



December 15, 2022

Ref: 636626

Chief Constables of Independent Municipal Police Departments  
Chief Officer Dave Jones, SCBCTA Police Services  
Chief Officer Deborah Doss-Cody, Stl'atl'imx Tribal Police Services  
Acting Deputy Commissioner John Brewer, Commanding Officer, RCMP "E" Division  
Superintendent Deborah Bourne, Officer in Charge, RCMP Pacific Region Training Centre  
Superintendent Jennifer Keyes, Director, Police Academy at Justice Institute of British Columbia

Dear Chief Constables and Chief Officers:

**Re: Launch of the recorded presentation, *Decriminalization in British Columbia – Shifting to a Health Approach to Substance Use***

I am pleased to announce the completion of phase one of police training materials and the launch of the recorded presentation, *Decriminalization in British Columbia – Shifting to a Health Approach to Substance Use*, to support law enforcement readiness in response to British Columbia's decriminalization framework.

Over the past several months, Policing and Security Branch (PSB) and the Ministry of Mental Health and Addictions (MMHA) have worked closely with the RCMP Pacific Region Training Centre and the Vancouver Police Department to finalize materials that will help police officers understand what decriminalization is, their role in implementation of decriminalization, and provide information on the key features of the exemption. The resulting product of this hard work is a 45-minute recorded presentation that will be available to all police agencies at no cost via the Canadian Police Knowledge Network (CPKN).

The recorded presentation is intended to provide a high-level overview of the exemption to help ensure agencies are aware of any implications and can amend existing and/or prepare new policies and procedures. As the section 56(1) exemption is set to come into effect on January 31, 2023, it is strongly recommended that the recorded presentation is viewed by this date. The recorded presentation will also be provided to the Justice Institute of British Columbia Police Academy to integrate into the municipal police recruit training program as appropriate.

.../2

In addition to the presentation, MMHA has prepared key messaging and frequently asked questions, which will be hosted on the CPKN portal. We trust that these job aids will help answer operational questions as PSB continues to manage the second phase of police training materials (the development of an online training course) which will be informed by feedback and questions from pre-implementation training activities. It is anticipated that the second phase will be launched by April 2023.

In the coming weeks, police agencies will also receive copies of regional resource cards, specific to their health authorities. These cards were developed in partnership with health system partners, police leadership, and other partners, and include information on local health and substance use services. As a condition of the section 56(1) exemption, the purpose of these cards is for law enforcement to provide information on local services to people at risk of illicit drug toxicity, in place of criminal penalties. The resource card will only be distributed when there is a police interaction in progress (i.e., another violation or a reason for police contact) or if an individual makes a request to pursue a service, resource, program or treatment.

If you have any comments or questions regarding the section 56(1) exemption or the decriminalization training framework, please contact Wendy Sutherland, Senior Program Manager, or email [decrim@gov.bc.ca](mailto:decrim@gov.bc.ca).

Regards,



Glen Lewis  
A/Assistant Deputy Minister  
and Director of Police Services  
Policing and Security Branch



## DECRIMINALIZATION IN BC

### The Facts

#### **FACT: *Decriminalization will not make drugs legal***

##### **Learn more:**

Decriminalization is **not** legalization. Decriminalization in British Columbia is a time-limited exemption granted for specific substances under certain conditions and will be supported by rigorous monitoring and evaluation. 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 remain illegal.

#### **FACT: *Decriminalization does not encourage people to use drugs***

##### **Learn more:**

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 substance use disorders 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.

#### **FACT: *Decriminalization will not apply to youth under the age of 18***

##### **Learn more:**

The exemption does not apply to youth under the age of 18. 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.

Talking to kids about drugs and toxic drug poisonings can be challenging. 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. 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 available on the [ABCs of Youth Substance Use](#) website. 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.

Additional information for parents/guardians and educators can be found on the [Wellbeing website](#).

***FACT: Public drug use will continue to be subject to applicable laws, bylaws, and regulations***

**Learn more:**

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.

Outside of private facilities, local governments already have a range of 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 is working closely with the Union of BC Municipalities (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 Province 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.





***FACT: Decriminalization will support a health-focused response to the toxic drug crisis***

**Learn more:**

Substance use is a health issue and not a criminal justice one. Shame and fear make people hide substance use 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 lifesaving 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.

By prioritizing a health-focused response, decriminalization can also help:

- Reduce incarceration rates and the corresponding health risks.
- Use resources more efficiently by allowing police to prioritize other important public safety issues such as property crime, drug trafficking, and violent crimes.
- Address racial disparities in drug law enforcement, leading to more just and equitable outcomes for Black, Indigenous, and other racialized people.

***FACT: The Province is committed to ensuring the safety of the public***

**Learn more:**

Research shows that crime and substance use are driven by social determinants like poverty, trauma, and adverse childhood events, and that criminalization of simple possession has done little to improve these outcomes. The Province is focused on improving and expanding treatment systems, prevention programs, and harm reduction services.

The Ministry of Public Safety and Solicitor General recognizes the importance of working with police to address serious crime in BC communities, including cracking down on those who distribute toxic drugs, and the violence associated with organized crime.

