



**Submission to the Standing Senate Committee on Legal and Constitutional Affairs:
Review of *Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act***

September 21, 2022

I. Introduction

The [HIV Legal Network](#) promotes the human rights of people living with, at risk of, or affected by HIV or AIDS, in Canada and internationally, through research and analysis, litigation and other advocacy, public education, and community mobilization. Since our inception three decades ago, the HIV Legal Network has been involved in extensive government and community consultations regarding a wide range of legal and policy issues and has developed expertise on drug law and policy.

The [Centre on Drug Policy Evaluation \(CDPE\)](#) works collaboratively with governments, affected communities, and civil society to improve community health and safety by conducting research and outreach on effective and evidence-based policy responses to substance use. Founded in 2010 as the International Centre for Science in Drug Policy, the CDPE is now housed within the Li Ka Shing Knowledge Institute at St. Michael's Hospital in Toronto, Ontario.

We appreciate the opportunity to comment on *Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act*, and to draw the attention of the Standing Senate Committee on Legal and Constitutional Affairs to certain elements which are relevant from the perspective of human rights.

II. Repealing Mandatory Minimum Sentences and Restoring Conditional Sentence Orders

As the HIV Legal Network noted more than a decade ago when mandatory minimum sentences (MMS) for drug offences were introduced, such sentences remove judicial discretion in sentencing and impose prison terms for drug offences in a broad range of circumstances, inviting sentences that are unjust in the circumstances of the offence and casting the net of incarceration far wider than the harms they purport to target. Rather than penalizing profiteers engaged in large-scale trafficking, the most marginalized people who use drugs, including racialized people, people living in poverty, and/or those engaged in small-scale trafficking related to their drug use, bear the brunt of such mandatory incarceration provisions. Available evidence also indicates that MMS for people convicted of drug-related offences do not “influence drug consumption or drug-related crime in any measurable way”— a conclusion confirmed by Justice Canada’s own review.ⁱ

By unnecessarily limiting the discretion of sentencing judges, MMS have resulted in unjust and sometimes cruel sentences which violate the *Canadian Charter of Rights and Freedoms*. As the HIV Legal Network argued as an intervenor in *R. v. Lloyd*, a case before the Supreme Court of Canada considering the constitutionality of MMS for a drug offence, MMS can severely jeopardize the health of people who use drugs, particularly those living with HIV and/or hepatitis C, violating their Charter rights.ⁱⁱ Moreover, MMS disproportionately affect Black people, Indigenous people, and racialized communities. According to a 2017 Justice Canada study, over a ten-year period between 2007/08 and 2016/2017, Black and other racialized people were much more likely to be admitted to federal custody with a conviction for an offence punishable by MMS.ⁱⁱⁱ Notably, drug offences comprised 75% of all offences punishable by MMS for which individuals were admitted to federal custody.^{iv} This has had particularly troubling impacts on racialized women. As the Correctional Investigator of Canada noted in

2017, a staggering 54% of Black women in federal prisons were serving sentences for drug-related offences,^v many of whom were carrying drugs across borders to alleviate their situations of poverty, including some who reported being forced into these activities with threats of violence to their children and/or families.^{vi}

The unjust impacts of MMS were exemplified in *R. v. Sharma*, a case involving a young Indigenous woman who was a single mother, an intergenerational residential school survivor, and endured significant personal hardship growing up. In the face of immense financial hardship and potential eviction for her and her young daughter, Ms. Sharma imported cocaine into Canada, plead guilty to the offence, and was subject to a two-year MMS, which the sentencing judge struck down on the basis that it constituted cruel and unusual punishment when applied to Ms. Sharma and reasonable hypotheticals. However, Ms. Sharma was not eligible for a conditional sentence because the offence of importing drugs had a maximum sentence of 14 years. The sentencing judge acknowledged that, prior to amendments to the *Criminal Code* restricting the availability of conditional sentences, Ms. Sharma would have been eligible for, and would have received, a conditional sentence.

