Attachment A

# Findings and recommendations report

## **Decriminalization for Simple Possession of Illicit Drugs:** Exploring Impacts on Public Safety & Policing

Special Purpose Committee on the Decriminalization of Illicit Drugs
July 2020

## We the Canadian Association of Chiefs of Police (CACP):

- recognize substance use disorder as a public health issue.
- have a leadership role in protecting community safety, which contributes to the prosperity and wellness of our communities. As key stakeholders in our communities, the CACP and its members across Canada are well positioned to influence the evolution of public policy.
- agree that evidence suggests, and numerous Canadian health leaders support, decriminalization for simple possession as an effective way to reduce the public health and public safety harms associated with substance use.
- agree that evidence from around the world suggests our current criminal justice system approach to substance use could be enhanced using health care diversion approaches proven to be effective.
- endorse alternatives to criminal sanctions for simple possession of illicit drugs, requiring integrated partnerships and access to diversion measures.
- agree that increased community capacity and resources are necessary to support the availability and integration of health, social programs and enforcement required for effective diversion.
- agree that police services remain committed to combatting organized crime and disrupting the supply of harmful substances coming into our communities by targeting drug trafficking and illegal production and importation.
- agree that diversion provides new opportunities to make positive impacts in communities. These impacts may include reducing recidivism, reducing ancillary crimes and improving health and safety outcomes for individuals who use drugs.

This paper highlights the research conducted by the CACP's Special Purpose Committee on the Decriminalization of Illicit Drugs, which was supported by the 2019 Global Studies Program. The content of this report was endorsed by the CACP Board of Directors in August 2019 and subsequently reviewed and approved by provincial associations of chiefs of police during a consultation process undertaken between September 2019 and March 2020.

The complexities and elements understood within the dialogue surrounding the decriminalization for simple possession of illicit drugs are explored. The purpose of the research was to create a shared understanding of common elements within the decriminalization dialogue, identify common elements being introduced within Canada and their intended and unintended impacts on public safety and policing.

The following elements were analyzed to identify both risks and benefits to individuals with problematic substance use, traffickers, organized crime groups, police services (e.g. investigations, discretion and required partnerships) and public safety:

- Supervised Consumption Sites
- Decriminalization of Simple Possession of Illicit Drugs
- Safe Supply
- Diversion Programs

Lastly, a summary of a legal review which was conducted, along with a summary of the Global Studies Program, is included.

## Executive Summary

The compelling case for transformative change in Canada has been made by public health officials regarding how we respond to people experiencing a substance use disorder. The current Canadian context is marked by the opioid crisis, with deaths due to opioid overdose reaching unprecedented levels. Between January 2016 and December 2019, more than 15,000 Canadians died as a result of an opioid-related overdose. In 2019, between January and December, 3,823 deaths occurred, of which 94% were accidental (unintentional).[1]

Currently, people who experience substance use disorder face repercussions including criminal records, stigma, risk of overdose and the transmission of blood-borne diseases. The aim is to decrease these harms by removing mandatory criminal sanctions, often replacing them with responses that promote access to harm reduction and treatment services.

[1] Special Advisory Committee on the Epidemic of Opioid Overdoses. Opioid-related Harms in Canada. Ottawa: Public Health Agency of Canada; June 2020. https://health-infobase.canada.ca/substance-related-harms/opioids

As the opioid crisis continues across Canada, it is anticipated more Chiefs of Police will be asked for comment on the crisis and their position regarding decriminalization of illicit drugs. This topic has the potential to be a polarizing issue between enforcement and health sectors. Decriminalization is also expanding as a potential solution to the use of other drugs within the Canadian illicit drug market including methamphetamine. In June 2019, the House of Commons Standing Committee examining the impact of methamphetamine within Canadian communities recommended the Government of Canada work with all levels of government and law enforcement agencies to decriminalize the simple possession of small quantities of illicit substances.[2]

An understanding of decriminalization starts by recognizing that it is not a single approach, but a spectrum of principles, policies and practices that can be implemented in various ways.[3] The dialogue focused on decriminalization encompasses a range of policies and practices that can be tailored and combined to respond to particular contexts and to address specific objectives. Some of these practices already exist within Canada, including Supervised Consumption Sites, the *Good Samaritan Drug Overdose Act* and localized diversion programs.

