

1. Is it against the law to use or have drugs on me for my own personal use?

In Canada, it is a crime to possess "controlled substances" like opioids, cocaine, methamphetamines, and ecstasy, even for your own personal use ("simple possession") unless they have been prescribed to you. The federal law that regulates these drugs is called the *Controlled Drugs and Substances Act* (CDSA), and simple possession is prohibited under section 4.

2. What if I have a prescription?

It is legal to possess a drug that is prescribed to you, provided that the prescription is in your name. For some drugs, the prescription also has to authorize you to carry them outside your home. It is a good idea to keep your paper prescription with you if you intend to carry your dose(s). It is illegal to possess another person's prescription drug, even if they share it with you. It is illegal to share your prescription drug with another person.

3. Does the amount of drug I possess make a difference?

It is a serious criminal offence to possess drugs for the purpose of giving them to someone else, whether you sell them or share them freely (i.e. "drug trafficking"). In Canadian law, there is no specific "threshold quantity" that distinguishes between possession for personal use and possession for "trafficking." However, police and courts will consider the quantity when deciding if someone possessed drugs for personal use or for trafficking (e.g. the larger the quantity, the more likely they consider the possession for trafficking). They also consider factors such as the amount of cash on the person, and the presence of items such as scales and baggies.

There is also a separate law for cannabis called the *Cannabis Act*. While recreational cannabis use was legalized in 2018, there are still restrictions on possessing the drug. People aged 18 and over are only permitted to possess cannabis that they have obtained from government-authorized sellers or to grow up to four cannabis plants per household, and only up to 30 grams of dried cannabis in a public space. Some provinces have also established rules about the maximum quantity of cannabis you can possess at home.

Each province has also established minimum ages for recreational cannabis possession.

SENTENCING AND IMPACT OF RACE AND CULTURE ASSESSMENTS

Anti-Black racism is well documented in the criminal legal system in Canada and often results in harsher sentences (penalties) for Black people. Impact of Race and Culture Assessments (IRCAs) are reports that are provided by your lawyer and used by judges when they make sentencing decisions after a Black or racialized person is convicted of a crime. IRCAs are designed to help judges understand how factors such as racism and poverty contributed to a Black or racialized person being convicted of a crime and may recommend something other than time in jail, or culturally appropriate measures within a jail sentence.

If you are accused of a crime and identify as Black, you should talk to a lawyer as soon as possible about an IRCA report and work with them to get a strong IRCA report.

KNOW YOUR RIGHTS

on drug laws for African, Caribbean, and Black (ACB) people who use drugs

For information about your rights when police stop you for a drug-related offence, see our website at:
www.hivlegalnetwork.ca/ACB-KYR



WE ACKNOWLEDGE THE FINANCIAL SUPPORT OF:



Department of Justice
Canada

Ministère de la Justice
Canada

THIS PAMPHLET IS CURRENT TO AUGUST 2024,
BUT THE LAW MAY CHANGE.





Ocean Meets Sky by Jeff Duke

ACROSS CANADA, AFRICAN, CARIBBEAN, AND BLACK (ACB) PEOPLE FACE STATE-SANCTIONED VIOLENCE THAT IS DEEPLY ROOTED IN THE LEGACY OF SLAVERY AND THE ENDURING PRESENCE OF ANTI-BLACK RACISM, WHICH MANIFESTS IN CANADA'S DRUG LAWS.

This pamphlet answers questions about Canada's drug laws to provide better knowledge of drug offences and the powers of police, prosecutors, and courts.

It provides legal information, not legal advice. Legal information can help you understand the law, but it is general. Legal advice is specifically about your situation. If you want or need legal advice, you should talk to a lawyer. (See www.hivlegalnetwork.ca/BlackCommunities for information about how to find a lawyer.)

People can face criminal prosecution for possessing any cannabis obtained *illegally* (i.e. not through a government-authorized source).

Breaking any of these laws could lead to imprisonment of up to five years for those aged 18 and over and a youth sentence for those under 18. Individual provinces may have additional laws that govern where consumption can and cannot occur.

OTHER EXCEPTIONS TO CHARGES OF SIMPLE DRUG POSSESSION UNDER THE CDSA:

If you are at the scene of an overdose:

- The *Good Samaritan Drug Overdose Act* can prevent police from charging you and others at the scene of an overdose, if you have sought medical help for yourself or for someone else who has overdosed. In this case, police cannot charge you for simple possession, or for violating any condition of your parole, bail, probation, or conditional sentence ("house arrest") related to a previous simple possession charge.
- The *Good Samaritan Drug Overdose Act* does not prevent police from charging you and others for other offences outside of simple possession; outstanding arrest warrants; or violating any condition of your parole, bail, probation, or conditional sentence relating to an offence that is not simple possession.

**If you live in B.C., different rules apply.
See website for more information.**

4. Can I be arrested for using the services of a needle and syringe program, a supervised consumption site, or overdose prevention service?

You cannot be arrested for merely being present at a needle and syringe program, a supervised consumption site, or overdose prevention service.

While it is against the law to possess certain drugs in Canada (with the exceptions noted in Q1 above), the government can exempt clients and operators of a supervised consumption site or overdose prevention service from criminal prosecution for the possession of illegal drugs while they are on the premises. In practice, this means that you can possess and use drugs without the threat of criminal prosecution,

if you do it inside the exempted site or service. You are not exempt while in transit to the site.

Other harm reduction settings, like a needle and syringe program, are not exempt from Canada's drug laws, so you may still risk criminal charges if you use drugs inside those locations (with the exceptions noted in Q1 above).

5. Can I be charged for possessing drug use equipment?

Outside a harm reduction setting, you cannot be criminally charged for simply *having* drug use equipment. We are not aware of anyone ever being charged for merely possessing unused drug use equipment.

However, it is important to note that some cities have specific laws that prohibit the use or "display" of drug use equipment or "drug paraphernalia" in public spaces.

6. What about having *used* drug equipment?

Possessing equipment that has been used and contains traces of illegal drugs is technically against the law, just like possessing the drugs themselves is illegal.

Police have confiscated or destroyed drug use equipment they have found on people and threatened to arrest people because of drug residue in their equipment or otherwise used the possession of used equipment as the basis to search and lay other charges. While such incidents may be less common, it is important to know you *may* be at risk of prosecution for the crime of possessing illegal drugs (or other offences, depending on the results of a search) just by possessing the equipment after it has been used.