Like with MMS, the overincarceration of marginalized individuals has worsened with restrictions to conditional sentence orders. As the HIV Legal Network argued before the Supreme Court of Canada as an intervenor in *R. v. Sharma*, restrictions on conditional sentences are so broad in scope that they capture some conduct that bears no relation to its purpose of ensuring that individuals who commit serious offences receive prison sentences. This violation of the liberty interest is overbroad and may discriminate against Indigenous, Black, and 2SLGBTQ+ people. The Ontario Court of Appeal acknowledged such overbreadth, concluding in *R. v. Sharma* that restrictions on the availability of a conditional sentence “deprive the court of an important means to redress systemic discrimination against Aboriginal people when considering an appropriate sanction,” which has “the effect of reinforcing, perpetuating or exacerbating the disadvantage of Aboriginal offenders.”^{vii}

In recognition of these issues, the Truth and Reconciliation Commission of Canada (TRC) has called on Canada to “amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.”^{viii} Similarly, in its 2016 concluding observations on Canada’s compliance with the *Convention on the Elimination of all Forms of Discrimination Against Women*, the UN Committee on the Elimination of Discrimination against Women underlined its concern “about the excessive use of incarceration as a drug-control measure against women and the ensuing female over-population in prison” as well as the “high and rising incarceration rates of Aboriginal women and African Canadian women in federal and provincial prisons across Canada” and recommended that Canada “Repeal mandatory minimum sentences for minor, nonviolent drug-related offences.”^{ix}

In sum, we urge the Standing Senate Committee to support the repeal of all mandatory minimum sentences and restoration of conditional sentences, including via the proposed amendments in Bill C-5.

III. Evidence-based Diversion Measures

a. Full repeal of section 4 of the *Controlled Drugs and Substances Act*

Part I.1 of Bill C-5 focuses on “Evidence-based Diversion Measures.” While acknowledging in its “Declaration of Principles” that “interventions should be founded on evidence-based best practices and should aim to protect the health, dignity and human rights of individuals who use drugs,” that “criminal sanctions imposed in respect of the possession of drugs for personal use can increase the stigma associated with drug use and are not consistent with established public health evidence,” and that “judicial resources are more appropriately used in relation to offences that pose a risk to public safety,” Bill C-5 stops short of repealing section 4 of the *Controlled Drugs and Substances Act* (CDSA), the provision criminalizing drug possession for personal use.

After the *Cannabis Act* was passed in 2018, **between 2019 to 2021 police in Canada made almost 200,000 arrests for drug offences; close to half of those were for simple drug possession.**^x Not only does drug prohibition fuel stigma and discrimination against people who use drugs, criminal records limit employment and housing opportunities, affect child custody, and restrict travel. Research has also shown frequent contact police have with people who use drugs contributes to their “health risk environment through pathways, such as syringe and naloxone confiscation, and physical and verbal harassment” which can lead to syringe sharing, rushed injection, and isolation while using drugs.^{xi} Furthermore, studies have shown how police encounters act as barriers to accessing health services, including opioid agonist therapy, adherence to highly active antiretroviral therapy, and needle and syringe programs.^{xii} Drug prohibition therefore perpetuates widespread human rights violations and contributes to epidemics of preventable illness and death including HIV, hepatitis C, and other infections, as well as overdose, which has resulted in nearly 30,000 deaths between January 2016 and December 2021 across Canada.^{xiii}

In Canada, there is strong support to decriminalize drug possession from community organizations, harm reduction and human rights advocates, public health authorities, and law enforcement. In 2021, more than 100 civil society organizations across the country, including groups of people who use drugs, families affected by drug use, drug policy and human rights organizations, frontline service providers, and researchers [released a national drug decriminalization platform](#)^{xiv} for Canada that recommended not only the decriminalization of simple drug possession, but also of necessity trafficking, defined as the sharing or selling of drugs for subsistence, to support personal drug use costs, or to provide a safe supply^{xv} (i.e., safe alternative sources of drugs to the contaminated, unregulated drug supply). Public health authorities across the country have similarly endorsed the decriminalization of drugs for personal use.^{xvi} Moreover, [Health Canada’s Expert Task Force on Substance Use recommended](#) “Health Canada end criminal penalties related to simple possession.”^{xvii} Provincial^{xviii} and municipal^{xix} authorities are increasingly joining these calls and Vancouver, British Columbia, and Toronto have formally requested an exemption to decriminalize simple possession within their jurisdictions; the federal Minister of Mental Health and Addictions granted a three-year exemption to British Columbia beginning on January 31, 2023.^{xx}