The British Columbia Association of Chiefs of Police (BCACP) emphasized the need to prioritize public safety alongside public health. BCACP's report recommending decriminalization notes that police must continue to fight organized crime and disrupt the illegal drug supply into communities through enforcement of laws pertaining to the trafficking, production, and importation of illegal substances.



Decriminalization will allow police to shift resources away from enforcement of laws pertaining to simple possession and toward more serious crime such as the trafficking, production, and importation of illegal substances.

### **FACT: Safer supply remains a critical tool to address the toxic drug crisis**

#### **Learn more:**

Decriminalization and safer supply are distinct - 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 doctors and nurse practitioners to provide access to a wider range of pharmaceutical-grade medications that are safer alternatives to illegal street drugs.

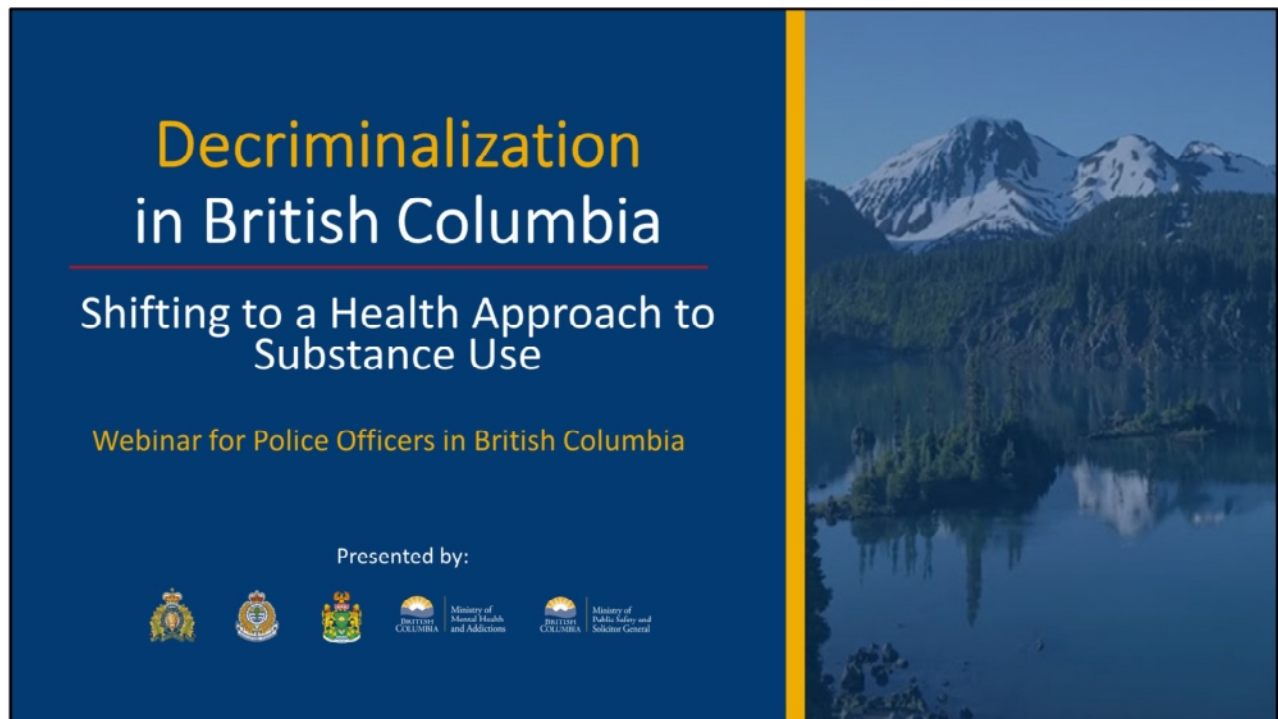
The Province recognizes that more needs to be done. It remains focused on investing in a system of care that minimizes harms for those who are using and that ensures that people with substance use disorders have access to treatment and recovery options.

### **FACT: Treatment and recovery services are expanding across the province**

#### **Learn more:**

Decriminalization is just one tool in BC's fight against the toxic drug crisis. In addition, the Province 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 is also:

- The first and only province to introduce prescribed safer supply.
- Adding hundreds of new treatment and recovery beds across the BC.
- Enabling registered nurses to prescribe addictions treatment medications – a first in Canada.
- Building more access to low or no cost counselling.
- Adding 14 Foundry centres across BC for youth between the ages of 12-24 with mental health and substance use challenges and their families, with 9i 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.



[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.





[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

Autostart the 1min 57sec video  
(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](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.

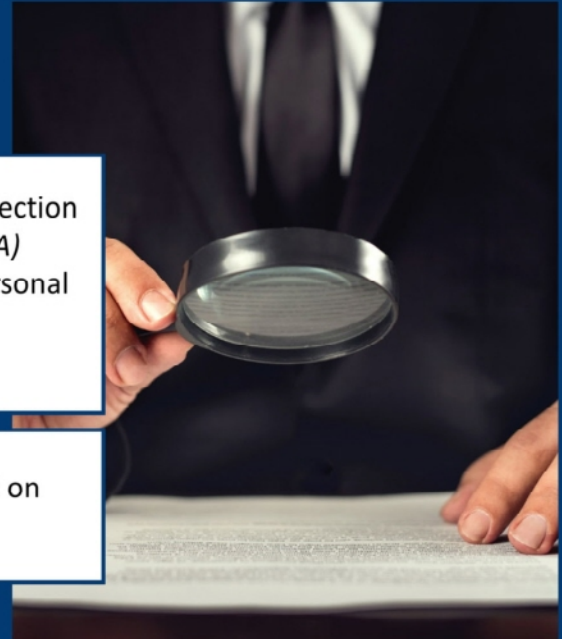
**It is important to note that the decriminalization of certain illegal substances is NOT being accomplished through new legislation; it is being accomplished through an exemption granted under subsection 56(1) in the *CDSA*.**