The CACP has endorsed the four-pillar approach to the opioid crisis, which includes treatment, harm reduction, enforcement and prevention. The CACP continues to support new harm reduction strategies such as the *Good Samaritan and Drug Overdose Act*.

While research on decriminalization exists elsewhere, it has primarily been conducted through a public health lens rather than public safety. The potential impacts of decriminalizing all drugs on policing in Canada is unknown. There are no precedents to provide an appropriate frame of reference that would allow relevant inferences to be drawn based on outcomes elsewhere. However, international experiences provide valuable knowledge to be learned from.

## Key Concepts

The regulation of controlled substances can take formal or informal approaches. It occurs across a continuum of categories from criminalization to decriminalization to legalization.

### Approaches

- De facto approaches are implemented according to non-legislative or informal guidelines.
- De jure approaches are reflected in formal policy and legislation.

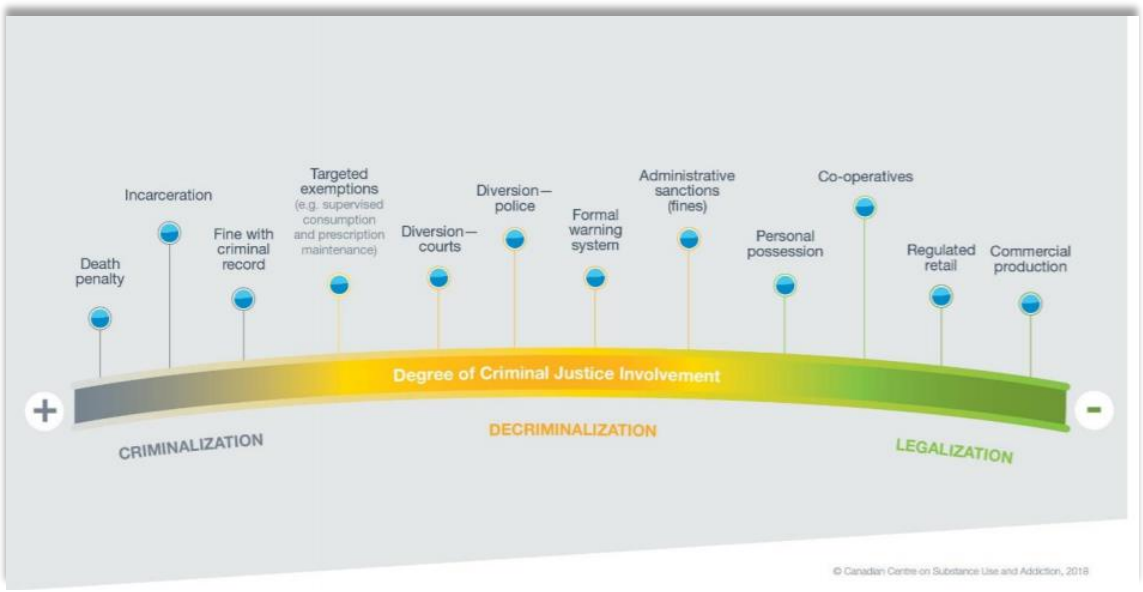
[2] House of Commons, Impacts of Methamphetamine Abuse in Canada (June 2019)
https://www.ourcommons.ca/DocumentViewer/en/42-1/HESA/report-26/

[3] Canadian Centre on Substance Use & Addiction, Decriminalization: Options and Evidence [Policy Brief]
https://www.ccsa.ca/decriminalization-options-and-evidence-policy-brief

## Categories

- Criminalization: Production, distribution and possession of a controlled substance are subject to criminal sanctions, with conviction resulting in a criminal record.
- Decriminalization: Non-criminal responses, such as fines and warnings, are available for designated activities, such as possession of small quantities of a controlled substance.
- Legalization: Criminal sanctions are removed. Regulatory controls can still apply, as with alcohol and tobacco.

