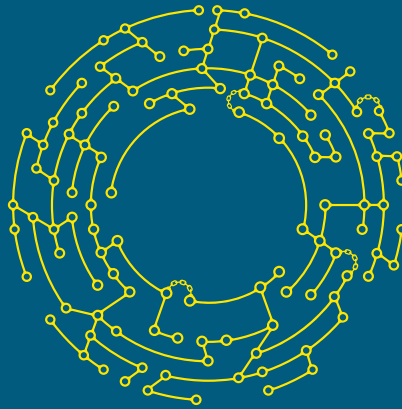


# It's **not** so **SIMPLE**

The impact of simple drug  
possession and trafficking  
offences on health equity



## ABOUT THE HIV LEGAL NETWORK

The HIV Legal Network promotes the human rights of people living with HIV or AIDS and other populations disproportionately affected by HIV, punitive laws and policies, and criminalization, in Canada and internationally. We do this through research and analysis, litigation and other advocacy, public education, and community mobilization.

The HIV Legal Network works on the land now called Canada, which is located on treaty lands, stolen lands, and unceded territories of Indigenous Peoples and communities who have respected and cared for this land since time immemorial. We work to address the ongoing injustices and resulting health inequities faced by Indigenous Peoples; they contribute to the disproportionate impact of the HIV epidemic and toxic drug crisis among Indigenous communities. We are committed to learning to work in solidarity and to dismantling and decolonizing practices and institutions to better respect Indigenous Peoples and Indigenous ways of knowing and being.

## ACKNOWLEDGEMENTS

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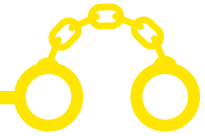
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# INTRODUCTION



**In Canada,** there is a growing body of evidence that indicates criminalizing simple drug possession (i.e. possessing drugs for personal use) and other activities related to drug use (e.g. activities captured by the trafficking prohibition) do not protect public health or public safety. Rather, these prohibitions have been ineffective in reducing the use and availability of criminalized drugs while contributing to profoundly negative health outcomes for people who use drugs. At the same time, criminalizing these activities has legally entrenched stigma, racism, and other forms of discrimination against people who use drugs, particularly those who are Indigenous, Black, unhoused, and poor.

Acknowledging the harms of drug prohibition policymakers and other criminal legal system actors in Canada and globally have focused on the potential impacts of decriminalizing simple drug possession. Numerous United Nations bodies, for example, recommend “alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use,”<sup>1</sup> and countries across Europe and the Americas have implemented reforms regarding how simple possession and/or personal drug use is legally defined and regulated.<sup>2</sup> These changes have been implemented for diverse reasons, including to align laws and policies with public health principles and to alleviate demand on strained criminal legal systems.<sup>3</sup> Yet, there has been little to no corresponding momentum to reform laws and policies when it comes to offences related to the supply and distribution of drugs (e.g. drug “trafficking”).

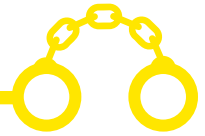
A series of law and policy developments in Canada over the past decade have sought to mitigate some of the harms of the simple drug possession offence while directing focus towards people who supply drugs.<sup>4</sup> This focus has manifested in an increase in sentences for drug trafficking across multiple jurisdictions, an approach that has been affirmed by the Supreme Court of Canada.<sup>5</sup> As the Court recently held, drug trafficking should be “understood as an offence of violence, even beyond the ruinous consequences it has for those who abuse drugs and in the process, destroy themselves and others” — thus warranting heavy punishment.<sup>6</sup> Yet, research suggests that a narrow

focus on decriminalizing simple drug possession and the shift towards pursuing and more severely punishing drug trafficking may exacerbate the structural vulnerability of people who use drugs while actually contributing to health and social harms, such as violence, racism, and poverty, that can push people into conflict with the law in the first place.<sup>7</sup>

**Our study sought to better understand these legal and policy developments and their implications for the health and well-being of people who use drugs by exploring three complex and interrelated questions:**

1. How do people who use drugs acquire, consume, keep, and/or carry criminalized substances?
2. How do police, prosecutors, and courts in Canada and other jurisdictions globally distinguish between drug possession for personal use versus for the purpose of trafficking?
3. What are the immediate and longer-term impacts of criminalizing simple drug possession and trafficking?

# METHODS AND RESEARCH APPROACH



To address these three intersecting questions, we developed a community-based and participatory study<sup>8</sup> that was led by the Co-Executive Directors of the HIV Legal Network and Dr. Emily van der Meulen, a criminologist from Toronto Metropolitan University (TMU). Members of the larger research team had significant knowledge of drug policy research and advocacy and included people with lived and living experience of drug use. Together, we adopted a critical lens that recognized the diverse structural factors contributing to the stigmatization and marginalization of people who use drugs. This lens, in turn, directly informed the study's design, data collection, and analysis.

## Our mixed-method, qualitative research project involved:



**A review of academic and grey literature.**



**The submission of Freedom of Information requests to police services.**



**An analysis of relevant criminal cases in Ontario.**



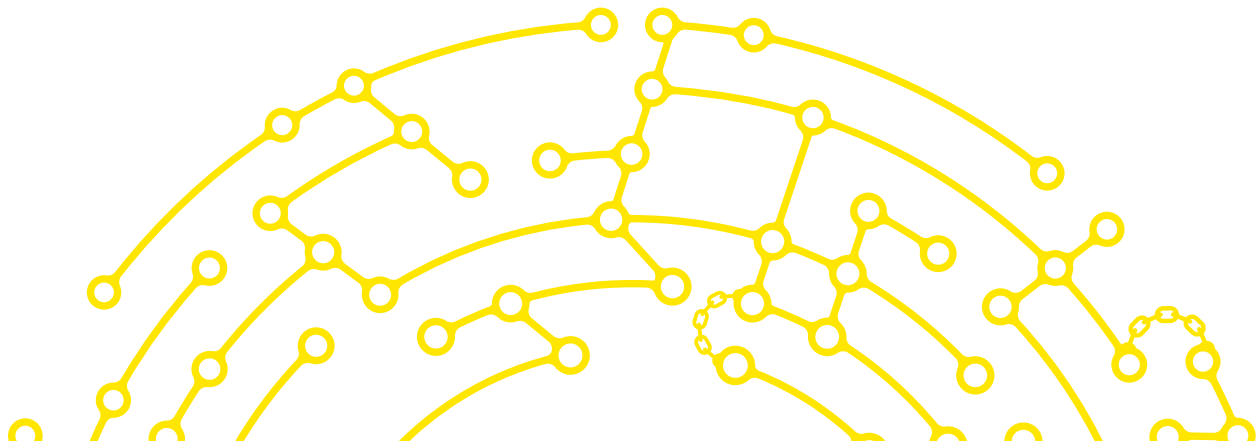
**A series of one-on-one interviews with people holding expert knowledge and/or lived experience of drug criminalization.**

TMU's Research Ethics Board approved the study process.



## LITERATURE REVIEW

From May to August 2024, we conducted an in-depth review of scholarly and peer-reviewed articles in drug policy, harm reduction, criminological, socio-legal, policing, and health studies journals, as well as Canadian and international legal documents. We augmented these sources with community-based evidence found in reports, booklets, and advocacy toolkits. We were particularly looking for information on police, prosecutorial, and judicial discretion in drug cases; evidence used in simple possession and trafficking charges; threshold quantities that differentiate and delineate simple drug possession from trafficking; comparative international legal frameworks regarding drug possession and drug supply and distribution; social practices among people who use drugs around procurement, storage, and use of drugs; "diversion" of prescribed controlled substances; and where, when, and by whom the terms "necessity trafficking," "social supply," and "subsistence dealing" are used.





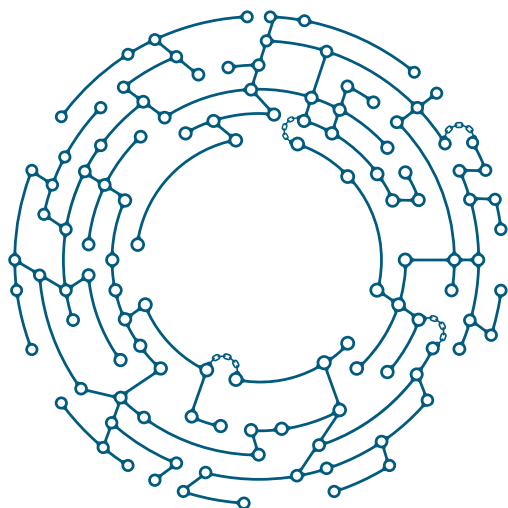
## FREEDOM OF INFORMATION REQUESTS

While our literature review yielded an impressive array of relevant information, specific details on drug-related charging data in Ontario were missing. Therefore, we sent Freedom of Information (FOI) requests to the Ontario Provincial Police and each police force in the cities included in the study. In these requests, we asked for the number of charges laid under the *Controlled Drugs and Substances Act* for sections 4(1): simple possession, 5(1): trafficking, and 5(2): possession for the purpose of trafficking, each year from 2015–2024. We also asked for the gender and race/ethnicity of the person charged, as well as the type of drug and quantity per charge. Ultimately, we withdrew the latter part of our request because it was either too costly to retrieve the information or because the information was not collected by the police agency in question.



## CASE LAW RESEARCH

To gain a better understanding of how police, prosecutors, and courts distinguish simple drug possession from possession for the purpose of trafficking, we reviewed reported court decisions in two legal databases, CanLII and Westlaw, for the period 2015 to June 2025, prioritizing appellate court decisions in Ontario. Keywords searched included “drug possession,” “simple possession,” “simple possession of drugs,” “trafficking,” and “drugs.” We also searched the relevant sections of the *Controlled Drugs and Substances Act*, focusing on sections 4 and 5. Tens of thousands of cases were initially identified, reviewed, and narrowed down to 49 cases that provided some insight into how courts distinguish simple possession from possession for the purpose of trafficking.



## ONE-ON-ONE INTERVIEWS

Our study’s top priority was to ensure that the first-person knowledge and perspectives of policy, legal, and community advocates were central to recommendations for drug law reform, which necessarily includes people with lived and living experience of drug criminalization. Therefore, between September 2024 and January 2025, we conducted a total of 41 interviews, by Zoom or in person, with four different groups: drug policy experts, criminal defence lawyers, harm reduction workers, and people who use drugs. We recognize that many people simultaneously fit into more than one of these categories; for the purpose of this study, participants were placed in the group where they had the most knowledge. Interviews were audio-recorded and lasted between 30–90 minutes. Each participant was offered a CAN\$50 honorarium.

**Drug Policy Experts:** Since we were interested in how simple drug possession and possession for the purpose of trafficking were being distinguished in law and policy, we interviewed five drug policy experts from across Canada. They were able to provide a systems-wide and national perspective on drug policy issues and enforcement practices, and their thoughts on necessary steps for reform. Drug policy experts were identified across diverse jurisdictions and professional roles, including as service providers and lawyers, for example.

**Criminal Defence Lawyers:** To broaden our understanding of the legal process, we interviewed six criminal defence lawyers across Ontario who have represented people charged with simple drug possession, possession for the purpose of trafficking, and/or trafficking. Lawyers were selected for their direct knowledge and expertise of the criminal legal system as it relates to drug offences. Criminal defence lawyers were recruited through professional networks, legal associations, and direct outreach to relevant organizations and agencies.

### Harm Reduction Workers and People Who Use Drugs:

To ensure a range of community-based experiences and to have geographic representation from small, medium, and large cities in Southern, Central, Eastern, and Northern parts of the province, we selected four research sites: Toronto, Peterborough, Ottawa, and Sudbury. Health and harm reduction organizations in each city helped by distributing our research flyers through their networks, recruiting eligible participants, and at times providing a quiet space where we could conduct interviews. Organizations such as Ottawa Inner City Health in Ottawa and Réseau ACCESS Network in Sudbury were especially central to the research process.



## RESEARCH SITES

**Toronto** is the largest city in Canada, with a population of roughly 2,800,000 people. Within this population, about 0.8% identify as Indigenous, more than half identify as racialized, and almost half were born outside of Canada.<sup>9</sup>

Located in Southern Ontario, Toronto hosts a broad range of harm reduction services, including supervised consumption services, needle and syringe programs, naloxone distribution, and drug checking, though provincial legislation passed in 2024 led to the closure of numerous supervised consumption sites in the city.

Like all the cities examined in this study, Toronto has its own police service.

Research has shown that Toronto police are automatically dispatched to emergency overdose calls, which deters people from calling 911 to seek emergency medical assistance in the event of an overdose.

In 2023, the most recent year with complete data, there were 497 confirmed opioid overdose toxicity deaths in the city, most of which occurred in private residences.<sup>10</sup>

**Peterborough** is a comparatively small city in Central Ontario, with an approximate population of 83,000, among whom 5% identify as Indigenous and 9% identify as racialized.<sup>11</sup>

Harm reduction services include community drug alerts, supervised consumption, needle and syringe programs, and naloxone distribution.

In June 2025, following the passage of provincial legislation providing police additional powers to punish public drug use, the Peterborough Police Service issued a statement outlining a new policy aimed at "open-air illicit drug use,"<sup>12</sup> which directs officers to handcuff, search, and possibly arrest anyone using drugs in public spaces.

Public health data indicates that, on average, one person dies every eight days from an opioid overdose in the city. From June 2024 to May 2025, there were a total of 47 deaths and 416 opioid-overdose emergency department visits.<sup>13</sup>

**Ottawa**, the capital city of Canada located in Eastern Ontario, is home to approximately 1,017,000 people, among whom 2.6% identify as Indigenous and roughly one third identify as racialized.<sup>14</sup>

Available harm reduction services include needle and syringe programs, naloxone distribution, drug checking, and supervised consumption.

The city also hosts partnerships among local service organizations, pharmacies, and health centres that facilitate harm reduction programming.

In 2023, there were 207 confirmed opioid overdose deaths;<sup>15</sup> final information about 2024 deaths is still pending.

