized drugs under 2.5 grams and return the substances).
- Resource Card
 - Resource cards should be offered by police, only where there is a police interaction already in progress, or if the person makes a request to pursue supports.
- Reporting Requirements
 - No new amendments in PRIME-BC.
- Decriminalization Flowchart and Scenarios

Subject Matter Resources: The *Decriminalization in British Columbia* narrated PowerPoint presentation was developed in collaboration with the Ministry of Mental Health and Addictions (MMHA), the Ministry of Public Safety and Solicitor General (PSSG), the RCMP Pacific Region Training Centre, and Vancouver Police Department.

What Does 2.5 Grams Look Like?