**The Regulatory Continuum**




De jure criminalization remains the most common approach to regulating controlled substances. However, implementation of both de facto and de jure decriminalization is increasing.

It is important to note, decriminalization is not the same as legalization. In a decriminalized regime, drug possession remains illegal, but the nature of the penalty for possessing a small or predetermined amount of drugs (for personal consumption) is either reduced/changed from a criminal conviction to a fine or other type of sanction. In all countries where one or more drugs have been decriminalized or legalized, production is either controlled or is illegal, and trafficking remains a criminal offence.[4]

From preliminary discussions with Canadian police services, members of the Canadian Association Chiefs of Police Drug Advisory Committee, found there is very little consistency in the de facto practices related to decriminalization of possession. Some state they have not laid possession only charges for a number of years, while others continue to do so. Characteristics of the communities they police and the status of the opioid crisis often determine common practices. This is coupled with inconsistent, and often lacking, alternative support programs, such as treatment and diversion programs and partnerships.

[4] OPP Briefing Note: Perspectives on Decriminalization, pg. 7

The overdose crisis is complex and neither medicalizing nor criminalizing drug use will be enough to resolve the present crisis, though appropriate enforcement and evidence-based treatment services are necessary components of the solution. The following elements of decriminalization, do not exist in isolation of each other, rather are complementary and offer a range of opportunities and risks.

## 1. Supervised Consumption Sites

Supervised Consumption Sites (SCS) is a commonly used harm reduction approach used in Canada. CSC's provide locations where people can use drugs in a clean environment under the supervision of health professionals trained to provide emergency intervention. Attendees at legally sanctioned sites are not prosecuted for possessing or using a controlled substance within, and often in the immediate vicinity, of the facility. This exemption can be either de facto, de jure or a combination of the two.

For example, the exemption under Section 56 of the *Controlled Drugs and Substances Act* is a de jure policy used to exempt SCS staff who may have small amounts of controlled substances under their control as part of operations. De facto practice applies through agreements with local police not to arrest those attending the site, unless there are aggravating circumstances such as violent behaviour.[5]

There are 49 supervised consumption sites operating across Canada (up from 29 in March 2019). Multiple sites exist in Alberta (Calgary, Edmonton, Grand Prairie, Lethbridge); British Columbia (Kamloops, Kelowna, Surrey, Vancouver, Victoria); Ontario (Guelph, Hamilton, Kingston, Kitchener, London, Ottawa, St. Catharines, Thunder Bay, Toronto); Saskatchewan (Saskatoon) and Quebec (Montreal). Another 14 location applications are under review by Health Canada.[6]

There is a large body of evidence illustrating the efficacy of SCS in achieving a number of health and social objectives, especially when clients are offered access to integrated health and social services, including primary care, treatment and housing.[7] Results associated with SCS may include:

- Decreased fatal overdoses;
- Increased contact with health and social services, including substance use treatment services, among marginalized clientele;
- Decreased drug-related litter;
- Decreased high-risk injection practice (e.g. re-using or sharing injection equipment); and
- Decreased injections in public.[8]

[5] Canadian Centre on Substance Use and Addiction, Decriminalization: Options and Evidence (June 2018) http://www.ccsa.ca/Resource%20Library/CCSA-Decriminalization-Controlled-Substances-Policy-Brief-2018-en.pdf

[6] Health Canada. https://www.canada.ca/en/health-canada/services/substance-use/supervised-consumption-sites/status-application.html (June 18, 2020)

[7] Gaddis, A., Kennedy, M. C., Nosova, E., Milloy, M. J., Hayashi, K., Wood, E., & Kerr, T. (2017). Use of on-site detoxification services co-located with a supervised injection facility. *Journal of Substance Abuse Treatment*, *82*, 1–6.