Globally, numerous United Nations (UN) entities and human rights experts have expressed support for decriminalization, including the World Health Organization (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the UN Development Program (UNDP), the UN Special Rapporteur on the right to health,^{xxi} and the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment.^{xxii} In 2018, all 31 agencies of the UN system (including the UN Office on Drugs and Crime, the lead technical agency on drug policy issues) adopted a [common position](#) recommending to all governments that they decriminalize simple drug possession.^{xxiii} The [International Guidelines on Human Rights and Drug Policy](#), co-published by the International Centre on Human Rights and Drug Policy, UNDP, UNAIDS, and WHO, also call on States to “decriminalise the possession, purchase, or cultivation of controlled substances for personal consumption,”^{xxiv} as a means to meet their obligation to uphold the right to the highest attainable standard of health. Similarly, the Global Commission on Drug Policy, comprising former heads of state or government and other eminent political, economic, and cultural leaders, has highlighted the tremendous damage caused by the criminalization of people who use drugs and [called for the removal of all punitive responses to drug possession and use](#).^{xxv}

Considering ample evidence demonstrating the harms associated with criminalizing simple drug possession and consistent with the Declaration of Principles, Bill C-5 should include a full repeal of section 4 of the CDSA.

b. Amendments to the Declaration of Principles

Short of such repeal, we recommend amendments to section 10.1 regarding the “Declaration of Principles” that explicitly: acknowledges that most cases of substance use do not pose “problems” for the individual; centers human rights; references the harms of criminalizing “necessity trafficking” (defined as the sale or exchange of drugs for subsistence, to support personal drug use costs, or to provide a safe supply); and acknowledges the disproportionate impacts of criminal sanctions on drug possession on Black, Indigenous, and other racialized communities.

As detailed in the [national civil society platform on a rights-based path for drug policy](#),^{xxvi} decriminalizing the selling and sharing of a controlled substance for subsistence, to support personal drug use costs, and to provide a safe supply (“necessity trafficking”) is in line with a human rights and public health-based approach to drug policy. It is common for people to sell limited quantities of drugs to others in their network as a means of livelihood, to support their own independent use, or to provide a safe supply. A significant proportion of people who use drugs sell drugs to manage their own use and avoid withdrawal.^{xxvii} Research has also indicated that many people who sell drugs at the street-level take positive steps to protect their clients, such as using drug checking technologies and communicating clearly about the content of the drugs, to put those clients in a position to better manage the risks of their drug use.^{xxviii} It is a poor use of public resources to criminalize selling or sharing in these circumstances and this should be acknowledged in the Declaration of Principles. Instead, focus should be placed on improving accessibility of harm reduction, treatment services, education, access to a safe supply of substances, and other supports as well as any law enforcement efforts targeting more serious offences within and outside the drug trade.

At the same time, it is important to acknowledge the disproportionate impacts of drug prohibition on Black and Indigenous communities in the Declaration of Principles. Canada’s drug control framework is rooted in, and reinforces, racism and colonialism and Black and Indigenous communities in Canada continue to be disproportionately charged, prosecuted, and incarcerated for drug offences:

- In Toronto, [data collected from 2003 to 2013 by the Toronto Police Service](#) indicate Black people with no history of criminal convictions were three times more likely to be arrested for cannabis possession than white people with similar backgrounds.^{xxix}
- A [2019 study](#) of cases between 2007-2013 found that Black youth accused of cannabis possession in Ontario were more likely to be charged and less likely to be cautioned than white youth and youth from other racial backgrounds.^{xxx}
- A [2020 report](#) found that Black and Indigenous people are dramatically overrepresented in drug charges recommended by the Vancouver Police Department. While making up 1% of the city’s population, Black people have accounted for 6.4% of drug trafficking and possession charges in Vancouver since 2014; Indigenous people have accounted for almost 18% of drug trafficking and possession charges but are just 2.2% of the city’s population.^{xxxi}
- A [2020 study](#) found that Black and Indigenous people continue to be overrepresented in cannabis possession arrests across Canada.^{xxxii}
- A [2020 study](#) conducted by the Ontario Human Rights Commission found that Black people were more likely to be charged, over-charged, and arrested by the Toronto Police Service. Between 2013 and 2017,

Black people in Toronto were 4.3 times more likely to be charged with cannabis possession than their representation in the general population would predict.^{xxxiii}

- A [2022 report](#) analyzed non-cannabis simple drug possession arrest data from police services in select major cities in Canada. Data from 2015 to 2021 indicates that Black people were nearly three times more likely in Ottawa, nearly four times more likely in Toronto, and around 6.6 times more likely in Vancouver to be arrested for drug possession than their representation in the population would predict. Indigenous people were nearly six times more likely in Regina, five times more likely in Saskatoon, and nearly eight times more likely in Vancouver to be arrested for drug possession than their representation in the population would predict.^{xxxiv}