## 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.

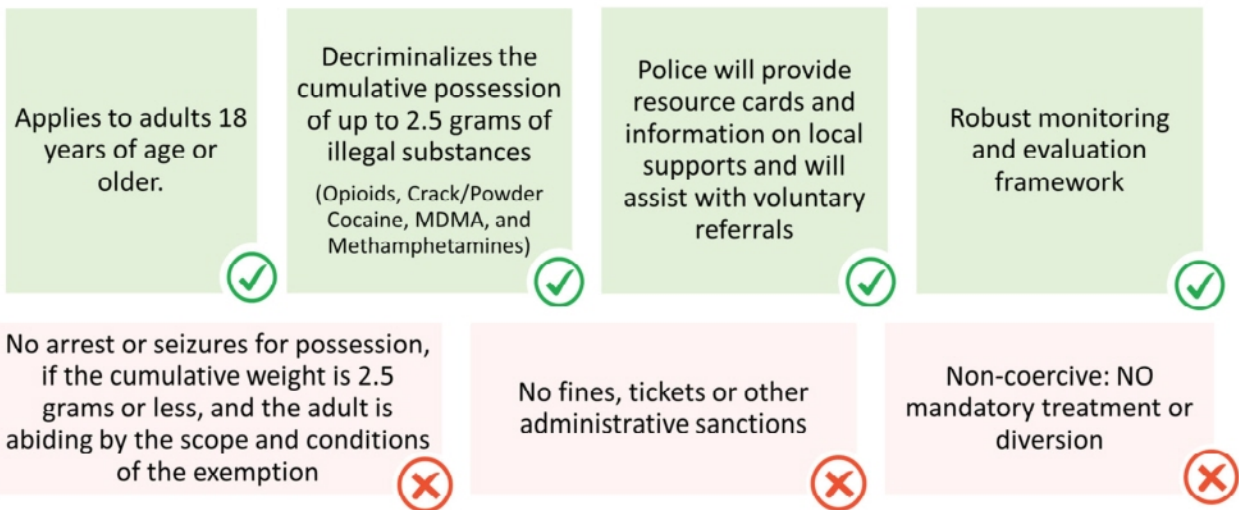
[Not for Narration]

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](https://www.canada.ca/en/health-canada/services/drugs-substances/controlled-substances/controlled-substances-act/controlled-substances-act-exemption-personal-possession-small-amounts-certain-illegal-drugs-british-columbia-january-31-2023-january-31-2026.html)

# 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



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]

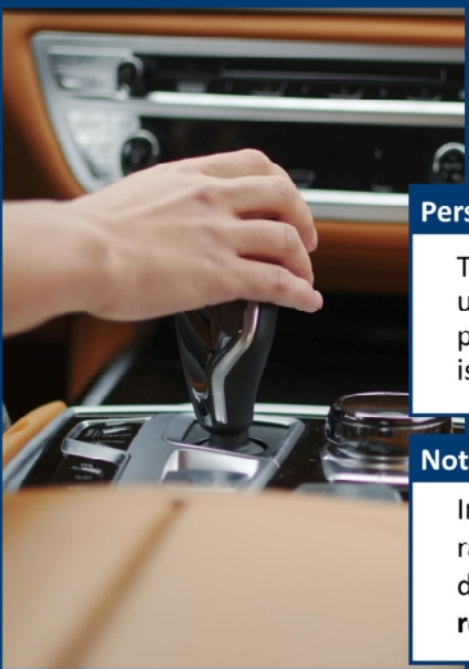
Within the scope of the exemption, police officers will continue to have arrest, search and seizure authority under subsection 4(1) of the *CDSA*, for any amount of illegal substances, including 2.5 grams or less, in the following situations:

- 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

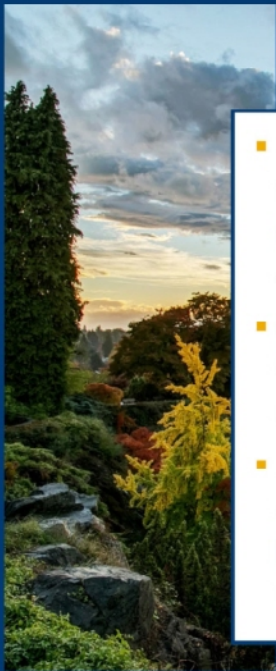
Possession above 2.5 grams remains subject to the *CDSA*. If members seize an amount of illegal substances over 2.5 grams, they shall not return any portion of that substance. The entire amount is subject to seizure.

