



Canadian Association of Chiefs of Police

---

Association canadienne des chefs de police

# **Decriminalization of Possession of Illicit Drugs: A Public Safety & Policing Update**

Special Purpose Committee on the Decriminalization of Illicit Drugs  
January 2025

---

## Executive Summary

While the Canadian Association of Chiefs of Police (CACP) supports alternatives to criminal prosecution where appropriate, it no longer supports full decriminalization.

The CACP acknowledges the severe and ongoing drug overdose crisis in Canada, which has resulted in over 47,000 deaths since 2016, with Ontario, Alberta, and British Columbia bearing the brunt of the crisis. The impact on Indigenous communities, compounded by historical trauma, is especially concerning. For example, the overdose rates among Indigenous people in British Columbia are six times higher than those in the general population. The CACP emphasizes the need for a comprehensive, coordinated approach to addressing substance use disorders through a combination of education, prevention, harm reduction, enforcement, treatment, and recovery services.

Since the decriminalization of drug possession in British Columbia began in 2023 under the Section 56 Exemption, significant policing challenges have emerged. While the exemption was revised in 2024 to limit drug use in public spaces, open drug use remains rampant, creating considerable public safety and health risks. Communities face persistent issues with discarded drug paraphernalia, medical emergencies, acute overdoses, and the exposure of vulnerable groups, including children, to public drug use. A predictable outcome of decriminalization was the increased harm caused by individuals displaying chaotic or disruptive substance use behaviours.

The British Columbia model of decriminalization alone limited the ability of police to promptly address individuals whose behaviours created safety concerns within the community. These individuals were often involved in property crimes, disturbances, aggressive panhandling, threats, and assaults - issues that required police intervention. The effects of these behaviours extended beyond public health, impacting community safety, quality of life, and public trust in law enforcement's ability to maintain order. These challenges are particularly severe in rural and remote areas, where law enforcement encountered unique difficulties, and Indigenous communities are disproportionately affected by historical inequities and limited access to health and social services.

The CACP underscores the importance of enforcement as a key tool in addressing the crisis, emphasizing the value of discretion in its application. Enforcement must be exercised with care, prioritizing public safety and community wellbeing, while facilitating outcomes such as diversion as well as compelled treatment for individuals experiencing significantly harmful substance use disorders. This balanced approach ensures that law enforcement can address the broader concerns of communities while supporting individuals in accessing the necessary health and social services.

International experiences, such as those in Portugal and Oregon, also underscore the complexities of decriminalization. While Portugal initially saw positive outcomes following its 2001 decriminalization, recent years have seen rising drug use and overdose deaths, raising questions about the adequacy of health services to meet demand. Similarly, Oregon's 2021 decriminalization led to a significant increase in overdose deaths and public drug use, prompting a reversal of this policy in 2024.

In light of these developments, the CACP has reassessed its position on decriminalization. While the CACP supports alternatives to criminal prosecution where appropriate, it no longer supports full decriminalization. The association advocates for maintaining police authority under the *Controlled Drugs and Substances Act (CDSA)* to respond to circumstances where drug possession poses a risk to public safety or community wellbeing. Enhanced health and social service supports remain crucial to complement this approach and effectively address the crisis.

The CACP urges a balanced strategy that integrates public health and public safety considerations. Law enforcement must retain the discretion and tools necessary to protect communities while addressing the underlying issues that surround substance use disorder.

## Introduction

The Canadian Association of Chiefs of Police (CACP) expresses compassion for the more than 47,000 Canadians, as well as their families and loved ones, who have died as a result of illicit drug toxicity since 2016. The overdose crisis has become a significant cause of death in Ontario, Alberta, and British Columbia. These three provinces alone accounted for 87% of all overdose deaths in Canada. Alarming, in British Columbia, the overdose crisis is now the leading cause of death for people aged 10 to 59 years.

Tragically, the overdose crisis has disproportionately impacted Indigenous peoples, and communities, largely due to intergenerational trauma, colonization, discrimination, residential schools and the loss of traditional culture and language.

The magnitude of the ongoing crisis requires all stakeholders, including police, to work collaboratively to reduce the number of Canadians living with substance use disorders and the number of Canadians dying from overdose.