[8] The European Monitoring Centre for Drugs and Drug Addiction published Drug Consumption Rooms: An Overview of Provision and Evidence in 2017.

There is a risk of neighbourhood degradation in areas containing, or close to, SCS. This, in turn, could cause social challenges that could have an impact on policing in the area. Although some research indicates that studies have not found any association of SCS with increased criminal activity or with increased initiation or frequency of drug use[9], recent reporting regarding downtown Toronto suggests that in the area around Dundas, Jarvis and Sherbourne Streets, which houses the former Moss Park SIS and which is close to other SIS facilities, has seen an increase in the number of people using drugs or traffickers frequenting the area, and erratic or threatening public behavior by some of these individuals or clients of the SCS. It has also reportedly seen an increase in publicly discarded drug-related paraphernalia and litter, as well as decreased clientele for local businesses. Neighbourhood residents are cited as feeling fearful and expressing criticism towards the police for failing to act to prevent the social disorder and neighbourhood degradation perceived by local residents and business people as stemming from the presence of the SCS.[10]

SCS, as one element under a decriminalization, could see police facing increased criticism and an erosion of public confidence. Police may also face increased animosity, or decreased tolerance, at the scene of drug-related incidents, raising the possibility of a risk to officer safety. The degree and scope of any potential negativity largely depends on the degree of tolerance in a given population for drug use, and the degree to which decriminalization is accepted or rejected, and the local impact of drug use in terms of overdoses and overdose deaths. This could be quite different from community to community, or, in a large urban setting, from neighbourhood to neighbourhood. These factors will also influence any potential changes in the number of calls for police services in a given location.[11]

***Health Canada** is the lead of the approval and monitoring of supervised injection/consumption sites. We recognize harm reduction strategies can potentially save lives until individuals are able to access treatment. It is important for policing organizations to be engaged in discussions with health services on the successful integration of future supervised consumption sites within our communities.*

## 2. Decriminalization for Simple Possession of Illicit Drugs

Simple possession of illicit drugs for personal use is subject to police discretion; for example, the Vancouver Police Department policy on drugs prioritizes the context of drug use rather than the possession of drugs, and supports charges only if the behaviour and circumstances of the person using drugs is harmful to that person, to others, or to property.[12] While law enforcement across Canada exercise their discretion when considering possession charges, such as the presence of harmful behaviour or the availability of treatment services, the application of the law is inconsistent across communities.

[9] Canadian Centre on Substance Use and Addiction, Decriminalization: Options and Evidence (June 2018) http://www.ccsa.ca/Resource%20Library/CCSA-Decriminalization-Controlled-Substances-Policy-Brief-2018-en.pdf
[10] Sue-Ann Levy, *Lawlessness follows druggies into downtown neighbourhoods*, Toronto Sun, (2018). https://torontosun.com/news/local-news/levy-crime-and-lawlessness-follow-druggies-into-downtownneighbourhoods> [Accessed 1 August, 2018].
[11] Ontario Provincial Police. Decriminalization and the Potential Impact on Policing in Canada (October 2018), p. 18.
[12] Tristin Hopper, What Would It Look Like If Canada Decriminalized All the Drugs?, (2018). https://nationalpost.com/news/canada/what-would-it-look-like-if-canada-decriminalized-all-the-drugs

Under a decriminalization regime, criminal penalties are still applicable to illegal drug manufacturers, dealers, and traffickers. Decriminalization does not lead to the dismantlement of drug enforcement efforts. The illicit drug market would continue to exist. Police will still be required to enforce drug legislation by disrupting the illicit supply.

## Budget

For example, police in countries that have decriminalized drugs must still enforce existing drug legislation, playing a key role in diverting people with substance use disorder to treatment and other social support services. While much of this would likely fall to frontline officers, drug enforcement units would continue to conduct major investigations against drug traffickers and drug trafficking organizations. Such investigations are usually complex and lengthy, requiring personnel and financial resources. In a decriminalized regime, trafficking investigations may become more challenging, as traffickers will likely carry smaller amounts of drugs, complicating the efforts of police to distinguish them from the individuals using the drugs.