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.**

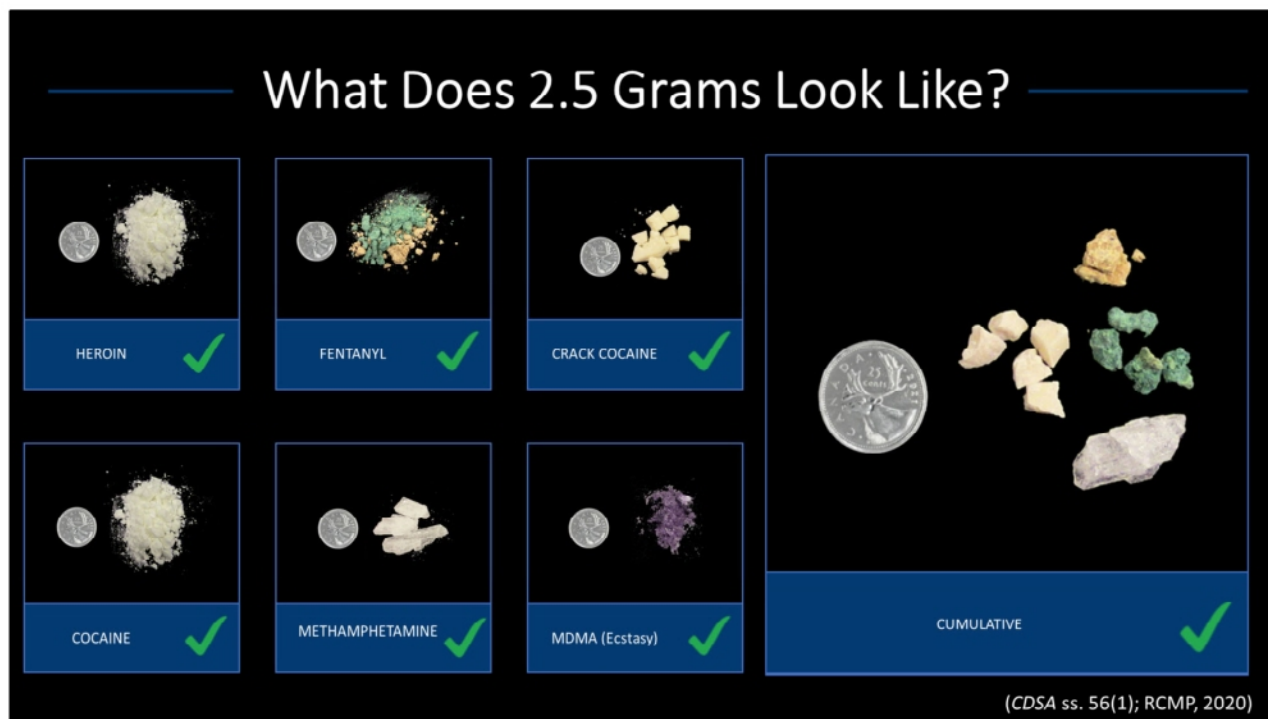
Enforcement related to public consumption of illegal substances listed in the exemption, will now fall under the bylaws of the municipality and policies of private establishments. You still have the discretion to remove people from these types of premises under the *Trespass Act*, if open substance use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

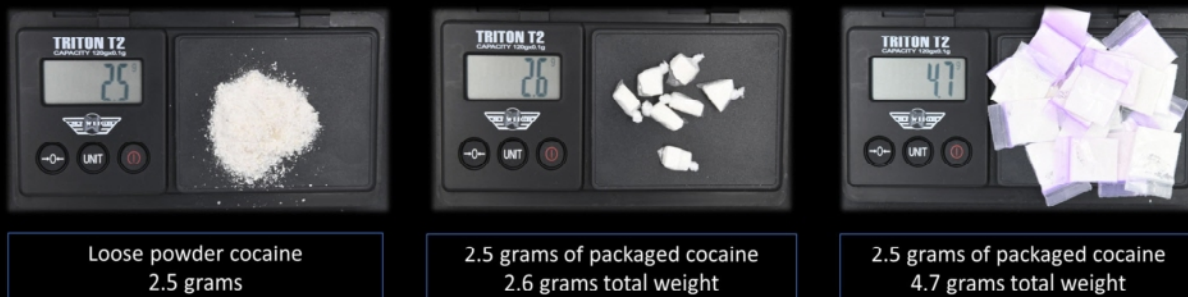
In these photos you see:

- 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 <b>Office of the Police Complaints Commissioner</b> will <b>thoroughly review the reasonableness</b> 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 <b>Civilian Review and Complaints Commission</b> will <b>thoroughly review all relevant materials</b> 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

HealthLineBC.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 KUU-US 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

Stay Safer if You Use Drugs

Get a naloxone kit. They're free.

TowardTheHeart.com/

Site Finder

Access an overdose prevention site.

DrugCheckingBC.ca

Test your drugs.

LifeGuardDB.com

Get the Lifeguard App.

It can call 9-1-1 if you can't.

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

Vancouver Island Resources

Call Island Health Local Services to learn about treatment and harm reduction supports (24/7)

1-888-685-8824

Text 'JOIN' to get toxic drug alerts

ALERTS (253787)

Vancouver Island Crisis Line

1-888-353-2273

Malin Nation BC Vancouver Island

1-778-312-0871

IslandHealth.ca/placeholder

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

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

1-604-672-3211

VCH.ca/placeholder

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

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.