**Sudbury** is a mid-sized city in Northern Ontario with a population of approximately 166,000. According to 2021 census data, approximately 11% of Sudbury's residents are Indigenous, 6.6% are racialized, and 37% speak both English and French.<sup>16</sup>

The city has a free, confidential program called The Point that provides harm reduction services at three locations, including drug use equipment distribution and disposal.

Sudbury's one supervised consumption site, The Spot, was forced to close in March 2024 due to lack of funding from the provincial government, leaving a noticeable gap in the community.

From January to April 2025, there were 84 reported visits to the emergency department for opioid-overdose related causes<sup>17</sup> and 42 reported overdose deaths in the district, more than double the opioid death rate for Ontario overall.<sup>18</sup>



In each city, we recruited and interviewed two knowledgeable frontline harm reduction workers, identified based on their experience working with people who use drugs and witnessing the impacts of drug criminalization in their communities, and five to six people who themselves use drugs and had been criminally charged or convicted of simple drug possession, possession for the purpose of trafficking, and/or trafficking. (Members of this last participant group received a CAN\$10 public transit subsidy if they needed to travel to a private location for the interview.) In total, there were 30 city-specific interviews. We asked questions about how people acquired their drugs; how they carried and stored them; whether they split and/or shared their drugs; the impacts of being charged and/or convicted; their thoughts on criminalization; and their suggestions for improving criminal legal responses to drug use.

	Toronto	Peterborough	Ottawa	Sudbury	Total
Harm Reduction Worker	2	2	2	2	8
Person Who Uses Drugs	6	5	6	5	22
	(8)	(7)	(8)	(7)	(30)

**Participant Demographics:** To ensure their anonymity in publications and presentations about our findings, we did not ask questions related to gender, ethnicity, age, and so on of drug policy experts, lawyers, or harm reduction workers because these groups are specific in scope and relatively few in numbers. We did ask socio-demographic questions of people who use drugs given racial and other disparities in policing and drug charges. Since this is a large and diverse population across the province and within each of the cities, identification of individual participants should remain difficult; however, for passages in this report that contain sensitive legal information, we have removed demographic information to further ensure anonymity.

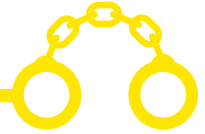
Across the 22 interviews with people who use drugs, 11 interviewees identified as men, 10 as women (including one trans woman), and one did not respond; 14 identified as white, four as Indigenous, two as Black, one as a person of colour, and one did not respond; 10 identified as disabled, eight as not disabled, and four did not respond; 10 lived in a residence (e.g. apartment, house, etc.), 10 were precariously housed (including at a shelter, living outside, or temporarily residing with friend/family), and two did not respond. Respondents ranged in age from 25 to 64 years old.

**Interview Analysis:** Once each interview was transcribed word-for-word and anonymized, members of the research team met to analyze the transcripts. We engaged in an inductive and collaborative process, similar to what we have done in previous studies.<sup>19</sup> It was inductive because we used a bottom-up approach to identify and recognize the main themes across the data, drawing in part on our combined experience and knowledge of the research topic.<sup>20</sup> It was collaborative because each team member independently read a subset of transcripts to identify commonalities, differences, practices, and ideas raised, after which we held two group meetings to share, discuss, and consolidate the themes into a single codebook with primary and secondary thematic areas. Once completed, the codes were entered into NVivo qualitative data analysis software for line-by-line exploration of the transcripts by an experienced research assistant.





# SOCIAL AND LEGAL CONTEXT



Our extensive review of the literature and legal cases reveals, as many others have likewise noted, that Canada's criminalization of various activities related to substance use has now spanned more than a century. The current framework includes the *Controlled Drugs and Substances Act* (CDSA), which makes it a crime to possess any amount of drugs for personal use (called "simple possession"), to traffic drugs, and to possess drugs for the purpose of trafficking, among other offences.<sup>21</sup>

Internationally, trafficking offences have rarely been the focus of law reform, though some countries have adopted one of three broad alternative responses to the simple possession offence: depenalization (i.e. where criminal penalties still exist but are not enforced or lessened if certain conditions are met); decriminalization (i.e. the removal of criminal penalties in law, which may be tied to certain conditions or may be replaced with administrative penalties such as fines); and diversion (i.e. initiatives or legislation that direct people away from criminal sanctions and towards educative, therapeutic, or social services).<sup>22</sup>

## RECENT REFORMS

Despite numerous efforts by people who use drugs and advocates to rethink Canada's broader drug control framework,<sup>23</sup> depenalization and diversion of simple drug possession have been the approaches adopted over the past decade, both of which hinge on police and prosecutorial discretion. These reforms include:

- The *Good Samaritan Drug Overdose Act* (2017), which amended the CDSA to give immunity from conviction for the offence of simple possession to anyone who calls 911 to report an overdose as well as to anyone who is on the scene when emergency services arrive.<sup>24</sup>
- *Public Prosecution Service of Canada Deskbook Guideline* (2020), directing prosecutors to focus on the "most serious cases" of simple drug possession and to "otherwise pursue suitable alternative measures and diversion." The Guideline acknowledges that

criminal sanctions "have a limited effectiveness" as either a deterrent or to address public safety concerns associated with drug use. They also define a serious case warranting charges as simple possession: in the vicinity of places frequented by children or young persons; that "poses a heightened risk" to a community's efforts to address drug use (e.g. in isolated or remote communities); or involving another drug offence, among other considerations.<sup>25</sup>

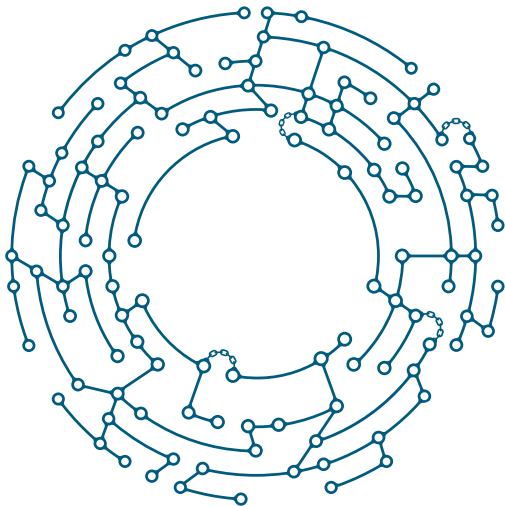
- CDSA amendments (2022), authorizing police and prosecutors — instead of charging someone for simple possession — to take no further action, "warn" them, or refer them to a program, agency, or other service provider in the community. These amendments were similarly grounded in the acknowledgement that charging someone for simple possession is 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."<sup>26</sup>
- In British Columbia (B.C.), from January 31, 2023, until January 31, 2026, adults over 18 can possess up to 2.5 grams combined of opioids, crack and powder cocaine, methamphetamine, and MDMA (ecstasy) for personal use in specific locations.<sup>27</sup> Adults will not be arrested, charged, or have their drugs seized if they possess up to 2.5 grams of the above substances for their own use in specific locations. Notably, in 2024, the B.C. government opted to recriminalize *public* drug use, significantly narrowing the province's decriminalization framework.

## POLICE DISCRETION AND CHARGING PRACTICES

Various police forces across the country have also indicated that they are no longer charging people for simple possession alone (i.e. when other charges are not also laid).<sup>28</sup> Although responses we received from our FOI requests revealed simple possession charges remain commonplace despite the 2020 and 2022 policy changes, there has been an overall decrease in charges of simple possession nationally,<sup>29</sup> a development that was confirmed by multiple of our interview participants:

**"I find it's gotten a lot better over the last few years. There's certainly less standalone simple possession charges. Like if someone is stopped by police and searched and all they have is personal usage amounts, it's less likely that they will be charged just with a simple possession... I don't think that's because of the police *per se*. I think that's because the police realize that Crowns are not willing to use court resources to prosecute three grams of meth, four grams of meth."**

**LAWYER 4**



## UNINTENDED CONSEQUENCES

While these modest reforms were welcomed by some of the drug policy advocates with whom we spoke, they may have also contributed to negative, unintended consequences, including potential "net widening" (i.e. bringing more people into contact with the criminal legal system) or "upcharging" (i.e. in which more serious charges are laid in the absence of the viability of a lesser charge).<sup>30</sup> In a study of police officers in B.C., for example, where officers suggested a context in which simple drug possession had been depenalized, researchers found officers regularly used the offence as a policing tool to gather information in drug trafficking investigations, to pursue other charges, and more broadly to intervene in the lives of people who use drugs — potentially deepening racial, gender-based, and health inequities.<sup>31</sup> Our analysis of the FOI data also revealed increases in drug trafficking charges in some Ontario jurisdictions. Regarding the phenomenon of decreasing charges for simple drug possession, respondents practicing criminal defence or working in drug policy made the following observations:

**"I would say through the course of my career I've seen way less simple possession charges than I did than when I initially started... But there have been changes in the policy on behalf of the [Public Prosecution Service of Canada], so they are proceeding less on simple possession charges, just based on their own internal policy... Now they're getting charged with [possession for the purpose of trafficking] because [simple possession] isn't necessarily happening anymore. So, their next step is 'let's just say it's [possession for the purpose of trafficking].'"**

**LAWYER 2**

**"I think on a certain level, simple possession is kind of decriminalized. There aren't a lot of simple possession charges going around anymore. But that doesn't mean that there are fewer drug charges, they're just [possession for the purpose of trafficking] charges now."**

**LAWYER 5**



## INEQUALITY AND OVER-EXPOSURE

In Canada, wide margins for police discretion have been known to amplify inequalities, especially for poor people, people experiencing homelessness, and Black and Indigenous communities.<sup>32</sup> Numerous study respondents described this reality. In relation to people experiencing homelessness, they shared how their visibility in public space meant they faced constant interactions with the police which, in turn, led to greater enforcement of drug offences:

“The single greatest indicator of who is going to be enforced against is your economic status. If you are homeless or you look like you’re homeless, or you rely on public space for whatever, you’re at way, way, way higher risk of being enforced against and that’s like particularly true for drug possession and trafficking. I see that stuff happen all the time in private residences that will never see the light of day and will never attract police attention. And police actually don’t care about those interactions. Why? Because they’re occurring behind closed doors. The second they’re ... involving anyone who’s visibly poor, then it’s game over, and same goes for racialized people, both because I think police are racist, but also because there’s immense overlap between, at least in Vancouver and B.C., between people who are unhoused and people of colour and specifically Indigenous people.”

DRUG POLICY EXPERT 1

“It always troubles me... So much drug use happens at shelters, there’s just such a high level of charges that come out of shelters. I have a case ongoing right now, I call them the biker gang, but really, it’s a bunch of [police] officers on bikes. Their plan was to go to [shelter in Central Toronto] and do a takedown and they arrested like six people standing outside of the shelter for [possession for the purpose of trafficking]. What’s crazy about it is when you live in a shelter you don’t have a backyard, you don’t have a living room, you don’t have a balcony. Where do you hang out? Outside of the shelter, on the street. And so of course, they’re going to be the ones that are stopped more than individuals that have a backyard where they can shoot up in their backyard or on their balcony.”

LAWYER 2

Often, houselessness intersected with race in relation to police surveillance. Respondents described the racial profiling of Black and Indigenous people in public space:

**"It is still tightly tied to skin colour, that it is still tightly tied to race. What happens when you are stopped by the police ... is often determined by the colour of your skin. The truth of the matter is on the ground, if you're Black, you're eight times more likely to get stopped, questioned, predispos[ed], profiled by an officer than you were if you were a white person... We haven't accepted it; we've just basically learned how to navigate it as Black people."**

**PERSON WHO USES DRUGS, BLACK MAN, TORONTO 5**

**"I suffer from homelessness. I suffer from, well, obviously, being marginalized and all the systemic racism, and ... if the police officer is teasing me, he's gonna come towards me and make up any goddamn reason rather than going to my friend who isn't Indigenous, right?"**

**PERSON WHO USES DRUGS, INDIGENOUS WOMAN, PETERBOROUGH 2**

Although evidence suggests rates of drug use are similar across racial groups, rates of arrest for most drug offences consistently show Black and Indigenous people are grossly overrepresented, a pattern that is replicated across the country<sup>33</sup> and also reflected in our FOI findings in Toronto. In addition to racial profiling, other factors respondents named as attracting greater law enforcement scrutiny included precarious immigration status, gender identity, and participation in other criminalized activities such as sex work. As discussed further below, these intersecting factors also deeply affect how people experience the harms of drug law enforcement.

# ANSWERING OUR RESEARCH QUESTIONS



## HOW DO PEOPLE WHO USE DRUGS ACQUIRE, CONSUME, KEEP, AND/OR CARRY CRIMINALIZED SUBSTANCES?

Understanding how people procure, use, and carry or store criminalized substances, and their rationale for these practices, is critical in crafting drug policy reform. Narrow assumptions about these practices have the potential to widen the criminal legal net (i.e. “net widen”) and decrease safety for people who use drugs, thus undermining any anticipated benefits of legal or policy change. As we elaborate below, our literature review and respondent interviews yielded important insights that defy commonly held views among law enforcement and other actors in the criminal legal system about these practices.

### Procuring Drugs

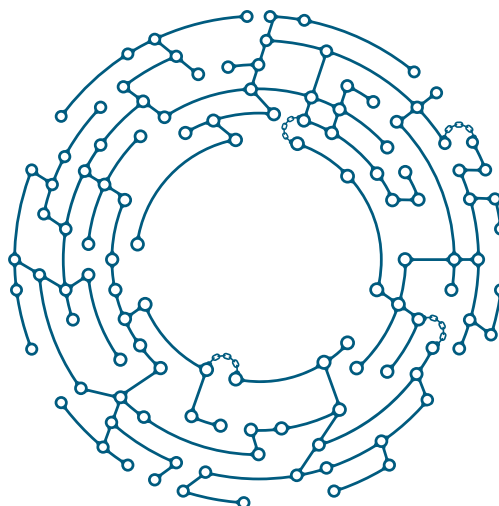
Universally, respondents described a preference for buying drugs from someone within their networks, reporting high levels of trust with their drug supplier based on the length and quality of their relationship as well as consistency in the supply provided — a finding also reflected in other studies.<sup>34</sup> Consistency is vitally important in a context where the contents of the drug supply are unpredictable and ever-evolving, and supervised consumption and drug testing services in Ontario are increasingly inaccessible. Many respondents described the benefits of purchasing drugs from someone they know and trust, and how this enhanced their safety:

“I’m not buying off the street, I’m buying off the same person I bought off of for 10 years. I’ve had the same ... one particular person. There’s a few one offs here and there... I pretty much stay with the same guy. He’s always consistent, he’s concerned about it. He’s like me, he’s a conscientious dealer, we’re concerned about our people and making sure everyone’s healthy and well. We have a heart.”