An explicit reference to the disproportionate impacts of drug prohibition on Black and Indigenous communities is critical, especially if Bill C-5 does not repeal the prohibition of simple drug possession and merely relies on law enforcement discretion – a discretion which has been exercised unevenly against racialized communities. As one scholar has noted, “[Racial profiling has...become a pervasive reality for Black Canadians](#)...Without reasonable cause, police stop Black people on the pretext of enforcing various laws, such as traffic violations, but are actually in search of illegal drugs.”^{xxxv} As the Report of the Commission on Systemic Racism in the Ontario Criminal Justice System concluded more than two decades ago, “persons described as black are most over-represented among prisoners charged with drug offences”^{xxxvi} – a reality that persists today.

The proposed amendments are marked in red, below:

Declaration of Principles

10.1 The following principles apply in this Part:

- (a) problematic substance use should be addressed primarily as a health and social issue, **and in most cases substance use is not problematic;**
- (b) interventions should be founded on evidence-based best practices and should aim to protect the ~~health, dignity and human rights~~ **human rights, dignity and health** of individuals who use drugs and to reduce harm to those individuals, their families and their communities;
- (c) criminal sanctions imposed in respect of the possession of drugs for personal use ~~can~~ increase the stigma associated with drug use and are not consistent with **human rights or** established public health evidence;
- (d) **criminal sanctions imposed in respect of the sale or exchange of drugs for subsistence, to support personal drug use costs, or to provide a safe supply are not consistent with human rights or established public health evidence;**
- (e) interventions should address the root causes of problematic substance use, including by encouraging measures such as **voluntary** education, treatment, aftercare, rehabilitation and social reintegration; ~~and~~
- (f) **Black, Indigenous, and other racialized communities have been disproportionately affected by the criminal sanctions imposed in respect of the possession of drugs; and**

(g) judicial resources are more appropriately used in relation to offences that pose a risk to public safety.

c. Nullification of principles

Section 10.2(1) of Bill C-5 requires a peace officer to “instead of laying an information against an individual alleged to have committed an offence under subsection 4(1), consider whether it would be preferable, having regard to the principles set out in section 10.1, to take no further action, to warn the individual or, with the consent of the individual, to refer the individual to a program or to an agency or other service provider in the community that may assist the individual.” Despite this requirement, section 10.2(2) of Bill C-5 indicates that subsequent charges are not invalidated if a peace officer fails to consider these options:

10.2(2) The failure of a peace officer to consider the options set out in subsection (1) does not invalidate any subsequent charges laid against the individual for the offence.

We recommend deleting this paragraph altogether, as it undermines or largely nullifies the purpose of the Bill.

Further, we propose adding a subsection in 10.2 that recommends the development by police services across Canada of clear rules and strict limitations relating to when police can stop, search, and investigate a person for simple drug possession. The Governor in Council could make regulations that specify, at minimum:

- (1) the development of national guidelines for police enumerating clearly defined grounds to stop and question a person for simple drug possession;
- (2) that such guidelines are to be developed within one year of the Act coming into force; and
- (3) that such guidelines be publicly accessible to ensure the greatest transparency and accountability.

d. Police record-keeping

Currently, section 10.4 of Bill C-5, regarding a “record of warning or referral” provides:

10.4 (1) The police force to which a peace officer referred to in section 10.2 belongs shall keep a record of any warning given or referral made under subsection 10.2(1), including the identity of the individual warned or referred.

(2) Any information contained in the record kept pursuant to subsection (1) may be made available to:

(a) any judge or court for any purpose relating to proceedings with respect to the offence to which the record relates;

(b) any peace officer for any purpose related to the administration of the case to which the record relates; or

(c) any member of a department or agency of a government in Canada, or any agent of that department or agency, that is

(i) engaged in the administration of alternative measures, within the meaning of section 716 of the Criminal Code, in respect of that person, or

(ii) preparing a report for the purpose of informing proceedings with respect to the offence to which the record relates.

(3) Information contained in the record, other than the identity of the person, may be made available to any member of a department or agency of a government in Canada, or any agent of the department or agency, that is engaged in assessing and monitoring the use of alternative measures and assessing their effectiveness, including for research or statistical purposes.