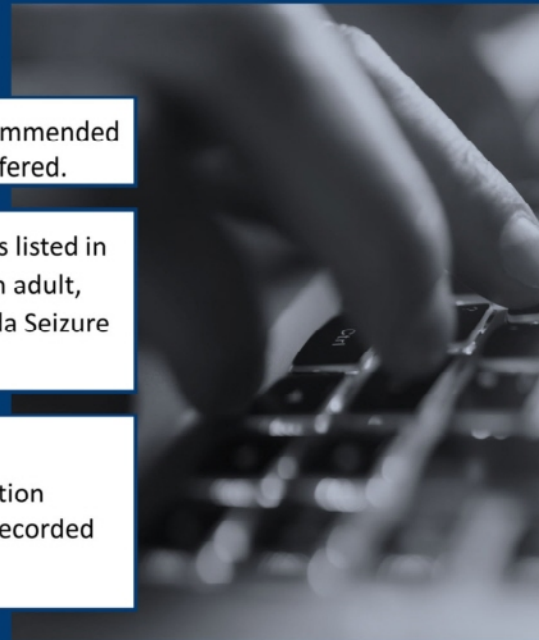
For example, when an adult is arrested for a criminal offence and is found in possession of 2.5 grams or less of cocaine for personal use, you will return the cocaine upon release and offer them a resource card. It is recommended that you document the return of the cocaine and offering of the resource 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.



## 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 agency's 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]

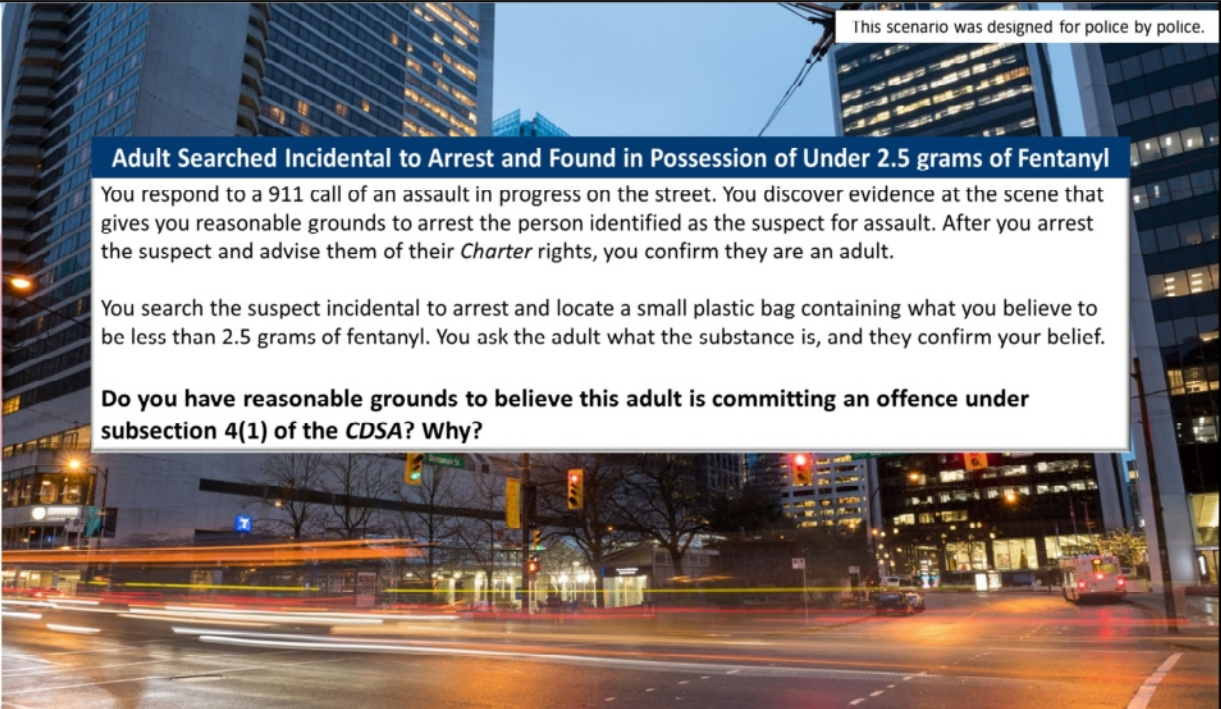
s.15; s.19

[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]