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED,<sup>35</sup> SUDBURY 5

“I probably have three dealers that I deal with... Half the time I think I’m being poisoned or it’s fucking garbage. I think now, with the whole fentanyl crisis I think you have to be very choosy about who you deal with. How many people do I know have died that smoke crack? And because the dealer didn’t take the time to switch scales ... all it takes is a grain of salt of fentanyl and you can overdose. I know like at least five people that died that way.”

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, TORONTO 6



One respondent explained that trusted suppliers not only provided a safer drug supply but a safer consumption experience by offering a space to use in a congregate environment:

"There's so much toxic drug mixes and stuff. So, a lot of people want to make sure that they're getting what they're supposedly paying for and obviously they're going to go with dealers that they trust. Yeah, a lot of these dealers are in the same areas that the users live in, are in the same place where they hang out, you know what I mean? And some of these dealers even have ... like a satellite space?... Like spots where these users can pay for the drugs and then you can stay there and do your drugs and relax. It makes it much easier for these people because some of them are streets involved, you know, so they have nowhere to go."

HARM REDUCTION WORKER, TORONTO 2

With respect to quantity, many respondents indicated the volume they purchase is determined by their economic situation. With limited access to funds, people tended to purchase drugs in smaller quantities, although several described buying in smaller quantities as a strategy used to moderate drug use, to manage potential negative effects in the event of being robbed or having drugs seized by police, or to reduce the risk of more serious charges:

"For some people it's because if you're there, if they buy larger amounts, they'll use it all so it could be a harm reduction strategy just to buy smaller amounts. Some folks don't buy that much at a time, because they do have regular interaction with the police and they don't want to get hit with searches and higher charges if they're carrying too much... And, yeah, I think you just don't have anywhere to store it. You just don't want to get robbed."

HARM REDUCTION WORKER, TORONTO 1

However, most described purchasing larger quantities if they could afford to do so, sometimes pooling their money with others. While some respondents indicated their motivation for bulk purchases was to sell drugs, they also shared other reasons, with many citing an economic rationale for bulk buying:

"But on cheque day, people will buy extensive amounts, so it lasts longer so they don't have to pay a premium rate every single day. The more bulk you buy, the cheaper it gets."

PERSON WHO USES DRUGS, WHITE MAN,  
PETERBOROUGH 3

"Most drug users don't understand that trafficking means if you buy some drugs because you're buying for yourself and your partner or yourself and a friend, which is a normal thing to do when you're buying drugs. I mean let's put it in a legal context, you're going to a party, it's BYOB, your friend is going to the liquor store. So, you say, 'Hey, pick up a bottle of tequila for me while you're at it.' They pick up a bottle of tequila either give it to you out of the goodness of their own heart or say, 'Here's the tequila, give me 40 bucks,' or it's probably more like 45 now and the tequila and money changes hands. Nobody's making a profit. But if you're doing that with drugs, that's trafficking. Or the Costco model, as I like to call it, where especially people who don't have a lot of money would like to buy in bulk because they can get their supply at a per unit cheaper cost."

LAWYER 5

Additional reasons offered for larger volume purchases included uncertain access to a supplier due to the buyer's housing precarity or remote location:

"When someone is using all day, every day for whatever reason that they are, they will buy more because it's cheaper to buy in bulk. Also, if you are not living at a fixed address, you don't know when you're going to be able to see your guy or you don't know when you're going to have access. Again, you will buy more."

HARM REDUCTION WORKER, OTTAWA 1

"I know people that buy in bulk; mostly some people live far away, farther out of town. They have to take a taxi into town to go to the methadone clinic or whatever. So, they'll buy larger amounts because they don't want to have to keep coming back to town. They risk getting caught."

PERSON WHO USES DRUGS, WHITE WOMAN, SUDBURY 3

"What if you're coming from a rural community and you have to kind of stock up because you're picking up, so you don't have to come back into town because the highway is closed because it's snowing? Or picking up for other people?"

HARM REDUCTION WORKER, SUDBURY 2

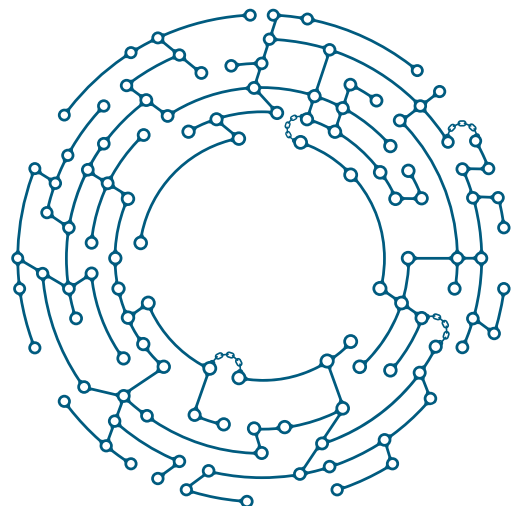
Although some respondents purchased smaller quantities to avoid being charged with trafficking, others adopted the opposite strategy. For example, they described buying larger quantities to minimize their interactions with suppliers or clients, thereby reducing their risk of police encounters:

"I'd rather go hit that one house one time instead of going there 10 times a day to pick up a little amount. And if the cops are building a case on him or building a case on me, they don't have me going to that same place."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 4

"It's ... a high risk for me because I'm well known in the city because the police know me as a user and I'm very easy to spot out where they can be like, 'Hey, hey get over here, you're under arrest for...,' blah, blah, blah. And if they search me, I have a lot of drugs on me. Where if I just buy in bulk, I can just stay at home, right?"

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 4





One respondent described a larger quantity purchase as a strategy to minimize the risk of painful withdrawal:

**"People being broke and all they have on them is 15 bucks to be able to get a point just to get well. A bunch of reasons. Maybe they're trying not to use as much, but usually it's in my experience, it's financial. Most folks want to have enough so they're not constantly chasing the dealer or chasing the dope, so they don't get sick."**

**HARM REDUCTION WORKER, SUDBURY 2**

And while the presence of scales is sometimes claimed by police and/or prosecutors as proof of possession for the purpose of trafficking, many respondents described owning and using scales to ensure a fair transaction when buying drugs:

**"I like to get what I pay for, so that's why I have a scale."**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, PETERBOROUGH 4**

**"I know my scale is on point, sometimes I may not trust you. Like I said, I've been using the same guy for 15 years and he's never done me wrong. Sometimes I'll have to go to another guy and that's when I'll use my scale just to verify the amount is correct."**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 5**

## Considerations of Where to Use Drugs

### Using Outdoors

When the discussion turned to how people consume their drugs, the extraordinary crisis of homelessness in Canada was a key theme raised by respondents. Although many of those who had housing generally expressed a preference to use drugs in the safety and privacy of their own homes and, in some instances, at supervised consumption services where they were accessible, most described public space being the only viable location to use drugs.

**"People don't want to be [alone] inside. They don't want to die."**

**DRUG POLICY EXPERT 4**

One striking theme was how people who use drugs constantly need to balance safer forms of consumption with the threat of law enforcement. Factors to consider included whether to use drugs in public spaces (where there is greater chance of someone witnessing and responding to an overdose) or in more isolated locations:

**"It's kind of always this balancing exercise between, can I do it in a way that isn't going to raise my visibility to police, but maybe it will to members of the public who can respond with Naloxone?... An important thing to note is most fatal overdoses are occurring indoors, and I believe in private residences, and so I suspect a huge rationale for that is because people are going to use in a place where they have the safety against enforcement. And so ... folks who are using outdoors are oftentimes people who don't have any other options or people who risk losing their housing by virtue of using drugs indoors."**

**DRUG POLICY EXPERT 1**

**"I generally use sometimes outside which is hard because I'm always looking over my shoulders. I don't want an officer to drive by and either recognize me or know me and give me a probable cause."**

**PERSON WHO USES DRUGS, DEMOGRAPHIC DATA REMOVED, PETERBOROUGH 3)**

**"There's a hierarchy of drugs, also of drug use and people who are using outside tend to be people who don't have homes to use in. And so, they also deal with the criminalization of poverty and homelessness and surveillance... People are always trying to think about ways to not be surveilled."**

**DRUG POLICY EXPERT 2**

Respondents who used drugs in public spaces described consuming hurriedly, which poses greater risks to health, to minimize the risk of attracting police:

**"That fear kind of driving people to either get rid of what they have quickly or use... what they have quickly. So ... people aren't able to do tester amounts because it's like, 'Hey shit, well the cops coming?' So they wanna just like smoke it and go."**

**HARM REDUCTION WORKER, SUDBURY 1**

In addition to the threat of police, respondents described an array of other serious risks to using drugs in public spaces, such as assault, robbery, and extreme weather conditions — risks aggravated by drug toxicity and composition:

**"The other thing I would say that we're seeing increasingly is where we're seeing sedatives like benzodiazepines within the opioid supply. It means that people are very sedated for a very long time. On the public side, that means that people think they are seeing more public drug use, they might just be seeing the same person lying in one place for longer because they're very sedated. But in terms of people trying to avoid police attention, being more isolated, it also means that people might be unconscious and isolated for quite a long time in a place where they are more susceptible to assault, theft, and sexual assault."**

**DRUG POLICY EXPERT 4**

**"Most of the people I work with are homeless so when you don't have a sanctioned space, using outside, [you're] exposing yourself to more risk of charges, exposing yourself to more risk of infection, exposing yourself to more risk, and not having safe supplies causing infection. Having laws that criminalize the way that you consume the things that you need and what you're consuming certainly makes it more likely that people will use in more dangerous situations... For example, using outside in the winter when it's minus 20 and then going on the nod and then waking up and having frostbite all over your hands and no longer having useful digits, just exposing yourself to the elements."**

**HARM REDUCTION WORKER, OTTAWA 2**

"And we also have a decampment policy here. People aren't allowed to even sit, basically. They just keep moving all the time... And so, they may use in a little tucked away area, but then they can't ... even recognize that they are freezing. The risk goes up exponentially in that kind of a setting... And so, for people who can't or don't want to share their drugs then they're all by themselves somewhere and staying out of view partly from the police, partly from the other community members. Which just means then what you find then is someone who's frozen to death."

**DRUG POLICY EXPERT 5**

"We don't really have a choice but to do it [use drugs] in public spaces. Like I said, there's, our resources are in a little circle down here. So, we walk, like I said, in a circle where our resources are. And that's it. That's where our community is. That's how we survive."

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 1**

### Supervised Consumption Services

Another key strategy people adopted to increase the safety of their consumption was to access supervised consumption services.

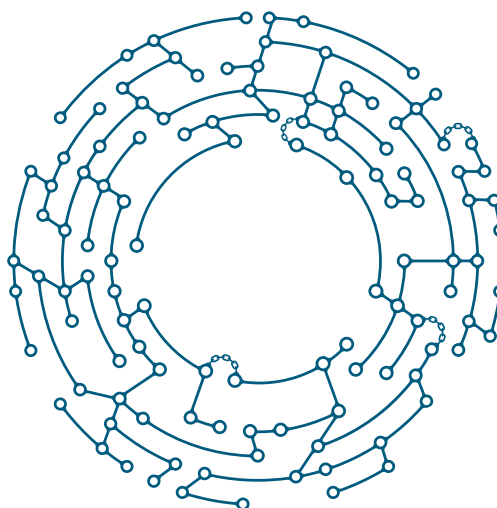
Notably, some respondents described the sense of community and broader protective effects that public drug consumption offered:

"If you're somebody that does crack, and anybody over here that hangs out does crack or all the crack guys are ... watching each other's back, right? If you use needles, you probably won't be hanging over there wherever the crack guys are hanging out because you both will feel uncomfortable, right?... Yeah, it's a comfort type thing, right? Because of the toxicity of today's drugs, most people that use drugs, especially hard drugs or would be considered hard drugs, like, you know, fatty [fentanyl] or stuff like that, they probably know somebody that has passed. So, there's that direct connection to where they probably have had direct trauma from seeing somebody that they knew directly... I think there's safety in numbers... Some people just feel more comfortable to have somebody there in case some shit goes wrong."

**PERSON WHO USES DRUGS, BLACK MAN, TORONTO 5**

"When I worked in those spaces, the core benefit I thought of was people can finally chill, take a minute to, actually, you know, maybe get their drugs tested, or maybe just stagger their use, and be around friends to sit and take a minute and breathe. Whereas if you're on a sidewalk, and there's cops walking up and down, you just don't have that, you don't have that ability, and you don't get the health benefits in turn."