As the 2017 report of Ontario's *Independent Police Oversight Review* affirmed, demographic data collection "supports evidence-based public policy and decision-making, promotes accountability and transparency, and, if used properly, may build public confidence in policing and police oversight."^{xxxvii} The report recommended collecting demographic data including gender, age, race, religion, ethnicity, mental health status, disability, and Indigenous status. While we appreciate amendments before the House of Commons Standing Committee on Justice and Human Rights were adopted to facilitate *demographic record-keeping* related to the impacts of the Bill, particularly on racialized people, and section 10.5 further confirms that "Evidence that an individual has received a warning or referral mentioned in subsection 10.2(1), evidence that a peace officer has taken no further action in respect of an offence under subsection 4(1) and evidence of the offence are inadmissible for the purpose of proving prior offending behaviour in any proceedings before a court in respect of the individual," it is unclear:

- why the *specific identity* of an individual is necessary for demographic record-keeping purposes; or
- *under what circumstances* this information is relevant to a judge, peace officer, or any other government body, given that the individual will not have been charged with an offence.

According to the *Independent Police Oversight Review*, any data collection "should be minimally intrusive to protect the privacy and dignity of the individual."^{xxxviii} Requiring police officers to record the *individual identity* of an individual warned or referred is unnecessary, and contrary to the spirit of Bill C-5 and the Declaration of Principles, particularly the principle that interventions should aim to "protect the health, dignity and human rights of individuals who use drugs."

Police record-keeping would negatively affect the privacy of people who use drugs and undermine the potential to improve the quality of their encounters with police.

Research with people who use drugs has shown that in jurisdictions that have partially "decriminalized" simple drug possession (e.g., by retaining administrative sanctions), a hidden implication is that it can lead to an increase in the frequency of interactions between people who use drugs and police. Practices such as police monitoring and surveillance led respondents to sense a loss of privacy and increased feelings of monitoring and surveillance.^{xxxix} This was particularly true among the most marginalized people who use drugs. It is imperative that police not engage in monitoring, surveillance, and record-keeping under the guise of reform, public safety, or for demographic purposes. The process of demographic record-keeping requires reflection and the expertise of people who use drugs. As the *Independent Police Oversight Review* recommended, an advisory committee would be best suited to develop best practices on the collection, management, and analysis of relevant demographic data, and we recommend a similar approach.

Therefore, we suggest replacing the current version of the text with the proposed amendments marked in red:

10.4 (1) The police force to which a peace officer referred to in section 10.2 belongs **shall only keep a record of demographic information of** any warning given or referral made under subsection 10.2(1)~~including the identity of the individual warned or referred.~~

10.4 (2) Prior to section 10.4(1) coming into force, an advisory committee that includes people who use drugs will be established to develop best practices on the collection, management, and analysis of relevant demographic data, and the recommendations of this committee will inform the manner in which demographic information is recorded under this Act.

If for some reason this is not practicable or enforceable, we suggest replacing this paragraph with the corresponding paragraph from [Bill C-236](#), a private member's bill also proposing "evidence-based diversion measures" introduced in 2020:^{xl}

10.4 The police force may only keep a record of warnings or referrals of persons charged with subsection 4(1) offences *as necessary to protect public safety*.

e. Conservation of record

As described above, we recommend a full repeal of section 4 of the CDSA. If Bill C-5 does not include this repeal, we support the amendments adopted by the House of Commons Standing Committee on Justice and Human Rights to (1) keep all convictions for simple drug possession separate and apart from other records of conviction within two years after the date on which section 10.6(1) comes into force, following which (2) those records are automatically sequestered.

However, section 10.6(2) indicates that "A conviction that occurs after this section comes into force in respect of an offence under subsection 4(1) is kept separate and apart from other records of convictions two years after the conviction or two years after the expiry of any sentence imposed for the offence, whichever is later, and the person convicted of the offence is deemed never to have been convicted of that offence." Once the sequestering system is implemented, there is no public safety reason for a two-year delay in sequestration. Moreover, the record of conviction would remain available to police and other justice system actors for specific purposes. Therefore, we recommend the following amendment:

10. 6(2) A conviction that occurs after this section comes into force in respect of an offence under subsection 4(1) is **immediately** kept separate and apart from other records of convictions ~~two years after the conviction or two years after the expiry of any sentence imposed for the offence, whichever is later,~~ and the person convicted of the offence is deemed never to have been convicted of that offence

Given the stigma and numerous other harms related to a criminal record, even in the context of sequestration (such as ongoing access to this information by law enforcement in Canada and the U.S.), we also urge the Governor in Council to adopt as soon as practicable, and within one year of the sequestration system being implemented, regulations to remove and destroy those records after sequestration, so they are no longer accessible to law enforcement and other authorities.

f. Exception for service providers

We are supportive of the amendments adopted by the House of Commons Standing Committee on Justice and Human Rights to exclude all service providers from the offence of simple drug possession in the course of their duties. This would facilitate their vital assistance to people who use drugs, including in contexts where they need assistance with injection.