A decriminalization or diversion model will not provide any opportunity for police agencies to reduce their operating budgets or staffing. Some have suggested that decriminalization would free up police officer time and budgets could be reallocated to other priorities; however, police agencies must continue to resource drug enforcement units dedicated to disrupting the illicit drug markets. Enforcement efforts must to be directed on those individuals and organized crime groups that produce, import or distribute illicit drugs into our communities. Furthermore, frontline officers would continue to be the first point of contact for any diversion model. Therefore, time previously used to process criminal charges and attending court will now be utilized to assist persons with problems substance use into pathways of care.

The legal framework for illegal substance use falls under the federal *Controlled Drugs and Substances Act (CDSA)*. The British Columbia's Public Health Officer released a paper in April 2019 detailing how the province could decriminalize possession. The first option is to use provincial legislation (specifically, the *Police Act*) that allows the Minister of Public Safety and Solicitor General to set broad provincial priorities with respect to people who use drugs. This could include declaring a public health and harm reduction approach as a provincial priority to guide law enforcement in decriminalizing and destigmatizing people who use drugs. This type of approach would provide pathways for police to link people to health and social services and would support the use of administrative penalties rather than criminal charges for simple possession. The second option is to develop a new regulation under the *Police Act* to include a provision that prevents any member of a police force in BC from expending resources on the enforcement of simple possession offences under Section 4(1) of the CDSA.

- CACP recognizes substance use as a public health issue.
- Evidence suggests, and numerous Canadian health leaders support, decriminalization for simple possession as an effective way to reduce the public health and public safety harms associated with substance use.
- Evidence from around the world suggests our current criminal justice system approach to substance use could be enhanced using health care diversion approaches proven to be effective.

Some evidence has shown that this drug policy model, coupled with other interventions (e.g. harm reduction, prevention, enforcement, and treatment strategies) has led to an increase in treatment uptake, a reduction in drug-related deaths, and importantly, no increase in drug use rates. Even if the decision is made to decriminalize simple possession, the following challenges exist: (a) the threshold amount of substance that can be possessed for personal use; (b) assessment of appropriate penalties; and (c) how to offer and link people to treatment and other societal supports.

## 3. Safe Supply

Illegal street drugs have always been subject to additives and contaminants due to their unregulated nature. However, with the introduction of fentanyl now being detected in more and more drugs, it is making traditional street supply deadly from the risk of a potential overdose.

Substance use occurs on a spectrum, from beneficial (e.g. social activity, cultural practices) to non-problematic (e.g. recreational or occasional use), to problematic (where negative impacts begin to occur because of use), to chronic dependence and addiction (where use is compulsive and continues to occur despite considerable negative impacts). However, due to the toxicity of the illegal drug supply, there is considerable risk of overdose and overdose death related to illegal drug use in any capacity, including use that is otherwise beneficial or non-problematic.

To reduce harms and deaths, a number of key stakeholders have been calling for safe supply - a secure, and predictable supply of pharmaceutical-grade opioids for people who use drugs. At the Opioid Symposium in Toronto (Sept 5/6, 2018), the Federal Government made a commitment to explore options for safer alternatives to the contaminated drug supply. With opioid deaths taking place due to the contamination and unknown potency of street drugs, participants advocated for the need to consider options for safe supply. The key calls to action were:

- Support the implementation of low-barrier, easily accessible harm reduction services wherever they are needed
- To achieve harm reduction objectives, safe supply needs be low barrier, flexible, and easily accessible (e.g. delivered via SCS, mobile clinics, community health centres, etc.).
- provide access to a safe supply of pharmaceutical-grade opioids[13]

Safe supply can be both:

- treatment with pharmaceutical-grade medications; and,
- harm reduction through quality-controlled alternatives to toxic street drugs, reducing risks of overdose and death

[13] Health Canada. Opioid Symposium: What We heard Report (April 2019) https://www.canada.ca/en/health-canada/services/publications/healthy-living/opioid-symposium-what-we-heard-report-march-2019.html?utm_source=symposium-apr&utm_medium=email-en&utm_campaign=opioids-19#a2_05

Federal support for safe supply would build on existing medical approaches to opioid agonist treatment (OAT):

- Methadone, buprenorphine, hydromorphone, and diacetylmorphine (heroin) - can all be used for long-term treatment of opioid use disorder and for acute management of withdrawal symptoms.