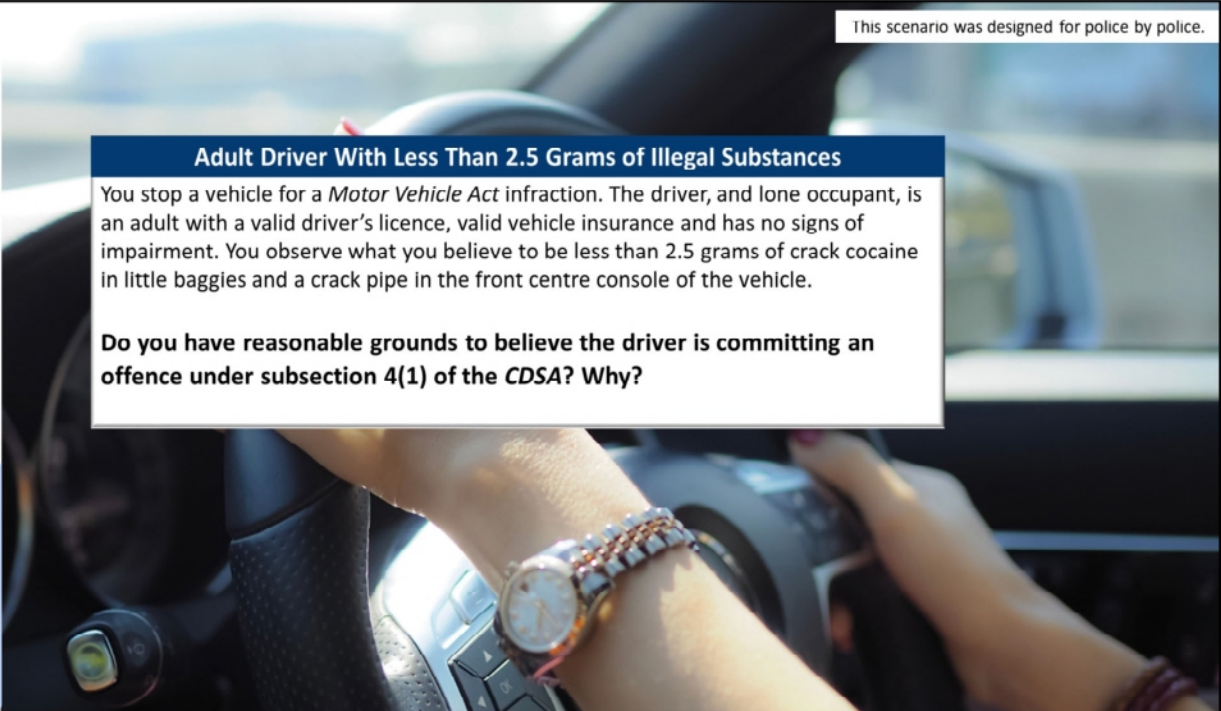
s.15; s.19

[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.



This scenario was designed for police by police.

**Adult Driver With Less Than 2.5 Grams of Illegal Substances**

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?**

Scenario 3

[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]

[Narration]

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](mailto: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](mailto: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.

## References

- An Act to amend the Criminal Code and the Controlled Drugs and Substances Act*, S.C. c.15 (2022). Retrieved from <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-5/royal-assent>
- Civilian Review and Complaints Commission for the RCMP (2021). Complaint and Review Process. Retrieved from <https://www.crc-ccecp.gc.ca/en/complaint-and-review-process>
- Controlled Drugs and Substances Act*, S.C. c.19 (1996). Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/c-38.8/FullText.html>
- Criminal Code*, R.S., c. C-34 (1985). Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/c-46/>
- Good Samaritan Act*, R.S.B.C. c.172 (1996). Retrieved from <https://canlii.ca/t/jhzw.html>
- Government of Canada (2022). Letter of Requirements to Support BC's Exemption. Retrieve from <https://www.canada.ca/en/health-canada/services/health-concerns/controlled-substances-precursor-chemicals/policy-regulations/policy-documents/exemption-personal-possession-small-amounts-certain-illegal-drugs-british-columbia/letter-requirements.html>
- Henry, B. (2019). "Stopping the Harm: Decriminalization of People Who Use Drugs in BC." *Office of the Provincial Health Officer*. Retrieved from <https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/reports-publications/special-reports/stopping-the-harm-report.pdf>.
- Independent Investigations Office of BC (2022). IIO Investigations and the CDSA Exemption. Provided to police on November 18, 2022.
- Kerr, T., Small, W., & Wood, E. (2005). The public health and social impacts of drug market enforcement: A review of the evidence. *International Journal of Drug Policy*, 16(4), 210–220. <https://doi.org/10.1016/j.drugpo.2005.04.005>
- Mental Health Act*, R.S.B.C. (1996). Retrieved from [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96288\\_01](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96288_01)
- Ministry of Mental Health and Addictions (2021). Decriminalization in BC: S.56(1) exemption. Retrieved from <https://news.gov.bc.ca/files/DecrimSubmission.pdf>

[No narration required]



## References cont'd

*Motor Vehicle Act*, R.S.B.C. c. 318 (1996). Retrieved from: [Motor Vehicle Act \(gov.bc.ca\)](http://www.gov.bc.ca/mva/)

Office of the Police Complaint Commissioner (2022). Complaint Process. Retrieved from <https://opcc.bc.ca/police-complaint-process/>

Public Prosecution Service of Canada (2020). 5.13 Prosecution of Possession of Controlled Substances Contrary to s.4(1) of the *Controlled Drugs and Substances Act*. Retrieved from <https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpq/fps-sfp/tpd/p5/ch13.html>

Public Prosecution Service of Canada (2020). 3.19 bail conditions to Address Opioid Overdoses. Retrieved from <https://ppsc-sppc.gc.ca/eng/pub/fpsd-sfpq/fps-sfp/tpd/p3/ch19.html>

Royal Canadian Mounted Police (2022). Decriminalization High Level Flowchart.

Royal Canadian Mounted Police (2022). Possession weights of illicit street drugs (fentanyl, heroin, cocaine, methamphetamine) RCMP "E Division (2020). Prepared by Sgt. Shane Holmquist and Kelly Rainbow. Dated May 14, 2022.