IV. Recommended Actions

We urge the Standing Senate Committee on Legal and Constitutional Affairs to recommend the following:

- Repeal all mandatory minimum sentences and restore conditional sentences, including via the proposed amendments in Bill C-5, which removes mandatory minimum sentences in the CDSA, amends (and substantially limits the scope of) s. 742.1(c) of the *Criminal Code*, and repeals ss. 742.1(e) and (f) of the *Criminal Code*; and
- Include a full repeal of section 4 of the CDSA in Bill C-5.

Short of a full repeal of section 4 of the CDSA, we urge the Standing Senate Committee on Legal and Constitutional Affairs to recommend:

- Amending section 10.1 regarding the “Declaration of Principles” so that it:
 - acknowledges that most cases of substance use do not pose “problems” for the individual;
 - centers human rights;
 - references the harms of criminalizing “necessity trafficking” (defined as the sale or exchange of drugs for subsistence, to support personal drug use costs, or to provide a safe supply); and
 - acknowledges the disproportionate impacts of criminal sanctions on drug possession on Black, Indigenous, and other racialized communities.
- Deleting section 10.2(2) of Bill C-5 which indicates that subsequent charges are not invalidated if a peace officer fails to consider the options set out in subsection (1).
- Adding a subsection in 10.2 that recommends the development by police services across Canada of clear rules and strict limitations relating to when police can stop, search, and investigate a person for simple drug possession.
- Amending section 10.4 of Bill C-5 regarding a “record of warning or referral” so that a peace officer shall only keep a record of *demographic information* of any warning given or referral made under subsection 10.2(1), and that this information will be determined by an advisory committee that includes people who use drugs, that is established to develop best practices on the collection, management, and analysis of relevant demographic data.
- Amending section 10.6(2) so that, once the sequestering system is implemented, a conviction for simple drug possession is *immediately* kept separate and apart from other records of convictions, and that the Governor in Council adopts as soon as practicable, and within one year of the sequestration system being implemented, regulations to remove and destroy those records after sequestration, so they are no longer accessible to law enforcement and other authorities.

ⁱ T. Gabor & N. Crutcher, “Mandatory Minimum Penalties: Their Effects on Crime, Sentencing Disparities and Justice System Expenditures” (Department of Justice Canada, 2002).

ⁱⁱ *R. v. Lloyd* [2016] 1 SCR 130

ⁱⁱⁱ Department of Justice Research and Statistics Division, *Just Facts: The Impact of Mandatory Minimum Penalties on Indigenous, Black and Other Visible Minorities*, September 2017.