There are many clinical programs that offer pharmaceutical opioids in Canada. Only a small number currently offer injectable treatment to patients for whom other treatment options have not worked. These programs are designed to "meet people where they are at" in their treatment or harm reduction needs. Examples include:

*Crosstown Clinic – Vancouver, BC-* Medical Prescription Model: This model, where drugs deemed to be most risky are prescribed to registered users by medical professionals, could include SCS. One example of such a facility in Canada is the Providence Crosstown Clinic in Vancouver, where opioid-dependent drug users are provided with medically supervised doses of injectable hydromorphone and pharmaceutical heroin.

- Injectable treatment with diacetylmorphine (heroin).
- Medically-monitored outpatient setting.
- Substantial medical oversight; patients visit multiple times per day.

*Managed opioids program – Ottawa, ON*

- Injectable and oral treatment with hydromorphone.
- Residential 24/7 care setting.
- Additional health and social services provided.

*Portland Hotel Society low-barrier access to hydromorphone pills – Vancouver, BC*

- A 50-patient pilot project to provide access to hydromorphone in tablet form for supervised injection.
- Focus on providing a safe supply in the context of the toxic illegal street drug supply.[14]

## Legal Regulation

As discussed above while decriminalization can reduce some harms for people who use drugs, they are still dependent on an illegal market where the contents and strength of drugs are unknown. The unregulated drug supply in Canada has become toxic leading to overdoses and death. Determining how best to regulate all drugs would be complicated and take time. Currently, no country in the world has done this, but most have regulated alcohol, tobacco and pharmaceutical drugs. In a regulated market, how drugs are produced, distributed and sold would need careful consideration, and depend on the drug and its potential for harm. For example, high-risk drugs could be available by prescription-only and distributed through pharmacies and under the care of a physician. Under a public health approach to legal regulation, there would be strict government control and regulation of the production (e.g. purity, strength), sale, marketing and consumption of any drug. Developing a regulation framework should also apply lessons learned from what has and has not been effective in the regulation of other drugs, such as alcohol, prescription drugs, and cannabis.[15]

[14] Health Canada. Path Forward to Increase Access to Safer Supply in Canada (Presentation) (March 2019)
[15] The Medical Officer of Health in Toronto, Dr. Eileen Villa, *Report for Action: A Public Health Approach to Drug Policy* (2018)

Legalization may lead to increased drug use, and potentially increase addiction rates, with greater access and reduced prices, unless heavy taxation is in place. The UNODC views such taxation as unethical because it seeks to generate funds from those who are addicted, thereby profiting from their drug dependence.[16] Increasing their price, and availability, may also provide organized crime groups to undercut regulated market prices.

Portugal opted against legalization as their position on drug use remains harmful and undesired and should not be perceived simply as the private choice of an individual since it brings social consequences. Additionally, the government did not want to advocate or condone drug use.[17] Some might argue that this is already happening with regard to alcohol or tobacco, it might also be argued that neither of these substances is as potentially addictive or harmful as certain drugs, such as crystal meth, crack cocaine, or even prescription opioids. It should also be noted that opioids, which are the main contributors to the current drug overdose and overdose death rates in Canada, are both legal and regulated.

There is an acknowledgment that decriminalization alone will not solve the problem of the contaminated supply. In addition, currently, a full spectrum of options is provided only in a few jurisdictions. Access is limited to large urban centres.