Small, W., Kerr, T., Charette, J., Schechter, M.T., and Spittal, P.M. (2006). Impacts of intensified police activity on injection drug users: Evidence from an ethnographic investigation. *International Journal of Drug Policy*, 17(2), 85-95. <https://doi.org/10.1016/j.drugpo.2005.12.005>

Statistics of Canada (2021). Statistics Canada British Columbia Opioid Overdose Analytical File: Technical Report. Retrieved from: [Statistics Canada British Columbia Opioid Overdose Analytical File: Technical Report \(statcan.gc.ca\)](https://www150.statcan.gc.ca/n1/pub/28-661-x/2021001/article/00001-eng.htm)

*Trespass Act*, R.S.B.C. c.3 (2018). Retrieved from <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/10883>

Vancouver Police Department (2022). Decriminalization High Level Flowchart.

*Youth Criminal Justice Act*, S.C. c.1 (2002). Retrieved from <https://www.laws-lois.justice.gc.ca/eng/acts/y-1.5/index.html>

[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.



## ***Decriminalization in BC: FAQ Resource for Frontline Police Officers***

***This document provides frontline police officers with answers to frequently asked technical questions on decriminalization. If you have additional questions, please review your agency's policies and procedures or contact your detachment liaison.***

### **Contents**

Decriminalization in BC.....	2
How does decriminalization apply to police? What is the role of law enforcement? .....	2
What evidence was used to inform the development of BC's exemption? .....	2
Public Use .....	3
How is public use of illegal substances included in the exemption going to be addressed going forward under decriminalization? .....	3
Can police arrest someone for using illegal substances on the property of a private establishment? .....	3
Can police remove someone for bringing illegal substances included in the exemption into a private establishment? .....	4
Seizure of Substances .....	4
What if an individual is found in possession of more than 2.5 grams of illegal substances included in the exemption for personal use? .....	4
Do police need to return all illegal substances included in the exemption and under the threshold? .....	4
Should police assume an "expected substance" regardless of the mixture? .....	4
Do police still need to complete a Health Canada Seizure and Disposition Report every time they come in contact with illegal substances included in the exemption? .....	4
Resource Cards and Working with Health Authorities .....	5
What is included on resource cards? .....	5
How do police connect people to mental health and substance use supports? .....	5
In what situations do police hand out resource cards? .....	5
What is the role of health authorities in implementing decriminalization? .....	5
Transportation and Vehicles.....	6
What if someone is caught using illegal substances included in the exemption while driving? .....	6
How does decriminalization impact the graduated licensing program (GLP)? .....	6
How does decriminalization apply to airports? .....	6

Are people allowed to possess illegal substances in private aircraft hangars and on private planes?.....	7
Police Liability and Duty of Care .....	7
Are police officers considered liable if someone overdoses with the illegal substances that were returned?....	7
The Evidence-Based Diversions Measures Bill (C-5).....	7
How does the <i>Evidence-Based Diversions Measures Bill</i> (C-5) relate to the S.56 exemption? .....	7

## Decriminalization in BC

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

- The BC Association of Chiefs of Police supports decriminalization of personal amounts of illegal substances as part of an integrated approach to divert persons who use illegal substances away from the criminal justice system and towards health services and pathways of care with the goal of improving health and safety outcomes.
- If an adult is abiding by the scope and conditions listed in the [section 56\(1\) Controlled Drugs and Substance Act \(CDSA\) exemption](#) and in possession of a cumulative amount of 2.5 grams or less of illegal substances listed in the exemption, they will not be arrested or charged for drug possession under section 4(1) CDSA, or have their substances seized.
- Adults found in possession of illegal substances will be offered a resource card with information on local treatment and recovery services.
- It remains a possession offence under 4(1) CDSA if an adult possesses more than 2.5 grams.
- Adults found in possession of illegal substances not listed in the exemption may have their illegal substances seized under 4(1) CDSA, however police must consider Public Prosecution Services of Canada (PPSC) Guideline 5.13 and CDSA section 10.2.
- Illegal substance production and trafficking remain offences in the CDSA, regardless of amount.

### 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:
  - Data from the Vancouver Police Department and the RCMP provided additional evidence on common illegal substances 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 illegal substances.
  - Evidence from a rapid survey conducted by a Vancouver drug user organization which examined purchasing and possession patterns.
- 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.



## Public Use

### How is public use of illegal substances included in the exemption going to be addressed going forward under decriminalization?

- Possession of illegal substances included in the exemption should not be confused with issues surrounding public consumption.
- In many cases, illegal substance 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 illegal substance use is occurring against the wishes of the owner.
- Local governments already have a range of outreach and regulatory tools that address issues related to substance use (e.g., smoking, nuisance bylaws). Decriminalization does not change the ability of local governments to pass bylaws. RCMP and local police are still able to assist in the enforcement of bylaws, when and where required.
- The regulatory offence of intoxication in public also remains, including intoxication by illegal substances.
- 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 are working closely to monitor and evaluate the exemption in order to address any unintended consequences and to ensure that people are not being recriminalized.
- The Government of BC is also mindful that enforcement activities can drive people to use illegal substances alone and can elevate risk of death. The preference is to emphasize referral to health and social supports, including overdose prevention sites.