^{iv} *Ibid.*

- ^v Office of the Correctional Investigator, *Annual report of the Office of the Correctional Investigator, 2016-2017*, 2017.
- ^{vi} Office of the Correctional Investigator, *Annual report of the Office of the Correctional Investigator, 2012-2013*, 2013.
- ^{vii} *R. v. Sharma*, 2020 ONCA 478 at paras. 130 and 132.
- ^{viii} Truth and Reconciliation Commission of Canada: *Calls to Action, Truth and Reconciliation Commission of Canada*, 2015.
- ^{ix} UN Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined eighth and ninth periodic reports of Canada*, CEDAW/C/CAN/CO/8-9, November 18, 2016 at paras. 44-45.
- ^x Statistics Canada, *Police-reported crime statistics in Canada: Police-reported crime for selected offences, Canada, 2014 and 2015*, July 20, 2016; Statistics Canada, *Police-reported crime statistics, 2016*, July 24, 2017; Statistics Canada, *Unfounded criminal incidents in Canada, 2017: Police-reported crime for selected offences, Canada, 2017*, July 23, 2018; Statistics Canada, *Police-reported crime statistics, 2018*, July 22, 2019; and Statistics Canada, *Police-reported crime statistics in Canada, 2019*, October 29, 2020; and Statistics Canada, *Police-reported crime statistics in Canada, 2021*, August 3, 2022.
- ^{xi} See, for example, L. Ti et al., "Police confrontations among street-involved youth in a Canadian setting," *Int J Drug Policy* 2013; 24(1): 46–51; W. Small et al., "Public injection settings in Vancouver: physical environment, social context and risk," *Int J Drug Policy*. 2007; 18(1): 27–36; B. del Pozo et al., "Police discretion in encounters with people who use drugs: operationalizing the theory of planned behavior," *Harm Reduction Journal* 18: 132 (2021); J. Friedman et al. (2021) "Intersectional structural vulnerability to abusive policing among people who inject drugs: A mixed methods assessment in California's central valley," *International Journal of Drug Policy*, 87; and P. Baker et al., "Policing practices and risk of HIV infection among people who inject drugs," *Epidemiol Rev.* 2020; 42(1): 27–40..
- ^{xii} G. Bardwell et al., "Implementation contexts and the impact of policing on access to supervised consumption services in Toronto, Canada: a qualitative comparative analysis," *Harm Reduction Journal* 16: 30 (2019).
- ^{xiii} Government of Canada, *Opioid- and Stimulant-related Harms in Canada*, June 2022.
- ^{xiv} HIV Legal Network, *Leading human rights and public health organizations release national drug decriminalization platform for Canada*, 2021. Online: <https://www.hivlegalnetwork.ca/site/media-release-leading-human-rights-and-public-health-organizations-release-national-drug-decriminalization-platform-for-canada/?lang=en>.
- ^{xv} Canadian Association of People who Use Drugs, *Safe Supply Concept Document*, 2019. Online: <https://vancouver.ca/files/cov/capud-safe-supply-concept-document.pdf>
- ^{xvi} See, for example, J. Ling, "Seven Chief Public Health Officers Call for Drug Decriminalization, But Justin Trudeau Isn't Budging," *Vice News*, September 2, 2020.
- ^{xvii} Government of Canada, *Report 1: Recommendations on alternatives to criminal penalties for simple possession of controlled substances*, 2021.
- ^{xviii} BC Ministry of Mental Health and Addictions, *B.C. applies for decriminalization in next step to reduce toxic drug deaths*, 2021. <https://news.gov.bc.ca/releases/2021MMHA0059-002084>
- ^{xix} City of Vancouver, *Request for an exemption from the Controlled Drugs and Substances Act (CDSA) pursuant to section 56(1) that would decriminalize personal possession of illicit substances within the City of Vancouver Final Submission to Health Canada*, 2021. <https://vancouver.ca/files/cov/request-for-exemption-from-controlled-drugs-and-substances-act.pdf>; Toronto Public Health, *Submission to Health Canada: Request for exemption to the Controlled Drugs and Substances Act to allow for the possession of drugs for personal use in Toronto*, 2022. <https://www.toronto.ca/wp-content/uploads/2022/01/943b-TPH-Exemption-Request-Jan-4-2022-FNLAODA.pdf>
- ^{xx} Health Canada, *B.C. receives exemption to decriminalize possession of some illegal drugs for personal use*, June 1, 2022. <https://www.canada.ca/en/health-canada/news/2022/05/bc-receives-exemption-to-decriminalize-possession-of-some-illegal-drugs-for-personal-use.html>.
- ^{xxi} See, for example, A. Grover, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, UN General Assembly, 65th Session, UN Doc A/65/255, August 6, 2010 and A. Grover, *Submission to the Committee against Torture regarding drug control laws*, October 19, 2012.
- ^{xxii} Juan E. Méndez, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN General Assembly, 22nd Session, UN Doc A/HRC/22/53, February 1, 2013.
- ^{xxiii} UN Chief Executives Board, *Summary of Deliberations: Segment 2: common United Nations system position on drug policy*, UN System, 2nd regular session of 2018, UN Doc CEB/2018/2, January 18, 2019; United Nations Chief Executives Board, *United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration*, UNCEB, 2nd Session, Annex 1, UN Doc. CEB/2018/2, January 18, 2019.
- ^{xxiv} International Centre on Human Rights and Drug Policy, UNAIDS, UNDP and WHO, *International Guidelines on Human Rights and Drug Policy*, March 2019.
- ^{xxv} Global Commission on Drug Policy, *Advancing Drug Policy Reform: A New Approach to Decriminalization*, 2016.
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