Given the severity of the drug toxicity crisis a broad array of strategies, including enforcement, and a comprehensive system of care, is required. The CACP affirms its support for a coordinated approach to policies and practices that include education, prevention, harm reduction, treatment, recovery, and enforcement. The scale of these services must be sufficient to address the scope of the ongoing crisis and support the goal of breaking the cycle of addiction - an objective that maximizes both public health, and public safety. Support for a health-led approach to dealing with this crisis does not negate or exclude the need for enforcement and the involvement of the criminal justice system.

## Decriminalization

In July 2020, the CACP released a publication acknowledging the need to respond to people experiencing substance use disorder with a public health approach. The CACP also supported the decriminalization of possession of illicit drugs. In the four years since the report, the principle of decriminalization has influenced procedural and legal reforms.

### Public Prosecution Service of Canada Deskbook Policy

On August 17, 2020, the Public Prosecution Service of Canada (PPSC) implemented a new charge approval policy in its Deskbook under section 5.13 - Prosecution of Possession of Controlled Substances Contrary to section 4(1) of the *CDSA*. This policy provides guidelines for prosecutors in determining when to lay charges under s. 4(1). The guiding principles are that alternatives to prosecution should be considered and prosecution should be reserved for the most serious manifestations of the offense. For example, drug possession that:

- Poses a risk to the safety or well-being of children;
- Puts the health or safety of others at risk, including impaired driving;
- Poses a risk to a community's efforts, especially remote communities, to address drug consumption;
- Is associated with another *CDSA* offense, including trafficking or possession for the purpose of trafficking, or another *Criminal Code* offense.

While these principles provide an important foundation for considering public safety risks, the policy would benefit from explicitly addressing how drug possession offenses impact the overall quality of life within a community. The feelings of safety and security among community members are central to fostering a sense of well-being and trust in public spaces. Therefore, prosecutorial discretion should also take into account the broader implications of drug possession and associated behaviours on community cohesion and public confidence in the justice system.

Encouraging prosecutors to consider these factors ensures a more balanced approach that not only prioritizes alternatives to prosecution but also addresses the legitimate concerns of residents regarding the visible impacts of drug use in their communities. This approach aligns with the need to uphold community safety and promote well-being while supporting individuals with substance use disorders through appropriate interventions.

## Legal Reform – Bill C-5

On November 17, 2022, Bill C-5 introduced several amendments to the *CDSA* that supported the prosecutorial directive. Under section 10.2(1) of the *CDSA*, the legislation requires police and prosecutors to consider alternative measures (e.g., warning, diversion to a treatment program, or community-based health program) instead of charging and prosecuting *CDSA* s. 4 drug possession offenses. Police and prosecutors' actions are guided by several principles under section 10.1 of the *CDSA*, including:

- Problematic substance use should be addressed primarily as a health, and social issue;
- Interventions should be based on evidence-based best practices;
- Criminal charges can increase the stigma associated with drug use;
- Interventions should address the root causes of problematic substance use, and should encourage education, treatment, rehabilitation, and social reintegration.

## Possession Charges

Police and prosecutors' recognition that many s. 4 *CDSA* possession offenses are primarily a health issue and considering alternative measures instead of relying on the criminal justice system, is reflected in the above policy, and legislative reforms, as well as prosecutorial data. The following graph of annualized PPSC data shows that s. 4 *CDSA* drug possession charges were relatively consistent over the six-year period from 2012-13 through 2017-18, averaging just over 32,000 charges each fiscal year (including cannabis offenses). This number declined significantly beginning in 2018-19 and has seen a 55% reduction over the past four fiscal years from 2018-19 to 2021-22 for several reasons, including the legalization of cannabis. The enactment of Bill C-5 in November 2022, highlighted above, is expected to result in further reductions in the number of s. 4 *CDSA* possession charges across Canada.