**DRUG POLICY EXPERT 1**



Several respondents noted, however, that these locations were increasingly unavailable in Ontario given recent legislation passed in 2024, which resulted in the closure of numerous supervised consumption sites and will hamper the continued operation of sites that remain:<sup>36</sup>

**"In a city like Toronto, you've got supervised consumption sites, some of the busiest ones are the ones that are going to close their doors. And so that puts people outside in risk of being criminalized. And it also makes it unsafe."**

**DRUG POLICY EXPERT 2**

**"Criminalization typically pushes people to be either using in consumption sites or in isolated areas... When a consumption site closes and there's only one 24-hour consumption site in Ottawa, people will use outside, they'll use in their friends' places, they'll use in back alleyways, they'll use in places that aren't safe where people can't see them. If they overdose, they can't respond."**

**HARM REDUCTION WORKER, OTTAWA 1**

Moreover, respondents described the lack of safer inhalation options at supervised consumption services as another reason for public drug use:

**"People use in public spaces. Largely that is because A: people do not have housing or somewhere to go, or B: overdose prevention services are not available in their community or are not accessible, largely because people inhale substances and none of these services actually allow for that."**

**DRUG POLICY EXPERT 4**

## Carrying and Storing Drugs

The issue of housing access, which influenced drug acquisition and use, also critically shaped how people carried and stored their drugs. Where people stored their substances was often contingent on whether they had a secure place on which they could consistently rely:

**"I know people who obviously literally put them on or inside their person... I would say obviously for those who have the positionality and the privilege to have a place to store their drugs, if that is the safer bet. Or me personally I will keep half on me, and store half at my house."**

**HARM REDUCTION WORKER, PETERBOROUGH 2**

**"It's the people that am working with, tending to be buying in these small amounts frequently but then trying to avoid detection with them and then having to store them in creative ways that are not healthy for you. Like having to store your drugs in your rectum [hooping], for example, that is not ideal health-wise, not ideal from a practical standpoint either."**

**HARM REDUCTION WORKER, OTTAWA 2**

**"For storing, most people that I'm aware of keep it on them, like, as close to their physical body as possible because if they keep it in their bag, they know their bag is probably gonna get stolen... There are few reports of people who will hoop or plug their drugs to whether they're going to jail or just for safety reasons."**

**HARM REDUCTION WORKER, SUDBURY 1**

However, many respondents explained that carrying drugs on one's person also increased their vulnerability to violence, robbery, and criminalization:

"You don't want to carry all that stuff with you. Because people just steal it anyways... If people see what you have, people tend to, they want to rob you or stuff like that... You can't basically do things in the open now because someone's going to take advantage of that. The opportunity comes for someone to grab something or rob you of something, they will."

PERSON WHO USES DRUGS, WHITE MAN, OTTAWA 1

"The fear of leaving your belongings alone while you go to access food or the washroom, or friends, or whatever it is, is really hindered by the possibility of having your belongings stolen, either by people in the community, or, more likely by law officers and police, and I think that that fear is pronounced when among the things in your belongings are drugs. Because the risk of having them stolen leads to all sorts of other outcomes in terms of having to replace your supply, going into withdrawal ... The result is oftentimes that people are carrying large amounts of drugs on their person which can be risky both in terms of enforcement and, you know, interpersonal violence."

DRUG POLICY EXPERT 1

"Cause if all of a sudden something goes down, and you've got to leave that shelter for your own safety and you can't get your drugs to take with you. You might have to stay in that unsafe situation until you can access your substances again in the morning... If you keep your bag accessible in your purse, you set that purse down someone might rifle through it and take it from you. Whereas, if you've got that bag, you've stashed that layered under all the layers of your clothing that just becomes a huge hassle to access in order to take a hit. These are some of the little things that folks don't really consider that folks are either living homeless or precariously housed in situations downtown. If you don't have a place where you live where you can keep your drugs and use your drugs, you end up having to make these decisions that often carry a risk."

HARM REDUCTION WORKER, PETERBOROUGH 1

As with buying and using drugs, respondents described a range of storage strategies to enhance their safety, from minimizing the risk of robbery (e.g. by storing drugs in separate packages) and criminalization to minimizing the risk of withdrawal:

"Yeah, I'd rather pick up in larger quantities and then I'll separate it myself and put it in different locations instead of having to go back and forth for little locations, or little amounts and then people from the opposing sides catch and play or see your routine and the robberies happen, more violence happens."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 4

"The fear of getting rinsed [robbed], you typically will keep your stuff on you. So, it's like you probably might put it in your bag, but a lot of our folks will pack their stuff into a smaller bag and strap that under their clothes. So, if they happen to fall asleep or they OD, people can't just rifle through their stuff and steal their shit. And the same goes for people storing their stuff from cops. Like a lot of people hoop."

HARM REDUCTION WORKER, OTTAWA 1

"Well, now I have different kinds of crack, so they're in different little packages. They're in different little containers. I have them in different containers because it's different kinds... Because it's synthetic, so there's different kinds. One's more potent than the other, one tastes different... So I remember what's what and they're not all mixed together."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 5

"I have a warrant out for my arrest right now, but other than that, I'll keep at least three points on me just in case, if I do get picked up by the police, I'll have something to go in jail with. And I won't have to be sick through the course of time of me being in there where it's going to be where it's very hard and I know that for a fact. So, if I'm in jail and I have some on me I'll be totally fine until they can get me on the Suboxone program in there."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 4

"Like let's say I have a little bit of hard, and I got a little bit of down, I'll keep it separate because if I'm sharing, say if I do a hoot of hard with somebody. Well, if they don't do fentanyl, I don't want them fucking overdosing. So, I got to keep my fentanyl separate... They weigh it up and they separate it for themselves, kind of like you do for your baby. You make each bottle, you put so many milliliters in each bottle, right? And you have one for breakfast. You have one for supper, one for the middle of the night, one for early in the morning when you wake up. You know what I mean? That's what it should be like... It should be a little bit of leniency with that instead of being like, 'Hey, man, you got like 20 dimes up packages here, you're selling.' No, I'm not selling but it's just I'm spacing it out for myself, it's to prevent myself from overdosing. I can open up a package, put it in my spoon. I know it's not going to be too much. I know I can handle that much. So that's what I package up for myself. Each package is for a certain time of the day. Just like your little pill containers you get for seniors you know Monday, Tuesday, Wednesday, Thursday."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 4

"I don't cross-contaminate. I wouldn't keep my cocaine with my fentanyl. Just in case someone wanted to do some cocaine that doesn't do fentanyl. I don't wanna cross-contaminate or kill anybody. I keep them separate. But I keep them in the same vicinity but not in the same baggies."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, PETERBOROUGH 3

Storing drugs in different packages also minimized the risk of inadvertently consuming a different drug or an excess quantity of drugs for some:

## Sharing, Splitting, and Selling Drugs

As scholars, people who use drugs, and criminal legal system actors have long observed, there is substantial overlap between people who use and supply drugs,<sup>37</sup> with some research indicating that those who participate in the drug trade have “higher intensity addiction.”<sup>38</sup> Other studies have shown drug selling is often motivated by pragmatic concerns (e.g. as a means to generate income because group buying is more economical, or to protect against criminalization).<sup>39</sup> Numerous respondents described people both using and sharing, splitting, or selling drugs for various reasons. Some shared drugs with friends in social situations or sold drugs to friends because they had personal connections with a supplier and could procure drugs on their behalf. Others sold to make money, often to support their own use, a practice some have described as “necessity trafficking”.<sup>40</sup>

“I share my drugs all the time... I don’t like being alone when I do it. Then I see if I got money or whatever. Or people are sharing with me... It’s a social thing ... and I don’t like doing it by myself... Plus I’m broke so we help each other out, you know?”

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 1

“It could be basically piling and just pooling money together. It could be a situation where the dealers in my area, I think that they’re selling dirty stuff. And I feel like, you know, the stuff that’s in your area might be cleaner. So, I’m asking you or you’re asking me or vice versa to deal with for you.”

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, TORONTO 5

“I know when I was using, it was very common, if you know the dealer better than I do, if you’re going to go grab for both of us, I’ll e-transfer you some cash and then you bring it to me, and I’ll piece you off or something like that. So that was common ... But oftentimes, like, of course, people are putting their money together to buy more and then being able to split and share it because that just makes sense.”

HARM REDUCTION WORKER, SUDBURY 2

“I think also there’s people who are afraid. And so, they’ll be like, ‘Okay, you go do it, you go get the drugs,’ and they’ll procure for other people and give/distribute to other people. Or it’s just easier if one person goes and does that for a group of people. And also, there’s people who will procure because they can make money off of procuring for other people. And so, they could get their drugs, [which] could be free because they went and picked up for a group of people.”

DRUG POLICY EXPERT 2

“A lot of the time people who use drugs will sell to get paid in drugs, so they have a main seller. But they’re not making any money. They’re just working for their use.”

HARM REDUCTION WORKER, SUDBURY 1



Studies have additionally shown that people who supply drugs recognize the risks of a volatile drug market and adopt practices of care to mitigate the risk of overdose or to otherwise confer health benefits. Practices include identifying reliable suppliers who have knowledge about their product and can attest to its quality and composition; developing shared understandings of supply changes; using drugs prior to selling them to know their strength and quality, and communicating this to others; participating in drug checking programs to know drug composition, and communicating this to others; engaging in practices to modify the content of their drugs to ensure consistency and moderate potency; and only selling to people they know and not selling to people for whom tolerance levels are unknown.<sup>41</sup> Again, these practices were echoed by a number of respondents:

**"If you're someone like me who's a conscientious dealer who cares about what's in their drugs and will test them, it might take a couple days but I'm a good dealer, I'm always ahead of the game."**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, TORONTO 1**

**"I know the quality of the dope. I know what's in the dope. And I get the dope tested all the time. When I was a community outreach worker, having lived experience, I was able to tell people what was in the dope and help them out like, 'Don't go to this guy, he's got benzos in the dope, or he's got tranquilizers or garbage in it.'"**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 4**

**"In terms of trafficking and possession for the purpose of trafficking, we know that people will try to share amongst themselves, especially when they find drugs that are safer or where you're trying to take care of a family member or a friend. But that comes with higher-level penalties for that type of thing. And presumptions of harm or danger to public safety even where that is not strictly made out on the evidence regarding a person's intent and without understanding of the danger posed by the unregulated drug supply."**

**DRUG POLICY EXPERT 4**

**"A client who was charged with possession for the purpose of trafficking and he was also, though not charged, I think was also cooking the drugs. And he was selling but to his friends and he knew that the drugs he was cooking, I guess, and selling, were clean. So, what happened in his situation was he got charged so he stopped. So, his friends had to go somewhere else for their supply. And one of his friends went somewhere else and the stuff that he bought was laced and he overdosed and died. My client was devastated because he felt like he was ensuring that people were getting a clean supply and the minute he stopped his friend died because he wasn't getting a clean supply anymore."**

**LAWYER 2**

In addition to the strategies described above, respondents discussed several other harm reduction practices adopted by drug suppliers to enhance the safety of clients, from personally distributing harm reduction equipment, to assisting with injecting, to reviving people from overdoses:

**"When I was dealing, I would hand out fresh rigs, fresh everything I said, 'Hey just be careful when you use.' And I'd always warn them, I'd say, 'This is what this dope is like.' You know, because I'm a conscientious dealer, if there's ever such a thing."**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, TORONTO 1**

**"My friend has no veins in arms or her legs that she can hit, so she depends on me to hit her in her jugular vein — not artery. And I manage to do that every time flawlessly ... and I do it for 25 different people. Anytime they need me to hit them up I can be surgically precise, like one and done, 'Wham bam, thank you ma'am,' ... making sure they get their full shot in them instead of missing a whole bunch of it and wasting the drug."**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 6**

**"I've had to use naloxone on people that overdosed in my company and not call the police or the ambulance 'cause I didn't want to deal with that, and I successfully got them back, so that was good."**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, TORONTO 2**

## Social Supply

Researchers have also found that "social supply" or the "non-commercial drug supplying, or sharing, among friends and acquaintances for little to no profit"<sup>42</sup> can be motivated by a desire to reduce harm among people who use drugs, who may share drugs to support friends through withdrawal, to reduce the risk of overdose through a known supply because it is less expensive than treatment, or to communicate reciprocity and cement social relationships.<sup>43</sup> This was echoed by respondents who described sharing drugs to support friends at risk of withdrawal or to reduce the risk of harm in other ways:

**"I have drugs for my friends because ... they're really, really sick. And I know the feelings of being really, really sick and it's kind of shitty and I see them shaking there or I see them shitting themselves so that's the reasons."**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 4**

**"I do [share drugs], depending on how long I've known the person. If the person is in withdrawal. Sometimes it can be a social event, there'll be a bunch of people around and everybody sharing. I'm not a very greedy person, I don't just hoard my stuff to myself... I do share. I try to share 'cause it comes back to when you need it."**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, PETERBOROUGH 3**

"I used to share my drugs with everybody that was around. Because I didn't like to use alone. I hated using alone. I was one of those people that got really paranoid because I've been raped and I've had bad situations while I was high. So, I don't like to use alone. I always ask a girlfriend or whatever to come with me. I'd never ask them to pay me for what they were using. Just give it to them. It got costly after a while. But it was a better alternative than using alone."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 3

"Sometimes that's done because some people have mobility issues, especially with these xylazine abscesses that are coming. So, some folks are having mobility issues, or are in the hospital, or are wherever they are, so folks will pick up drugs for them, for their friends or parents, or whomever, because of immobility."

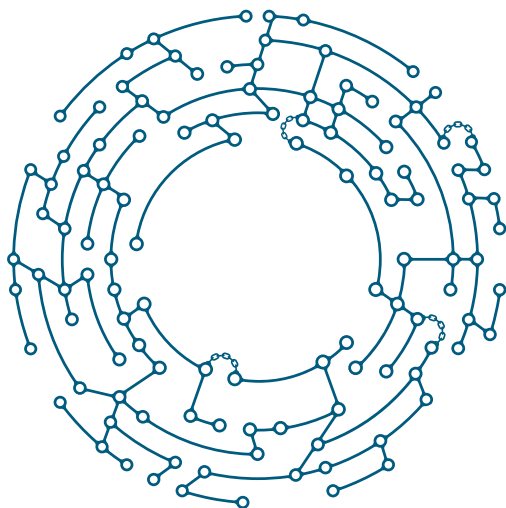
HARM REDUCTION WORKER, SUDBURY 1

"I think that one of the beautiful things that we see is because criminalization and enforcement has created such a volatile supply, people really do look out for each other in community, and it has created an economy where I think people are constantly saving each other's lives by sharing their supply with one another. I see it day in, day out, like, your buddy is going into withdrawal, or your buddy can't afford their supply that week, or that day, or whatever. And so, people want to assist each other with pain management, and with sharing the supply that they themselves have used and can sort of vouch for."