### Public Safety

Many individuals who are chronic or problematic illicit drug users are unable to support their addictions through legal means. Therefore, they must resort to criminal activity such as theft, break and enter and robbery to support their drug habits. Also, marginalized individuals who are using illicit drugs are frequently placed in dangerous situations to support their drug use. Public safety is adversely impacted by these crimes and diverting individuals to a safe supply may reduce crime that is committed to support a drug addiction and enhance public safety. More research is required to determine the potential impact decriminalization and a safe supply may have on public safety.

- Police services remain committed to combatting organized crime and disrupting the supply of harmful substances coming into our communities by combating drug trafficking and illegal production and importation.
- Canadian Chiefs of Police do not support the legalization of drugs such as cocaine, methamphetamine or opioids; however, they do support evidence based medical treatment that includes a safe supply.

[16] United States Drug Enforcement Agency, *Speaking Out Against Drug Legalization*, (2010).
[17] Artur Domosławski, Drug Policy in Portugal, (2011), p. 26.

## 4. Diversion Programs and Treatment

The traditional role of frontline police in drug control has fundamentally shifted as a result of the influence of new policy and practices, e.g. community policing, situation tables, community mobilization and engagement, and harm reduction methods. There has been a shift in focus for police to support a harm reduction approach when interacting with people who use drugs; operating and creating alternative pathways for police to link people who use drugs to receive treatment and other supports.

In a decriminalized environment, frontline policing would likely assume increased responsibility to divert people suffering from substance use disorder into treatment. It will be key in a Canadian context that treatment facilities are established and operational ahead of decriminalization and have the capacity to take in individuals diverted through police contact. This would be imperative, since "Diversion procedures that increase administrative or resource requirements on police without providing necessary support are likely to result in lower uptake and reduced impact."[18]

To successfully respond to people living with substance use disorder pathways for law enforcement would need to be established to work with the health and social systems to rapidly link people to a range of evidence-based treatment and other social services (such as housing and employment) as needed. These pathways may differ from province to province and from community to community given their unique characteristics and resources. In many cases, diversion and treatment programs would require a substantial initial injection of public funds to establish, and significant ongoing funding to sustain. If accomplished, this could lead to a decrease in number of calls for service for police to drug-related incidents.

- The CACP endorses alternatives to criminal sanctions for simple possession of illicit drugs, requiring integrated partnerships and access to diversion measures.
- Increased community capacity and resources are necessary to support the availability and integration of health, social programs and enforcement required for effective diversion.
- Diversion provides new opportunities to make positive impacts in communities. These impacts may include reducing recidivism, reducing ancillary crimes and improving health and safety outcomes for individuals who use drugs.

Successes seen abroad in other countries may be attributed to their collaboration with community partners and stakeholders in making treatment and recovery facilities readily available, and by ensuring these treatment options are offered at no cost to the individual user. It would prove difficult to implement other countries models, such as Portugal, as it stands without access to sufficient funding and resources for rehabilitation and treatment. Aside from the geographical barriers that present itself with Canada's 10 provinces and 3 territories delivering health care, it remains unknown whether Canada has the proper infrastructure, sufficient funding, and widespread Government and community support to make such facilities available. The current lack of substance use treatment options and diversion programs means that often individuals are arrested for their drug-related crime but are subsequently released to re-commit the same crimes, placing a strain on police resources, and ultimately not improving the individual health and safety outcomes.

[18] T.K.Mackey, D. Werb, L.Beletsky, G. Rangel, J. Arredondo and S.A. Strathdee, "Mexico's "ley de narcomenudeo" drug police reform and the international drug control regime" , *Harm Reduction Journal*, Vol. 11, No. 31, cited in Rebecca Jesseman and Doris Payer, *Decriminalization: Options and Evidence, Policy Brief*, (2018), p. 11.

## 5. Global Studies

The Global Studies Program primary focus was to research how police can influence seismic public policy changes, using decriminalization as an example. As the use, production and trade of illicit drugs is a worldwide problem, participants travelled to Australia, Croatia, Czech Republic, Denmark, England, Ireland, Netherlands, New Zealand Portugal and Spain.