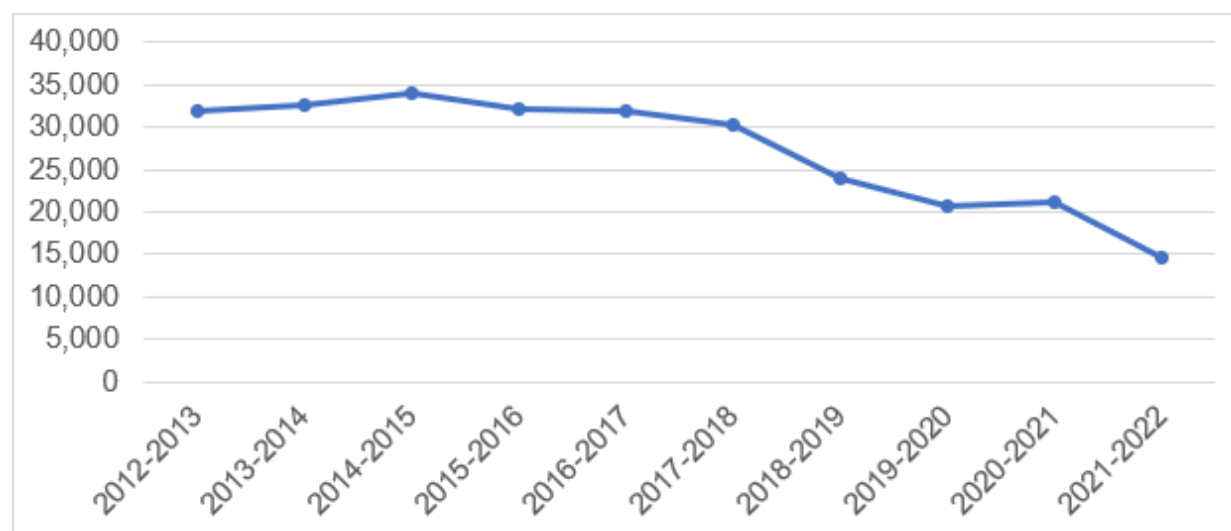


Figure 1 – S. 4 CDSA drug possession charges in Canada over a ten-year period – from PPSC data regarding fiscal years 2012-13 through 2021-22.

## British Columbia's Section 56 Exemption to Decriminalize Possession

On January 31, 2023, British Columbia formally launched a three-year pilot project to decriminalize possession of illicit substances through a Section 56 CDSA Exemption from the Federal Minister of Health. The Exemption applies to individuals aged 18 and older who possess a cumulative total of up to 2.5 grams of four named substances, including opioids (e.g., fentanyl), cocaine, methamphetamine, or MDMA (e.g., ecstasy).

Initially, there were six specific locations where the Exemption did not apply including: K-12 school grounds; licensed childcare facilities; airports; Canadian Coast Guard vessels; and helicopters, motor vehicles or watercraft operated by minors. The Exemption also excludes all members of the Canadian Armed Forces.

Prior to the exemption being submitted, the British Columbia Association of Chiefs of Police (BCACP) via a written submission, strongly recommended addressing a variety of concerns including public consumption in high-traffic areas such as parks, bus shelters, beaches, hospitals, and local businesses; the threshold limit; driving-related matters, and the application of the exemption to 18-year-olds. Unfortunately, many of the concerns were not addressed, and the exemption came into effect without additional area restrictions, meaning that police officers in British Columbia could not approach individuals using illicit drugs in most public spaces unless there were other lawful grounds to do so. This limited the ability of police to adequately address public consumption issues raised by community members, business leaders, municipalities, and councils.

Law enforcement continued to face significant challenges in addressing public safety concerns related to public drug consumption, other negative community impacts and associated criminal activity. Communities reported increases in crime, such as theft and vandalism, that they attributed to decriminalization and its potential to embolden certain behaviours. Concerns over the erosion of community quality of life, including public order disturbances, discarded drug paraphernalia and decreased perceptions of safety, were voiced by many stakeholders, including residents, business owners and municipal leaders.

Adding to these challenges is the stark reality that fentanyl, a substance included in the exemption, is lethal in quantities as small as 2 milligrams—an amount roughly equivalent to a few grains of salt. This highlights the disconnect between the exemption's 2.5-gram limit and the extreme potency of fentanyl. Additionally, the trafficking of significant quantities of fentanyl, cocaine, and methamphetamine by organized crime continues to exacerbate the risks and harms faced by communities. The availability of these substances in large volumes underscores the need for a balanced approach to address both individual and community safety.

As a result of ongoing advocacy by police in the province, in September 2023, three additional exceptions were added to the Section 56 Exemption, prohibiting illicit drug use within 15 meters of public outdoor playgrounds, at spray pools, wading pools and skate parks.