DRUG POLICY EXPERT 1

In the United Kingdom, social supply<sup>44</sup> is recognized in jurisprudence and considered at sentencing, although some researchers have argued that the concept is too ambiguous and subjective to be relevant or useful in legal settings or as a basis to reform drug laws — in part because this concept tends to be associated with recreational drug use, "soft" drugs, and with individuals from more privileged social backgrounds.<sup>45</sup> While social supply is not commonly used in legal settings in Canada, "non-commercial" supply can be considered a mitigating influence at sentencing.<sup>46</sup>

As the literature and respondents' accounts demonstrate, the perceived binaries between people who use drugs and those who supply them, and all the indicators distinguishing one group from the other, are blurred in practice. Among people who use drugs, various factors, including experiences of homelessness, shape their purchasing, storage, and consumption patterns in such a way that activities legally construed as "trafficking" actually reflect personal use, while sharing, selling, and splitting drugs is also a practice that is commonly fueled by concern and community care. These are critical insights that need to be considered in future conversations regarding drug policy reform.



## HOW DO POLICE, PROSECUTORS, AND COURTS IN CANADA AND OTHER JURISDICTIONS GLOBALLY DISTINGUISH BETWEEN DRUG POSSESSION FOR PERSONAL USE VERSUS FOR THE PURPOSE OF TRAFFICKING?

The legal distinction between drug possession for personal use and possession for the purpose of trafficking has varied significantly across jurisdictions and has evolved over time. In Canada, there remains confusion about what differentiates the charges under the CDSA. As respondents noted:

**"We don't even have a full understanding of what possession for the purpose of trafficking is, because we do not take a nuanced approach in legal discourse to how much someone might be using, how much someone might want to possess, why someone might want to buy more than just, you know, dose by dose, because ... you might want to be able to get a 'good batch.' It might also be a harm reduction practice to decrease interactions with an illegal market or potential to be caught by police, right?"**

**DRUG POLICY EXPERT 4**

**"I think the definition of possession for the purpose of trafficking, and what trafficking is, is so broad. And it's so broad that I think that most people who are using in a communal setting or are using sort of like an unhoused setting or sort of using in sort of that more precarious setting and youths are you know probably by definition always in possession for the purpose of trafficking. Youth who pool their money together to buy marijuana to share, this is possession for the purpose of trafficking, right? Or people who have an addiction but also sell or run some small quantities of drugs to feed their addiction. Or using in a communal setting where drugs are shared or implements are shared."**

**LAWYER 3**

Globally, there are generally two models used to delineate the two forms of possession, that is, for personal use or for trafficking: (1) models reliant on discretionary factors such as the use of circumstantial evidence; and (2) models that apply "threshold quantities" to distinguish between the two offences.<sup>47</sup>

### Circumstantial Evidence

Our review of Ontario cases from 2015 to 2025 revealed that the quantity of a controlled substance is a critical factor used to distinguish simple possession from possession for the purpose of trafficking, with numerous cases highlighting larger quantities as being indicative of trafficking.<sup>48</sup> This was confirmed by numerous respondents who described higher quantities of drugs often leading to charges of possession for the purpose of trafficking, regardless of personal drug consumption practices and individual tolerance:

**"Yeah, so I have one that's going to be a trial next month but he's a very avid user. He's about 30 now. And he's been using consistently since he was about 15 or 14. So his tolerance is extremely high. I had a client who said he could go through an ounce of crack within a couple of days, because he said when most police think that the most you can do at one point is 0.1 [grams]. He said that 0.1 doesn't do anything for him. He said when he smokes, the rocks that he smokes are 0.5 [grams]... And so the police are doing a large investigation on the drug trafficking operation. And they raid one of the houses. It's being used as like a slash trap house/flop house. So, there's trafficking going on in the house, but there's also just a lot of people in the house who are just there using. He's found in the house, and he has a bit under an ounce on him. The police go to arrest, the police are searching everyone, and they find the ounce on them, and they tell them that they're charging him with trafficking. And he says, 'No, that's just for me.' But because it's so much, they charge him with trafficking."**

**LAWYER 4**

Courts have also found that larger quantities do not automatically confirm that someone is trafficking.<sup>49</sup> Instead, quantity must be assessed alongside other types of evidence to determine intent underlying possession. Such circumstantial evidence can include the packaging and presentation of controlled substances. For instance, large quantities of drugs found in organized packaging has been considered sufficient evidence for a court to find an intent to distribute.<sup>50</sup> The presence of equipment such as scales, baggies, and cutting agents,<sup>51</sup> and large sums of cash on a person or their property<sup>52</sup> have all been deemed evidence of possession for the purpose of trafficking. Finally, the conduct and behaviour of an individual play a significant evidentiary role, with several court decisions referencing behaviour such as allegedly evasive actions, attempts to conceal drugs, and frequent transactions at a specific location as evidence of trafficking.<sup>53</sup>

Respondents in our study likewise discussed factors that are considered evidence of trafficking, including scales, drug use equipment, and separated packages:

**"Whether you have a scale, whether it's [separated out in dime bags], simple things like, how much do you have? Do you have multiple drugs? The scale is the biggest one, really."**

**PERSON WHO USES DRUGS, INDIGENOUS MAN,  
OTTAWA 6**

**"It definitely matters if there's scales involved. Say they're dimed out, which means say they're in little baggies ready to be distributed. Compared to quantity for personal use. Even if you have a quantity for personal use that exceeds what their rules are. Say it exceeds a normal person's normal use, they'd consider it trafficking even if it's not because they think that's too much for a person to use... Scales are a big thing. And even if these people have scales so they don't get ripped off, it doesn't matter. They just look at it as you're scaling it out for other people."**

**PERSON WHO USES DRUGS, WHITE MAN,  
PETERBOROUGH 3**

**"One thing that they often look at is drug paraphernalia. So, for example, if they also have a spoon and a lighter in their pocket or there's a bong located in their residence or needles that they find in someone's backpack. Those can be indicia [evidence] that they're users. So sometimes if we're running a preliminary hearing, for example, and the issue is whether it's [simple possession] or for the purpose of trafficking, as a defence lawyer I'd do my best to bring out all of those factors to show that perhaps these people are users themselves... Perhaps if they're arrested with other people, then they'll add [possession for the purpose of trafficking] because they'll make the assumption that they're sharing amongst themselves or buying and selling to one another or they can't determine who the buyer or the seller is, so they'll charge them all with [possession for the purpose of trafficking]."**

**LAWYER 2**

**"Often people will rely on things like whether something is packaged in separate bags, whether people have tools to help separate out drugs into separate bags like that kind of thing... Of course, someone would want to separate out their doses especially because the drugs are so potent and so toxic and so potentially dangerous ... it is truly a roll of the dice."**

**DRUG POLICY EXPERT 4**

Indeed, there are numerous reasons why people who possess drugs primarily for their own use have scales and baggies, divide their drugs into smaller packages, and split or share their drugs — including for their own and others' safety. Frequent purchasing may also be a consequence of having insufficient financial resources to acquire a larger supply, or to avoid potential trafficking charges from carrying larger volumes for personal use.

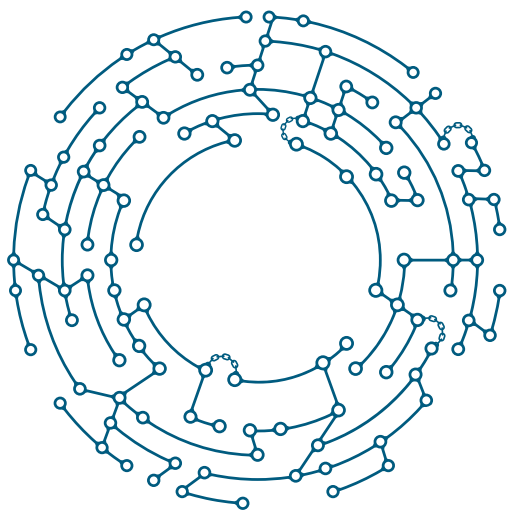
## Threshold Quantities

The second of the two key models to differentiate between possession for personal use and for the purpose trafficking (i.e. quantitative measures) have been adopted in countries or jurisdictions that have decriminalized certain drugs, including Portugal, the Czech Republic, and the Province of B.C. in Canada.

Typically, threshold quantities differ depending on the drug, and quantities can be set out in legislation or policy guidelines,<sup>54</sup> based largely on what policymakers deemed to be a personal quantity and also informed by perspectives of police. Possession below a certain threshold or amount results in either no criminal charge or substitute sanctions, such as an administrative penalty or fine. Threshold amounts can be fixed, such that they automatically trigger legal consequences regardless of context or individual circumstances, or indicative, serving as guidelines rather than hard limits and allowing for greater discretion on the part of prosecutors and other actors in the legal system.<sup>55</sup>

Among issues raised with thresholds is that they are often set arbitrarily or too low, failing to account for individual levels of tolerance or patterns of use.<sup>56</sup> As a result, individuals may be charged with trafficking when instead the drugs were for personal use, unjustly increasing rates of conviction.

Low thresholds can also incentivize people to switch to higher potency substances to remain under the pre-determined amount, aggravating risks such as overdose. Supporters of thresholds usually contend that they can help curtail inappropriate discretion or overzealousness by police or prosecutors<sup>57</sup> and discriminatory or racialized policing<sup>58</sup> while ensuring greater consistency in the application of the law.<sup>59</sup>



## Police Discretion

Police are often the first point of contact between people who use drugs and the criminal legal system; therefore, their exercise of discretion when it comes to enforcing drug offences is enormously consequential. A common theme described by respondents was the inequitable social and racial profiling of people who use drugs, based on factors such as their history of involvement in drug offences and race:


**"[I've] been randomly searched. Standing outside in a shelter and just randomly been searched. Hassled. Because I was a known drug dealer, they just suspected, speculated I was dealing. And I kept saying I wasn't. So, they kept digging into my pockets. Most of the time I'd say no, and I'd end up in handcuffs. It got to the point where I just complied. You know what I mean? ... say the way I dress. I'm all hoodied up, my low pants, used to have headphones on listening to music or something. They just say I look like a hoodlum, I look like somebody who deals dope. I said, 'What does someone who deals dope look like?'"**

**PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 5**

**"Because of deep-rooted prejudices there is just going to be a greater assumption of criminality for an Indigenous person. Just going into that encounter, the police are going to be regarding this individual with an entirely different lens than they would a white person... It doesn't occur at that conscious level. Instead, it is just a deeply ingrained prejudice that this person is going to walk away with more charges than a white person did just because that's how police with power are going to treat Indigenous individuals."**

**HARM REDUCTION WORKER, PETERBOROUGH 1**






"I think that there's less sympathy for people who are racialized as well. And for racialized people ... the police have this term that they call 'user traffickers,' so all of a sudden because someone's keeping drugs, someone that uses drugs is keeping drugs with them, they're also now being charged with possession for the purpose of trafficking as opposed to just possession... And it's not to say that white people aren't charged with [possession for the purpose of trafficking], but I find that when white people are charged for [possession for the purpose of trafficking], they usually are not addicts; they're usually actual drug dealers in the circumstances. As opposed to people who the police refer to as addict-traffickers. In their definition, the police expert's definition is like a person that has a drug issue but is also selling to serve their habit. And I find that more Black people and more marginalized, racialized people are kind of stuck with that ... title."

LAWYER 1

Location and spatial considerations are other significant factors in police discretion and determining whether they will approach and charge people who use drugs for drug offences. This again highlights where enforcement priorities and discretion intersect with socio-economic status:



"Police find drugs where they look for them. They don't look for them quite as regularly in a university dorm as they do look for them in a park in [name of neighbourhood]. So, they find them where they look."


LAWYER 5

"I mean, there's always the more prominent addicts that are the ones that have a house, have the money to support their addiction but normally those are the people that don't or rarely come into contact with the police. It's usually the people that are homeless and addicted that are clients of mine who are constantly in, I guess in contact ... contact is a big word. For example, we have a safe injection site and unfortunately, the [name of city] police on numerous occasions have been known to park outside the safe injection sites and suddenly happen to see hand-to-hand transactions which it's basically setting them up for failure, right?"

LAWYER 6

### Prosecutorial Discretion

Consistent with the case law research, respondents described the type and quantity of drug as key factors in prosecutorial decisions to charge people for drug offences. When it comes to pursuing charges for fentanyl possession, prosecutorial discretion tends toward pursuing charges or heavier penalties:



"Police and Crowns are less likely to use their discretion for a simple possession of fentanyl charge with someone with an extensive record versus someone who, you know, upper middle class, middle class, and they have powder cocaine, marijuana. That's something that obviously doesn't carry the same weight as MDMA, for example. I think there's obviously, as you know, there's a certain hierarchy of drugs. And if you have the hierarchy of drugs that kind of lends towards affluence, first of all, you're much less likely to even be in the police's scope. But if you are, that discretion is going to be used on you rather than someone homeless who has fentanyl, who has a past record."

LAWYER 4



"They're looking at the type of drug and quantity of the drug that is possessed. They're looking at if the individual has a criminal record for other drug offences or past convictions for trafficking or possession for the purpose of trafficking... Once someone is charged with possession for the purpose, it can be quite difficult for the Crown to move off that position."

**LAWYER 3**

Several respondents described one's criminal record as a factor in whether prosecutorial discretion was exercised in favour of a person who uses drugs. Many also described subjective factors, in particular the influence of racial and gendered stereotypes:

"And with women, that's where I see Crowns are often harsher with women, especially female addicts. I haven't taken statistics of that but that's what I've gathered when I'm in court, it's women who are treated more harshly."