### Can police arrest someone for using illegal substances on the property of a private establishment?

- Public intoxication – whether by illegal substances or alcohol – remains an offence under the Liquor Control and Licensing Act. Under the Liquor Control and Licensing Act (LCLA), police may arrest or issue a ticket to a person who is intoxicated, including by the effect of illegal substances, in a public place (which includes a bar or restaurant). However, this does not extend to the possession of illegal substances where there is no evidence of intoxication.
- Police can arrest an adult under the section 7 of the *Trespass Act* providing that the conditions in that section are met (asked to leave by the property representative and person refuses to leave)
- Additionally, under the LCLA, licensees (e.g., bars) must not:
  - (i) allow entry to anyone who appears to be intoxicated, including by illegal substances.
  - (ii) allow a person in a service area to become intoxicated, including by illegal substances.
- Police may issue tickets against a licensee in connection with these violations.



### **Can police remove someone for bringing illegal substances included in the exemption into a private establishment?**

- Possession of illegal substances for personal use, in compliance with the exemption, will be permitted under criminal law.
- However, policies prohibiting possession and/or use of illegal substances on site in workplaces and private businesses also continue to apply.
- Police can remove people from these premises at the request of the establishment if open possession is occurring against the policies of the owner or tenants.

### **Seizure of Substances**

#### **What if an individual is found in possession of more than 2.5 grams of illegal substances included in the exemption for personal use?**

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

#### **Do police need to return all illegal substances included in the exemption and under the threshold?**

- There are no arrests or seizures when an adult possesses up to 2.5 grams and is abiding by the scope and conditions of the exemption. When an adult is found with illegal substances that fall under the exemption, police are required to return those substances.

#### **Should police assume an “expected substance” regardless of the mixture?**

- 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 confirmatory drug testing, police officers will not be able to determine the purity/toxicity of the illegal substance or what other substances are mixed in. In most cases, police officers 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 police officers would treat the illegal substance as fentanyl.

#### **Do police still need to complete a Health Canada Seizure and Disposition Report every time they come in contact with illegal substances included in the exemption?**

- In circumstances that police consider involving a seizure, form CS-FRM-013 should be filled out in its entirety. A definitive example of when form CS-FRM-013 would need to be filled out is when a substance is sent for testing or destroyed. In situations that police do not consider involving a seizure, form CS-FRM-013 does not need to be filled out.
- Law enforcement is best placed to determine what constitutes a seizure and what does not.

## Resource Cards and Working with Health Authorities

### What is included on resource cards?

- Resource cards include information on local and provincial substance use and mental health services.
- The cards 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.

### How do 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.
- Resource cards have been 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 substances listed in the exemption, under the cumulative threshold, police can offer the card to the individual, which includes 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 will 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 do police hand out resource cards?

- Resource cards are meant to 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.

### What is the role of health authorities in implementing decriminalization?

- Health authorities across the province have all added new positions dedicated to supporting the implementation of decriminalization on the ground and building connections with local service providers and police.
- 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.
- These positions help connect people who are referred by police to voluntary mental health and addictions supports in their own community.
- Health authorities also support the implementation of decriminalization by:
  - Maintaining and enhancing health pathways and substance use services.
  - Facilitating voluntary referrals.

- Managing the development, production and maintenance of resource cards and updating relevant health authority websites.
- 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).
- Liaising with law enforcement and ensuring law enforcement partners have sufficient and up to date information on health services.
- Reporting data to the Ministry of Mental Health and Addictions.

## Transportation and Vehicles

### What if someone is caught using illegal substances included in the exemption while driving?

- Operating a motor vehicle while impaired continues to be a criminal offence.
- Readily accessible illegal substances to the driver represents an arrestable offence under section 4(1) CDSA and the substances are subject to seizure.

s.15; s.19

### How does decriminalization impact the graduated licensing program (GLP)?

- A person to whom a Class 7L, 8L, 7 or 8 license is issued is not permitted to operate a motor vehicle, whether or not the vehicle is in motion, if any amount of any illegal substance is present, even if the substance belongs to a passenger above the age of majority.
- GLP is a zero tolerance for drugs or alcohol, therefore the same rules that apply now apply with decriminalization. Drug standards for the GLP are printed on the back of the GLP license.

### 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 substances on the premises may be subject to arrest, charges of possession under the [Controlled Drugs and Substances Act](#) and confiscation of their illegal substances.
- It remains illegal to transport illegal substances across international or provincial borders.
- Decriminalizing people who use drugs is not legalization. Drug trafficking and trafficking related activities are still illegal.

#### **Are people allowed to possess illegal substances 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 substances at private aircraft hangars that are not part of a certified airport, the exemption may apply, however, Transport Canada rules and regulations remain in place.

### **Police Liability and Duty of Care**

#### **Are police officers considered liable if someone overdoses with the illegal substances that were returned?**

- If police officers arrest an adult and find them in possession of 2.5 grams of substances that are listed in the exemption, police officers will return the substances 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 illegal substances, 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 are met, are 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.

### **The Evidence-Based Diversions Measures Bill (C-5)**

#### **How does the *Evidence-Based Diversions Measures 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.
- Former Bill C-5 codifies PPSC guideline 5.13 and is complementary to section 10.2 CDSA, which requires police to consider alternatives to drug possession charges.

Page 060 of 169 to/à Page 169 of 169

Withheld pursuant to/removed as

s.13 ; s.15