Despite these changes, many individuals, business leaders, community groups, city councils and frontline police officers in British Columbia continued to express concerns about the effects of drug use in public spaces. These concerns extended beyond public health, focusing on the negative impacts on community safety, crime rates, and overall quality of life. Municipalities also emphasized the need to protect children and youth from exposure to illicit drug use in public areas.

Indigenous communities in British Columbia face even greater challenges. Tragically, Indigenous people in the province are six times more likely to die from a drug overdose. Several Indigenous communities have declared a 'State of Emergency' over toxic drug deaths, citing a lack of resources and supports to manage the devastating impact of decriminalization. These communities, already burdened by historical traumas including colonization, forced assimilation and loss of culture, often lack adequate health and social services to address the crisis. A comprehensive approach, including enforcement, health care supports, and treatment, is essential to addressing the unique challenges faced by Indigenous communities and ensuring that decriminalization does not exacerbate existing inequities.

The police have an important role to play in advocating for the needs of individuals with substance use disorders. Enforcement, when applied appropriately, can be a critical component in compelling individuals toward care and treatment. By maintaining a focus on public safety, while also connecting people with necessary health and social services, police can help bridge the gap between individuals in crisis and the supports they require. Advocacy for these vulnerable individuals must be paired with the tools to ensure that their needs are met within a system that prioritizes health, safety, and community well-being.

In May 2024, in response to community concerns about public drug use, the Section 56 Exemption was revised to apply only in three specific locations: within a private residence, within a designated healthcare clinic (e.g., a legally sanctioned Overdose Prevention Site), or for unhoused persons who are sheltering in accordance with applicable laws.

The need to revise the Exemption highlights the balance that must be achieved between enforcement and supporting the needs of people who use drugs while maintaining the safety and inclusivity of community public spaces. While decriminalization seeks to reduce harms for individuals who consume illicit drugs, it must also account for the broader harm to the community caused by unregulated drug use. A coordinated drug strategy that integrates enforcement, social supports and treatment is essential to effectively manage substance use disorders, combat crime and preserve community quality of life.

## The CACP Position on Decriminalization Policy

The CACP emphasizes that enforcement remains a critical component of a comprehensive approach to addressing substance use disorders, alongside the development of robust health and social care systems. While better public health care systems can reduce the reliance on enforcement over time, the tools necessary to ensure public safety and address the broader harms of substance use must always be available. Effective enforcement provides a mechanism to safeguard community safety, address associated crime, and, when necessary, compel individuals toward care and treatment.

One of the most significant learnings from decriminalization has been the heightened level of harm caused by individuals exhibiting chaotic and/or disruptive substance use behaviour. The CACP recognizes that decriminalization alone diminishes the ability of police to immediately address substance users whose chaotic behaviours pose community safety concerns. These individuals are often involved in property crimes, mischief, disturbances, aggressive panhandling, threatening and/or assaultive actions, all of which require police intervention. The impact of these behaviours extends beyond public health, affecting community safety, quality of life and public trust in law enforcement's ability to maintain order.

Decriminalization alone is not the answer to the health issues facing illicit substance users. Removing the criminal penalties related to illicit drug possession without a strategy that addresses the toxic illicit supply of drugs creates significant risks. Organized crime groups, and other criminal actors exploit vulnerable individuals, and profit from the demand for these dangerous substances, further entrenching exploitation, and illicit gains. Without addressing the role of organized crime in the illicit drug market, the broader goals of decriminalization and harm reduction cannot be realized.

The CACP reaffirms the importance of a balanced and collaborative approach to addressing substance use disorders. This includes prevention, education, treatment, recovery supports and enforcement working together to reduce harm, and improve outcomes for individuals, and communities. Enforcement plays a critical role in addressing immediate risks to public safety, while prevention and treatment services work to address the root causes of substance use and support long-term recovery. A well-coordinated strategy ensures that no single component is relied upon exclusively, but that all components work in concert to address both individual and community needs.

As Canada continues to develop and expand public health systems to better support those with substance use disorders, the need for enforcement may diminish in scope but will remain an essential tool. This ensures a balanced approach that prioritizes both public health, and public safety objectives, addressing the individual harms of substance use while mitigating broader community impacts.

The CACP remains committed to working collaboratively with governments, communities and stakeholders to find solutions that address the complex challenges of substance use disorders, protect public safety, and support the health and well-being of all Canadians.