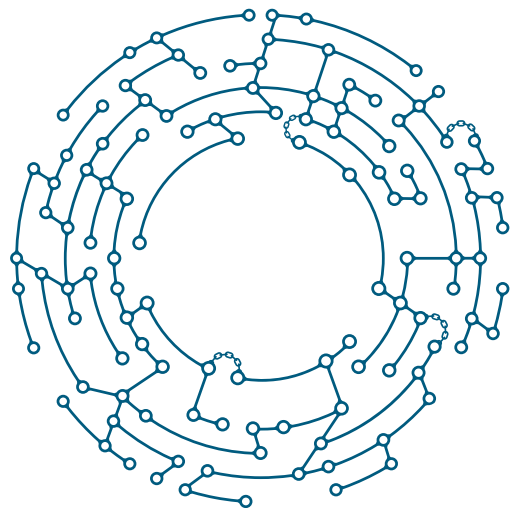
**LAWYER 2**

"A lot of times, especially as a young Black kid, you're being told, well, listen, man, I gotta figure it out for you, okay? I'm going to give you just four months. But if you go in there and try to fight it, I'm guaranteed you're going to get 18 months, you're going to get two years. Because that's how everybody gets these things, and they boast at you and try to tell you all this shit. And even though you know you're right, you're kind of basically terrified of some outcome that they're just going to give you."

**PERSON WHO USES DRUGS, BLACK MAN, TORONTO 5**

"People who are charged for these types of offences are more likely to be people who are Indigenous, Black, racialized communities, people who don't have housing, live in poverty, and are perceived of or do have a disability... Last year looking at public prosecutions for drugs in British Columbia, I think between 2017 and 2021 that disproportionately showed that while there is some diversity in who is charged, the people who proceed to prosecution are more likely to be Indigenous, Black, and racialized communities. Which is an indicator that people who are identified as white are more likely to have access to things like diversion or have charges dropped. Or be able to negotiate some kind of settlement because they aren't the folks who are going to trial. And then of those people who do proceed to charges, carceral sentencing, again, very disproportionately shows up in folks who are identified as being Indigenous or Black communities and the statistics that came out of the public prosecution data there was quite stark ... and that data is not a surprise to anyone. It just gives numbers to what people see every day."

**DRUG POLICY EXPERT 4**



Notably, respondents described prosecutors exercising their discretion to withdraw charges once charges had been laid by police:

"Police officers charge everybody and their mom and they overcharge. And then when the Crowns get the case, they're like, 'Oh, wait a second, there's actually no evidence for this. Or there's no public interest in proceeding.' Which a lot of the times might be for the small stupid possession charges or that they just don't have enough evidence. So, a good example is ... a whole bunch of fentanyl was found in the glove compartment of a vehicle, and there's four people in the car. So now we're going to charge all four people with possession for the purpose of trafficking of fentanyl that's not visible in this car. Then the police do that and then the Crowns obviously recognize and go, 'Oh, wait a second. What are we going to do with this person in the back who doesn't own this car? We have no idea how long they've been in this car and the drugs are in the glove compartment hidden away.' So that's how things end up, because I personally think that the police end up charging everybody and then let the Crown sort it out later."

LAWYER 1

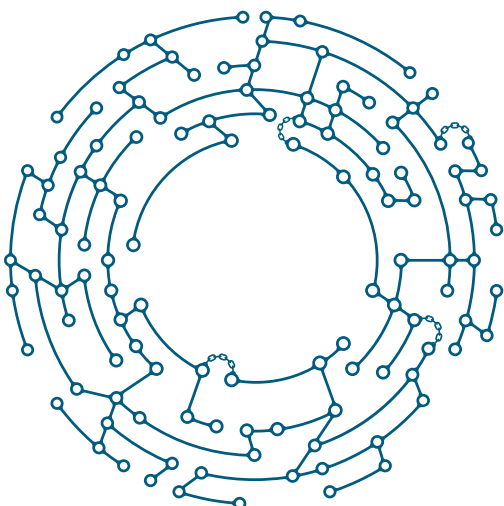
"The cops catch you, you have X amount on you. Let's just, I don't know, let's just use 100 grams for the purpose of this hypothetical. And basically, the cop charges you with a possession for the purpose of trafficking. How are they going to be able to prove the trafficking if there's no debt list, there's no baggies, there's no scales, there's nothing else. You're still charged with 5(2) or 5(1) [trafficking sections of the CDSA] depending on the substance. By the time you're speaking to the Crown, the Crown will look at it, see that they should never have charged you with a 5(1) or 5(2) because there was this lack of other evidence. And then they'll come back and say, we'll take a 4(1) personal possession [section of the CDSA] if he pleads by this date..."


LAWYER 6

In particular, respondents described prosecutors reducing or withdrawing charges in cases involving accused with perceived substance use issues, although the socio-economic background of a person played a significant role:

"When you're negotiating with the Crowns, you tell them like, 'Look, my client has an addiction.' And that's usually where the Crowns, when they see that they're more inclined to offer the client a 4(1) [personal possession] than they are in any other circumstance, right?"

LAWYER 6






**"I've had also sort of on the more minor end of things charges dropped if there's been substantial efforts at rehabilitation. Someone who is using and perhaps possessing or trafficking drugs to fund their use, the charges can either be reduced or dropped or some agreement of no jail time if there is substantial upfront work. Which benefits people who are more able to afford to fund and have the support to do that substantial upfront work and so mostly that's upper middle-class, middle-class individuals, who can afford private treatment, who can have a stable place to live and do all those things and jump through the required hoops."**

**LAWYER 3**

While the exercise of such prosecutorial discretion in these scenarios may benefit specific individuals, one respondent explained that the police practice of aggressive charging still harmed people who use drugs:



**"Cases will tend to get to court but by the time that it's gone to court, there's people who've already served out time because of the ways in which our system works. So, they've already been serving out a sentence, even though they haven't been convicted. By the time it gets to the court, prosecutors could be like, 'Yeah, okay, we're just like letting these charges go. We're not convicting this person' because they have that discretion to do so and they've also been given prosecutorial guidelines to tell them to do so but the person has already served out time. It doesn't stop the police from arresting and harassing people and using the laws to justify that kind of brutality and harassment and arresting. And it's so you have these two different groups, these two different institutions not working hand in hand."**


**DRUG POLICY EXPERT 2**

## Judicial Reasoning

The primary theme that emerged from respondents' discussion of judicial reasoning and drug offences was how perceived substance use disorder could be a relevant factor in (1) determining whether someone had drugs for personal use or for the purpose of trafficking; and (2) determining conditions and sentencing. As also noted by a lawyer above in negotiating with Crowns, perceived "addiction" in most cases can enable lawyers to argue for less restrictive conditions and shorter sentences:

**"It is helpful on sentencing because it does in a way lower their moral culpability. So yes, it can help at sentencing, and it can help if they're placed on probation, it'll help probation terms be crafted to help them. But in a trial, where it's just about guilt or not guilt, it doesn't really come up unless the specific charge is possession for the purpose of trafficking and they're going to testify that it's for personal usage."**

**LAWYER 4**



**"There is some lenience for the dealer who is visibly addicted or visibly impoverished, they are the ones who are disproportionately arrested. They're also the ones that, in the eyes of the court, probably get a little bit of lenience, comparatively."**

**DRUG POLICY EXPERT 1**

As lawyers shared, however, sometimes judicial leniency was contingent on a person participating in counselling or treatment, which is often inaccessible for more marginalized people who use drugs, including racialized people who may be underdiagnosed and undertreated for substance use conditions,<sup>60</sup> particularly in the timeframes or on the terms demanded by the criminal legal system:

**"I think that sometimes it can depend on what the client is willing to do in the community at the time of sentencing. For example, if they're willing to do some counselling or meet with a worker, or they have a desire to change their use then sometimes that can help them in terms of sentencing or even in terms of resolving the case in some other fashion to reflect the fact they're users, they're addicts and that contributed to the commission of the offence."**

**LAWYER 2**

**"In sentencing, it does, I think, play a pretty big role. Here again in both situations the advantages of sort of privilege are most obvious here because it is incredibly difficult to get treatment, especially if you're in custody. It's incredibly hard to sort of demonstrate successful engagement in counselling when you're relying on publicly funded counselling and things like that. But it's definitely a factor."**

**LAWYER 3**

Conversely, one respondent said a perceived substance use issue could work against a person who uses drugs, particularly for people who face routine interaction with the criminal legal system:

**"It becomes mitigating if someone seeks treatment and does something good with respect to treatment or has some success with treatment prior to being sentenced, then it can become mitigating. But often it can become aggravating because it becomes a regular thing that creates a circumstance in which violence occurs. So, it's not always mitigating. It can aggravate as well."**

**LAWYER 5**

As the case law review and respondents confirm, the ways in which police, prosecutors, and courts distinguish between personal possession and possession for the purpose of trafficking does not account for the complexities in how people acquire, use, and share drugs, especially within structurally vulnerable communities. Respondents shared that Indigenous, Black, and low-income communities, and people experiencing houselessness in particular, were disproportionately targeted by law enforcement, reinforcing a cycle of criminalization with deeply negative impacts on people's health and well-being.

## **WHAT ARE THE IMMEDIATE AND LONGER-TERM IMPACTS OF CRIMINALIZING SIMPLE DRUG POSSESSION AND TRAFFICKING?**

Research over the years has demonstrated that drug prohibition has both an immediate and longer-term negative impact on the health and well-being of people who use drugs. For example, the presence of police — and increased interactions between people who use drugs and police — has been shown to discourage people who use drugs from carrying harm reduction equipment,<sup>61</sup> limit their access to harm reduction services,<sup>62</sup> and hamper their ability to engage in safer drug consumption practices.<sup>63</sup> The enforcement of drug offences also dissuades people who use drugs from seeking medical help in an overdose situation.<sup>64</sup> Numerous other negative impacts are discussed below.

## Using in Isolation

Respondents universally described fear of police among people who use drugs, related not only to the threat of criminal charges for drug offences but other punitive consequences such as the involvement of child protective services, which is a particularly stressful concern for Black and Indigenous parents due to racial profiling and the subsequent overrepresentation of Indigenous, Black, and other racialized children in the child welfare system.<sup>65</sup> This can lead to drug consumption in isolation:

"I was smoking and I went into the bus terminal and used the washroom there. Where else did I have to go? I had to go and get an injection somewhere, so used the washroom there. Or I'll be going into a corner of a building, you know, an alleyway or someplace also where it's not windy, but yeah, I'm always concealing it, yeah... Fear of charges, mostly fear of harassment, fear of them seeing me and now they're going to be on my case all the time again you know what I mean? I just don't need that... One time I broke my leg, and I had to go [to the hospital]. I had been using heavily that day, and I was afraid that they were going to call the police on me because I had some [drugs] on me and I didn't want to leave it at home. I wanted to take it with me ... I was afraid that they were going to, you know, call the police on me, have it taken away... I was afraid of going to jail. I had a young son, so I didn't want them to take away from that."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, SUDBURY 3

"In terms of simple possession, while the fear may not be necessarily, 'I'm going to be arrested for simple possession,' the fear is oftentimes, 'My dealer is going to be arrested for trafficking,' or the fact of my being visible while making a purchase, puts a target on our back with the effect being that things are just driven underground. Everything takes place within sort of a shroud, or in hiding oftentimes, with the effect being, you know, increased risk of overdose, increased risk of violence, a lack of access to legal or other recourse if things go wrong."

DRUG POLICY EXPERT 1

## Rushed Interactions and Limited Options for Safer Use

Fear of police led people to rush their interactions with both other people who use drugs and those supplying their drugs as well as their own drug use. As a result, many were unable to implement routine protection measures (e.g. from fraudulent transactions, theft, and violence, among other factors) such that they became more vulnerable to various harms:

"It creates a situation where people maybe need to do the transaction quickly. Especially when they're out in the open, because no one has anywhere to live so a lot of the time people have to do the sell really fast so they can't ask questions, even if they wanted to. It's kind of like, 'Hey? You're looking for some. He's got some. Do the transaction now. Done.' And then they find out that they just bought drywall [dust], or they just bought something that wasn't substances so it's ... the criminalization creates that unsafe situation where folks can't even have a conversation with their dealer or check that their product is what it's supposed to be."

HARM REDUCTION WORKER, SUDBURY 1

"The one that jumps first to mind is just having to consider police presence, police involvement while using and acquiring substances is just going to decrease the options that folks have. If it's the case where all the spots downtown are heat 'cause police are increasing their patrols, you might be forced to use at a house that is honestly not very safe for you but is the best option because better to run the risk of nodding off and getting robbed versus getting run in by the police and having everything confiscated or getting more charges or seeing there's an active warrant and ending up in jail. It just overall decreases the options folks have. And this is something I can speak to as a former substance user, when it comes to ... using safely versus unsafely, the using part is paramount."

HARM REDUCTION WORKER, PETERBOROUGH 1

"The data over many, many years now indicates that fear of policing and criminalization, even short of arrest, and that can include things like being stopped or ID'd or carded, searched, causes people to use in more isolation, causes people to use more quickly, decreases the availability of self-directed harm reduction practices like testing out a little bit of the substance, waiting to see how it goes and before deciding whether to use more. It certainly also would impact people's use of drug checking services. And whether people are using in locations where they're likely to be found if they're in need of medical care."

DRUG POLICY EXPERT 4

## Accessing Harm Reduction Supplies and Services

In discussing access to harm reduction supplies, respondents described scenarios in which police officers confiscated equipment or used the presence of drug use equipment as a pretext to search them. Other studies have likewise found that this reality discourages people from carrying safer drug use equipment.<sup>66</sup> As one respondent shared:

"The cops found the needles and used that as a pretext to search me. They didn't end up finding the tar [heroin] because I had to stash it down my balls, like down my pants, right? Thank the Lord. But yeah, they use that ... that's what I call an illegal search. I don't think they should have been able to do that. I think that I think that's ... I think it's forcing addicts to use dirty, dirty gear or you know, or to be scared to carry new gear."

PERSON WHO USES DRUGS, DEMOGRAPHIC DATA REMOVED, TORONTO 2

Respondents also noted that people who use drugs avoided accessing harm reduction services fearing encounters with police, or being profiled as a person who uses drugs, and that this had direct effects on health outcomes:

"Folks that are multiply marginalized, these are folks that just want to reduce their interaction with police as much as possible for very good reason... [They] are going to be less inclined to come physically down to access the [supervised consumption] services because again they are just putting themselves in an environment downtown where police interaction is more likely to occur and why take that risk necessarily if you can hopefully find other ways of acquiring harm reduction supplies from friends. And again, that works until it doesn't, and it obviously takes the one time where you share a needle and you contract a blood borne illness."