*"Don't try to copy us; learn from us."*
*– Dr. Joao Goulau, Director General of Sicad and*
*the architect of the Portuguese Drug Policy, Global Studies 2019 consultation.*

In the countries visited, Fentanyl and other opioids are not a prominent issue. The national drug policies in these countries differ in relation to the possession of illicit substances; with no countries having total legalization. Most have made, or are making, the shift in recognizing problematic substance use primarily as a health issue, requiring the leadership of health services.

Diversion programs exist in most countries visited. Some countries, like in Spain, are primarily focused on youth others are broader. Harm reduction is less of a focus as it is in Canada, however Spain has 13 supervised consumption sites and provides clean needles and a home naloxone program. In comparison to Portugal who is just now opening their first SCS, or countries like Ireland and England which do not have any SCS.

A focus on reintegration or integration into society was found by the researchers as key to success. For instance, the Portugal drug strategy shares the pillars of prevention, harm reduction and treatment, but instead of enforcement, focuses on social integration. This includes housing assistance, education and employment.

*"While decriminalization is used to categorize this dialogue on drug policies and programs, it may be more appropriate to entitle it diversion or dissuasion."*
*– Insp. Bill Spearn, Vancouver Police Service, Global Studies 2019*

Illicit drugs remain illegal but the resulting consequence is an administrative penalty. The common element of national drug policies is to reduce the demand and supply. All countries visited continue to target organized crime groups and trafficking.

More recently Norway and New Zealand have made a shift in their responses to substance use from the justice to the health sector. In Norway individuals apprehended for the use of possession of drugs will be referred to a municipal counselling unit in order to access counselling, treatment, or another suitable response. While in New Zealand legislation expressly requires that police consider the public interest of providing health supports versus prosecution. This shift toward a therapeutic approach is being supported by investments in substance use treatment.

## 6. Canadian Legal Infrastructure

If decriminalization of the possession of illicit drugs occurred in Canada, it does not necessarily require existing legislation be entirely repealed. For the purposes of decriminalization, drug-related offences continue to remain illegal and do not require the entire removal of provisions under legislation such as the *Controlled Drugs and Substances Act*, *Youth Criminal Justice Act or Criminal Code*. Arguably, decriminalization may be approached in a manner similar to diversion whereby criminal prosecution is not pursued, but rather, there is an emphasis on rehabilitation through treatment and education.

## Conclusion

We must adopt new and innovative approaches if we are going to disrupt the current trend of drug overdoses impacting communities across Canada. Merely arresting individuals for simple possession of illicit drugs has proven to be ineffective. Research from other countries who have boldly chosen to take a health rather than an enforcement-based approach to problematic drug use have demonstrated positive results.

Implementing a response model centered on diversion that provides individuals impacted by problematic substance use access to health resources may be more effective than our current model of enforcement or de facto decriminalization. Responding to problematic substance use in our communities is a complex issue requiring a full spectrum of options and partnerships to impact real change. Finding pathways of care and support for individuals with problematic substance use is critical to reducing overdose deaths. Health is best positioned to address problematic substance use and not the police.

Enforcement resources and strategies will continue to be targeted at organized crime groups and individuals who import, produce or distribute illegal drugs throughout our communities. Frontline officers will always play a critical role in any diversion model. Frequently, they are the point of first contact and the ones who will assist individuals into pathways of care. Finding pathway to care presents the opportunity of reducing the demand for drugs in our communities as well as the crime associated with problematic substance use.

As the decriminalization dialogue continues to evolve and shift, the Special Purpose Committee recommends, in cooperation with the 2019 Global Studies program, that the CACP advocate for a national task force to be created which would include Public Safety, Department of Justice, the Public Prosecution Service, Health Canada, CACP representatives and subject matter experts to research Canadian drug policy reform. Specifically, reform to s. 4(1) of the *Controlled Drugs and Substances Act* related to Simple Possession and to recommend alternatives to criminal sanctions; specifically, alternatives that promote a health-based diversionary approach.