HARM REDUCTION WORKER, PETERBOROUGH 1

"There's a number of people who use drugs who are housed who are not accessing services because I think they are very afraid of a loss of confidentiality, and/or being identified by police as a potential drug user by being seen accessing harm reduction services or picking up supplies... That could be a huge risk for them but also increases their risk of overdose, their risk of like abscess, access to harm reduction education, and proper best practices around injection practices... I think there's a fear based on reputation, that people may lose their volunteer positions, their peer positions, access to children."

HARM REDUCTION WORKER, TORONTO 1

"If you're worried about a warrant or something, it's sometimes not prudent to be seen around a place where you're known to habituate, which tends to be where you access your care and go see your community. So that definitely makes things more difficult. You won't see someone around for a while because they're trying to avoid a warrant. Or be trespassed from the property for dealing... That makes it difficult for that person to access services."

HARM REDUCTION WORKER, OTTAWA 2

The specific impacts of criminalization on people's access to supervised consumption services were also frequently discussed, and the deterrent effect of police patrolling outside a site:

"We have a safe injection site and unfortunately, the [city name] police on numerous occasions have been known to park outside the safe injection sites and suddenly happen to see hand-to-hand transactions which it's basically setting them up for failure, right?"

LAWYER 6

"People don't want to go to safe injection sites because as much as like, you know, they say it's a safe zone ...you're right downtown, right, like, you know what 55 and 51 and 53 division are like. So, people are scared to even access harm reduction because, for example, I had a client who got arrested on [name of street], right in front of the [supervised consumption site]. He was charged with trafficking for sharing what he had with another person who was also using with him, and he was charged with trafficking... If simple possession was decriminalized people could reasonably access safe injection, supervised injection sites without being scared that it's a trap or that when they leave, police are going to arrest them."

LAWYER 4



## Racial and Gendered Barriers to Accessing Services

Several respondents described how fear of police, and the stigma associated with drug use, was more intense among racialized people who use drugs and women, further impeding their access to harm reduction services:

"I know for sure there are Black people who use drugs in the city... However, when you look at the demographics of folks accessing harm reduction services ... there's almost no folks that are identified as being a Black male or Black female. And I think that speaks to the concerns about safety and the law and the criminalization and the assumption, for, say, a Black person going into a harm reduction place, especially in Northern Ontario."

HARM REDUCTION WORKER, SUDBURY 1

"Both women and men use substances pretty much the same. There isn't necessarily more men than women that use substances but the way we have presentations to our site is very gendered. We do have some women, and we have some trans women that access, but the majority are men. And I do think that that is a safety issue. I see women typically in other people's apartments, either their own or they're couch surfing or they're all staying in a trap house together. But I'm not seeing as many women accessing services onsite, and I know that ... our female clients are less likely to share information... And it's like that can come down to parenting. Some of our clients, our female clients, don't disclose that they're parents or that they have children at home."

HARM REDUCTION WORKER, OTTAWA 1

"There's people who are not accessing care and service days because they're terrified of the legal system in general, how it's set up because they feel like it's stacked against Black people. They feel like it's stacked against marginalized people. They feel if they go into the system or they allow the system to have access to them or they expose themselves to the system, they're going to get effed one way or the other. They're thinking that in trying to access health or services, it might cause them trouble or harm."


PERSON WHO USES DRUGS, BLACK MAN, TORONTO 5

## Missed Opportunities to Engage with Drug Suppliers

Moreover, when drug suppliers' access to harm reduction services was limited, opportunities for harm reduction workers to engage with these individuals were missed. This, in turn, had ramifications for the safety of supply and ultimately the safety of clients:

"[Drug suppliers] don't want to be seen with outreach workers; they don't want to be seen with the gear. They — like a lot of people who are selling, or whatever — they just don't want to be associated with the harm reduction workers, because they assume it's going to get them arrested or pique interest of the cops... The worst thing about that is that they're not able to have safety conversations, and you know, and I've done this with drug dealers in the past where I've, because I am privileged enough to be in a home where I'm not out in the open but actually having conversations with drug dealers. It's like, 'Hey man, are you using like a different scale for your up and your down? Are you able to do that?' And I've talked to our dealers, who said, 'No.' And I was shocked, and ... I'm like, 'Cool, do you want to kill people?' And they're like, 'No.' I'm like, 'Cool, stop using the same scale' ... Being able to actually offer that education, so that the person who's selling can actually make changes to what they're doing to keep people around them safer."

HARM REDUCTION WORKER, SUDBURY 1



"You know, oftentimes at least back in my day when I was out there, we were interacting with people who sold drugs, but it was usually the people selling smaller amounts to support their habit. It would be amazing to be able to build those relationships with people a little higher up to have those harm reduction conversations to talk about you know, 'What are you mixing? How are you mixing? Are you cleaning your scales? Are you reusing baggies?' Things like that to kind of start to try and prevent things like cross contamination from a higher level and not to of course assume that people who sell drugs don't have all this incredible harm reduction information, but just to have those relationships, to have that exchange of knowledge between people who are selling and people who are doing the work, to then learn from them and them learn from us."

HARM REDUCTION WORKER, SUDBURY 2


"When I was training as an outreach worker about five or six years ago, we had a lot of conversations about how we interact with the police, how we present ourselves. Because there is a great chance that if we're providing outreach services in a trap house and it gets raided, we're getting arrested as well. So having to be prepared to communicate with the police, which really sucks, especially if you're on a peer-led harm reduction team, no one likes interacting with the police when you have a history of criminalization. Sometimes we were unable to access certain places because the police would say, 'No you cannot go in there, the clients that you're trying to see are trespassing. You can't go in. They can't be there. And if we catch you in here, we're going to arrest you.' That has happened before and that again is isolating clients because people will still stay there. There's nowhere else to go."

HARM REDUCTION WORKER, OTTAWA 1



### Displacement and Police Interference with Outreach

Respondents also explained that criminalization made harm reduction outreach more difficult. For example, when clients fear police, this can lead to displacement and dispersal, making it more difficult for workers to reach them. Sometimes, outreach workers were themselves threatened by criminalization for engaging in critical outreach work:



"We're struggling to adapt to the situation we're in. Our outreach teams may find someone who has a little tent somewhere in some bushes and they make contact and then they go back to further the relationship the next day to take them supplies to do the things that the person needs and they're gone. That this constant, constant movement of people either because they're afraid or because they've been moved."

DRUG POLICY EXPERT 5

"I have to be careful about it, because you and I both know, historically, we have had harm reduction workers be followed and considered part of drug investigations because of our proximity to places and spaces where drugs are being purchased and sold and consumed."

HARM REDUCTION WORKER, PETERBOROUGH 2

The risk of criminalization due to current drug laws also prevented harm reduction workers from supporting people in accessing healthcare:

"I can't as an outreach worker drive the person to their dealer who's on the way [to healthcare] so they can get the drugs to do the drug so that they won't be in significant amount of pain to deal with [health issue]. I mean, that is limiting and always requires a bit of a rigmarole. A thing that I used to do in my other outreach role was a lot of getting people to the hospital if they wanted to go to the hospital or trying to convince people to go to the hospital. And a lot of the pieces around them not being able to go to the hospital was because they wouldn't be able to have their drugs because you can't have the drugs in the hospital. And that causes a whole lot of hospital avoidance, a whole lot of unnecessary infections that get worse, a whole lot of big impacts for well-being for sure."

HARM REDUCTION WORKER, OTTAWA 2

## Barriers to Treatment

With respect to drug treatment specifically, several respondents described the significant barriers to accessing treatment, which were primarily financial. For some, the inaccessibility of treatment meant continued engagement in the unregulated drug economy, resulting in further criminalization:

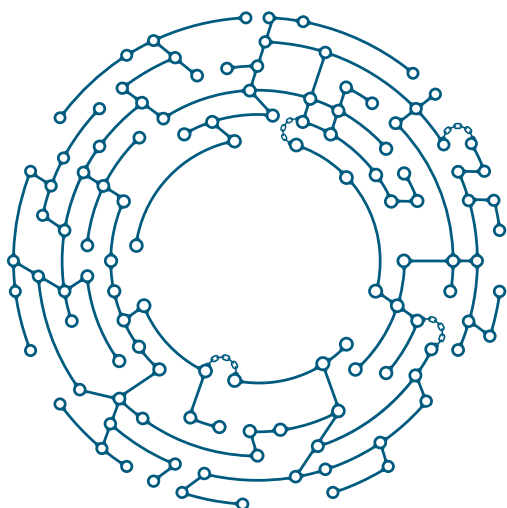
"I don't have all these rich clients, but I've heard of people who do, and people are able to drop down the \$40,000 and \$50,000 to get you into a treatment tomorrow to be like, 'Okay, I need you in a treatment spot now.' Money is literally the biggest factor. So, if you're doing the treatment from OHIP [Ontario public health insurance] that's a big problem because OHIP has wait lists. I just literally had a client again get charged and it was a whole thing. Because why? Because he was waiting for an inpatient bed and he wanted to go. And then ended up back doing the same thing because it was a weeks-long wait and he couldn't handle it, so he was then back doing the same thing."

LAWYER 1

Respondent lawyers also described policy barriers to accessing drug treatment court for those charged with selling drugs, with a disproportionate impact on racialized people — an observation confirmed by federal Department of Justice reports.<sup>67</sup>

"Not everybody's a good fit and the other thing is, is that they don't allow anyone with charges that include financial benefit from drugs into the program. So, if you're charged with possession for the purposes of trafficking a drug you are *de facto* excluded from the program."

LAWYER 5



"If it's a standalone 4(1), we have what is called the drug treatment court and people can apply to go into drug treatment court. They enter into a plea and let's just say it's their first time and whatnot, normally the federal Crowns are good to try to make this go away if the person does certain rehabilitative work upfront, then there is a situation where they may, at the end of it, withdraw the charges against the person or ultimately give them a suspended sentence... Our drug treatment court is very active. The problem is it's hard to get in and it has to be with the approval of not only the federal, but the provincial Crown... If they've got trafficking [charges], it's very difficult to get in if you have trafficking, even if you have addiction issues, which is ridiculous."

LAWYER 6

"But I do notice that a lot of the drug people, clients who I've had offer[ed] drug treatment court are generally white. And then when the clients that I have that are racialized, Black or otherwise, are not being offered drug treatment court because there's parameters around it and one of those parameters is not being charged with possession for the purpose of trafficking. So, if you're charging more people of colour with possession for the purpose of trafficking, then less people end up in drug treatment court."

LAWYER 1

## Loss of Housing

Another recurring theme among respondents was the displacement and loss of housing caused by criminalization under current drug laws. People were displaced after being evicted from their homes for their assumed involvement in drug offences or because they were arrested, incarcerated, and consequently lost access to their residence or shelter beds:

"They've [police] even told my landlords that I used to sell drugs and stuff and got me kicked out of the places where I live, you know?... I had an apartment in a pretty good building, pretty decent. And there was ... some people on the floor below me and there were things happening in the building and because of my past and my interactions with police, they kind of put this stuff on me. And I lost my housing over it."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 1

"I recently got evicted [for] dealing drugs. They evicted me legally, but they had been trying to get me out for years, but I wasn't gonna contest it, so I just said, 'Fuck it, whatever. It is what it is.' ... My landlord came in one day and he found a bunch of crack pipes and he tried to use that to get me out. And the [housing] tribunal people said, 'Leave him alone guys, he's not selling, he doesn't have people coming in and out, it's personal use. Leave the guy alone.' And he ended up going to change the locks on me anyways."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 5

**"Sometimes I see clients who, for example, are at the shelter, they've been charged now at the shelter, everyone sees them getting arrested, the police arrest them right on scene at the shelter, everyone knows about it, it's very embarrassing. Then they lose their shelter bed, so when they are released, they can't go back to that shelter or they have nowhere to go, they're homeless again"**

**LAWYER 2**

**"Being incarcerated takes you away from home, right? So you can lose your housing. That's the biggest one. For example, say you get arrested the 31st of the month and rent is due the next day. And it takes you two weeks to get bail. You've missed your rent and depending on your situation, say you're in a rooming house, right? Say you're in a rooming house and you know they have a wait list so if you don't pay, you're out, right? And there's, you know, it may not be a legal rooming house where you have the protection of the landlord tenant board, where if you don't pay by the end of the first, private security is kicking you out, or it could be the landlord's friend who's just going to take your stuff out."**

**LAWYER 4**

## **Displacement and Dispersal**

Researchers have described how displacement and dispersal due to loss of housing, either by criminal legal or municipal actors, is often accompanied by the removal, destruction, or need to abandon personal belongings as well as support networks that are often central to positive health outcomes and well-being. This, in turn, is a significant cause of emotional and psychological distress, contributing to poor mental health and social exclusion.<sup>68</sup> People who use drugs, particularly those who face economic and/or social deprivation, often live or spend time in areas where services and supports exist; displacement to areas where there are

fewer services can deny them access to healthcare and other needed social supports.<sup>69</sup> Enforcement activity that has the effect of displacement and dispersal can consequently have a direct bearing on individuals' risk of toxic drug injury and death.

These themes were reflected in experiences shared by respondents who emphasized how criminalization destabilized both formal and informal support networks:

**"When people get banned from a particular place they could end up banned from their home... Let's say you get into it with someone or have some sort of issue at a rooming house, which a lot of clients don't necessarily have their own particular unit. Now all of a sudden you're banned from the whole rooming house. How would you go back to your room, which is your home in that place? So now you are homeless, because you can't go back there. And if you have no support system and you can't go back there, then where are you going? Onto the street, likely, or like trying to figure out a shelter. So yes, the effect of that is making people effectively homeless and putting people away from their support systems as well."**

**LAWYER 1**

**"Getting someone to medical appointments, making sure they get their prescriptions, following up with them on appointments around housing, all of those things that we think people want and that we would like to support, fall apart very quickly if someone moves as much as one or two blocks away. Because you get used to, 'I know my social worker comes to this corner. I know I can find Jim on that corner,' and as soon as people are displaced, all of that starts to break down very, very quickly."**

**DRUG POLICY EXPERT 4**

Scholars have found that policing of people who use drugs can create greater social and spatial marginalization.<sup>70</sup> Several respondents in our study similarly described how the policing of drug offences — whether or not it resulted in criminal charges — functioned as a tactic to destabilize community networks and ties:

**"As soon as we start building community I feel like the police break us up."**

**PERSON WHO USES DRUGS, INDIGENOUS WOMAN, SUDBURY 1**

**"Arrests are used as a way to fracture those movements and so ... as someone who works really closely with drug user-led groups, we've seen the way that arrests and convictions and charges can lead to people having to step back from political organizing work ... whether it's because they have bail conditions, or no-go red zones that prevent them from going to that drug user-led group. Whatever it is, it can really change the way that people are able to be a part of their communities."**

**DRUG POLICY EXPERT 1**

**"There's an understanding that a weaker community is going to be more vulnerable to the police, and is going to be more likely to get caught up in these tricks and traps that the police have. This is why groups in Toronto and Vancouver that are just very much on the ground providing substances, providing places to use, are such a threat because they are building up community and police know that's going to make their underhanded tactics less effective. The police won't be explicitly thinking about weakening community ties, but they're well aware that a lot of their practices do that and for them that is absolutely a feature and not a bug."**

**HARM REDUCTION WORKER, PETERBOROUGH 1**

## **Undermining Therapeutic Rapport with Service Providers**

More broadly, numerous respondents described the ways in which drug prohibition eroded trust between people who use drugs and service providers, preventing honest conversations about drug use practices and available supports, and resulting in missed opportunities:

**"It has created a massive fracturing of an already very bad relationship. People do not trust police, people don't trust them when they claim to be in a healthcare role which they should not be claiming, but they do... I think there's also just a spillover in terms of trust in other types of services and supports ... in terms of people being able to access hospitals or healthcare providers, there's a sense that you know partaking in an activity that has been deemed illegal, creates stigma, and stokes mistrust and distrust there, as well."**

**DRUG POLICY EXPERT 1**

**"Well, it becomes challenging just to have conversations with people about drugs... So, in talking about harm reduction, it's always like a hypothetical. We're not trying to get people to incriminate themselves, it's just hard to have honest conversations... There's a lot of mistrust for anyone who's perceived as a position of authority. Whether you're working for an organization, it takes a long time to build relationships and build trust with folks... It really undermines the ability to have a truthful conversation about the realities of someone's life, and then strategies to mitigate some of those realities."**

**HARM REDUCTION WORKER, TORONTO 1**



"I think people will never be honest in healthcare around substance use given criminalization and the fear of repercussions. So yes, there's the laws. There's also people who are actors within those organizations who uphold those laws... You could be working somewhere where you say, 'This is harm reduction,' but the people working there might actually hate drug trafficking and dealers. And you wouldn't know by policy whether they are on board or if they just have more of a view like, 'Oh, we need to care for people who use drugs around HIV and hep C and wound care. But actually, I have a problem with trafficking and drug dealers in general,' and this idea that they are pariahs and that people who use drugs are the victims. I think that plays out within policies and institutions or just the ways in which healthcare or services can be delivered when people have trafficking and drug selling and all of those see that as a negative role and not that drug sellers and people trafficking are drug service providers."

DRUG POLICY EXPERT 2

### Drug Seizures and Interruptions to Supply

A growing body of research has indicated that the enforcement of drug laws, and the accompanying seizure of drugs by police, can disrupt one's access to their drug supply and lead to increased violence in drug markets.<sup>71</sup> Seizures interrupt access to known and/or trusted sources of drugs, induce withdrawal symptoms, increase engagement with the unregulated drug market, and often force people to access an unfamiliar supply — with impacts on their health and safety.<sup>72</sup> For example, a 2023 study found that opioid-related law enforcement drug seizures were significantly associated with increased fatal and non-fatal overdose within the vicinity of where the seizures took place.<sup>73</sup> The seizure of drugs by police has also been found to increase drug market prices, increase volatility in the unregulated supply, and expose people who use drugs to violence.<sup>74</sup> This reality has been acknowledged by police officers in B.C., some of whom have described how seizures fuel crimes as people are required to replace the seized drugs and repay debts owed to drug suppliers.<sup>75</sup>

These impacts were described by numerous respondents:

"[A drug bust] presents a huge decline in the quality of drugs that people are able to access. And that increases the likelihood of overdose. It increases the likelihood of death and huge dysregulation, a lot of contamination. You don't know what you're buying. You think you're buying fentanyl, but really, you're buying fucking benzos, a little bit of carfent [carfentanil], and then caffeine. So, people are incredibly dysregulated and aren't able to keep themselves safe. It's just entirely destabilizing."

HARM REDUCTION WORKER, OTTAWA

"As much as gangs can be a problem for a lot of reasons and cause strife and things, when there's a controlled supply that is consistent and the quality is consistent and the price is consistent, it keeps the market stable, it keeps the product safe-ish — safer and reliable. And then as soon as that goes out the window, then you have a bunch of people that are trying to get in and make money on that gap and selling lower quality product, selling something that may not have the same purity, may not have the same content. It just creates a lot more risk. It creates a lot more instability in terms of where you're going to find what you need, is it going to meet your needs?... And I was seeing a lot of people, when we were testing drugs, getting fentanyl that was purely benzos or whatever, because the other guy went away. And so, you bought from a new guy and it's just benzos and so we've had a whole week of people getting concussions because they were doing straight benzos and smacking their heads into dumpsters and shit. It's not what you're buying. And then you have a poly drug addiction that you don't know about, and consistency is gone."

HARM REDUCTION WORKER, OTTAWA 2



"Usually, if I heard about a drug bust you could usually see the impacts pretty quickly ... what I find that happens is desperation kicks in so heavy when someone's waiting to pick up from their dealer and the dealer keeps telling them to wait because their supply hasn't gotten dropped because it was busted. People panic. From what I've seen, people are asking around. They don't even care who they're asking anymore. People stop trying to be discreet because that fear kicks in because it's like, 'If don't get a fix, I'm going to get sick.' I've seen a lot of that fear, people using a bit more chaotically when they do get something, people needing to change their drug of choice which is a lot of time gonna give them a different effect."

HARM REDUCTION WORKER, SUDBURY 1

"Police go for the low hanging fruit, the easiest target. People buy from people who they know, who they can trust. When you're just locking up like nickel and dime dealers and now you've taken a trusted source away from someone, they're going to go find someone else who they don't know... If they know this guy doesn't cut his crack with fentanyl, I can get my crack from him, I don't want to use fentanyl. I just use crack, or I just use dope, or I just use meth. That's safe for someone. But if you're just locking up all these \$10-a-day dealers ... I'm not getting sober tomorrow. I'm going to just find someone else. So now I'm finding someone whose stuff I can't trust, or I don't know what he uses in it. And I overdose... And I've heard from a lot of people that this is what makes it worse when they do these big scale raids and just take a whole bunch of supply off the market. That is like the worst thing for someone who's addicted because the next stuff they're going to get, they don't know if they can trust it. But they're going to take the risk because they're addicted."

LAWYER 4

"It keeps everything deeply hidden as regular police busts get crowed about in the news media, new people come in. I mean, that's not a surprise. Everybody knows that's what happens. And then you get a whole different formulation of the substances, meaning then that the supply becomes even more unsafe. Either it's weaker, so then people are using more or trying to find more, or it's stronger and people are keeling over."

DRUG POLICY EXPERT 5

Drug seizures also have the effect of increasing the potency of the unregulated supply. This is because seizures often incentivize drug suppliers to strengthen their supply and move smaller quantities with higher value to manage risks related to criminalization and loss of product, a dynamic referred to in the literature as the "iron law of prohibition".<sup>76</sup>

"In the last two years we've seen way more carfentanil and more of the really dangerous potent fentanyl analogs, and because those are more potent, they are more profitable. If you're going to run the greater risk of a bust—because people are just going to feel that naturally in the time after a big bust—the thought is going to be how do I make the most money in the least heat way? If that package of fatty [fentanyl] that you would normally get in from Oshawa, if it's actually 10 times as small because it's carfentanil and its 10 times as potent and you're making the same profit, you're going to be more compelled by economics to switch to the more potent dangerous substance just in terms of the economics of that. So, I wouldn't be surprised that in the wake of that bust, dealers turn more to carfentanil."

HARM REDUCTION WORKER, PETERBOROUGH 1

Respondents also described how larger drug seizures and the accompanying arrest of drug suppliers have led to increased vulnerability to violence in the community:

**"January 2023 there was a fairly high level bust in town... And there was such a trickle down from that in a lot of ways you wouldn't necessarily expect. A big thing that happened because of that one was because it was higher up in the hierarchy of dealers, then all of a sudden you have folks from Oshawa making a move because there's a vacuum in the supply chain of substances in Peterborough. And whenever you've got someone from out of town coming in there's going to be increased violence, that is just strictly cause and effect there. We definitely saw that happening... And all of the instability is obviously going to be affecting the user on the street. That individual is going to have to put up with higher prices because of lower supply, more likely the prices stay the same, but they know their shit is going to be cut with a lot more stuff and there's going to be lower quality... Knock-on effects of that are if the price does go up, there's gonna be more theft. And folks that engage in prostitution to get money for substances are going to take on riskier clients or operate in riskier areas to get more money for substances that now cost more."**

**HARM REDUCTION WORKER, PETERBOROUGH 1**

**"If the price goes up, it also increases a danger for people around, you know, what else you're doing to make the tiny amount of money that you're trying to live on and buy drugs on is now not enough to get by. So what other activities people might end up like, the drug use can then be transactional ... based on like, maybe sexual favours, or ... maybe you have to, like, do favours for folks, so it actually increases risks to your personal health and your risk of ... police coming into conflict with your life."**

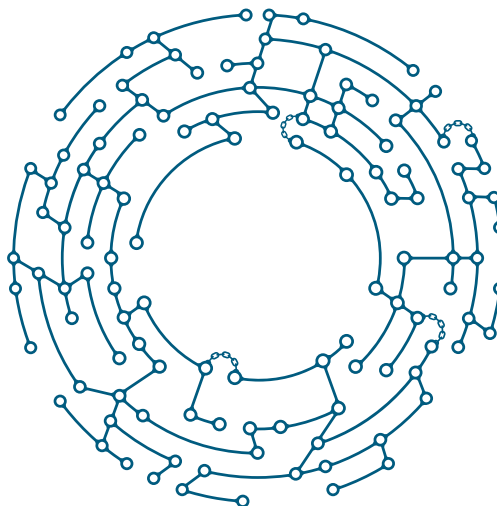
**HARM REDUCTION WORKER, TORONTO 1**

## Other Harmful Consequences

As numerous respondents explained, drug prohibition touches every aspect of people's lives, from their health (including their risk of infection and toxic drug injury and death), to their personal safety and security, to their access to families, networks of support, housing, employment, and more. The destabilizing impacts of criminalization were discussed by several respondents:

**"It's totally destabilizing for people, physically, mentally, emotionally. The fact of having a criminal record, or adding to one's criminal record can impact someone's employment, their housing, their child custody. Particularly, I find for low-income folks who are oftentimes doing shift work in the community, the fact of having to go see your parole officer, or check in at the court, or whatever can totally disrupt your day and it can mean that you're not getting your stipend that day, and that means that you can't afford your supply that day... Sometimes, you know, even an interaction with a police officer that doesn't result in a charge or an arrest or conviction, I've seen that completely destabilize people, send people into panic attacks, anxiety attacks, anger outbursts, mental health crises."**

**DRUG POLICY EXPERT 1**



"So many people that I've seen over the years, it's a blip in their lives when they're using. And then life turns around for them in the future. For them to have a simple possession [charge] follow them around, it can be life-altering. Perhaps it doesn't even end in a criminal conviction, perhaps it ends in a discharge or even diversion... The stress of going to court if you're self-representing or going with your lawyer, you miss work or you need childcare while you go to court. These are things being in the system, without being sentenced or convicted, you have to endure. To put people through that for simple possession defies logic."

LAWYER 2

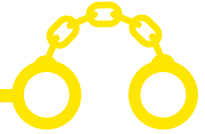
"That can wreck a kid's life, man. Want to get a good job and you're 17, and you get pinched with a gram of coke. I know people that that happened to. And you can't be bonded and whatnot. Well, you can be, but it costs more... Some people choose not to pay the big amount so you don't get the job."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA NOT DISCLOSED, PETERBOROUGH 1

"The way jails are now very, very, very, very locked down, a lot of lockdowns. So, it's hard to get on the phone, it's hard to keep in contact with family. And it sets you back when you get out because you may have lost your house, you may have lost your job, you may have lost your children. That's a big one, losing access to your children. As it relates to drug trafficking, another thing that's important with family, some Crowns take the policy that if you are getting out on bail and you are going to be released to a house with children, they have to inform [Children's Aid Society] even if it's your kids. I had a client, he was out on bail with a family member, and he wanted to move back into his home with his girlfriend and his daughter. And the Crown said that if we agree to have his residence moved to live with his daughter we have to inform [Children's Aid Society]. And obviously he's like, 'I'm not going to do that. I'm not going to put my daughter and my girlfriend through that situation to have to deal with [Children's Aid Society].' He's like, 'I'll just stay where I am'... About an hour plus from his family... So even if you end up, if you use drugs and it ends up not affecting your life anymore in the sense of like you can get a job and do whatever you need to do, good luck trying to find a job that's not going to really ask you for a criminal record check."

LAWYER 4

# RECOMMENDATIONS FOR REFORM



Our study confirms what people who use drugs, harm reduction advocates, lawyers, scholars, and many others have been saying for far too long: our current drug laws have been ineffective in promoting “public health and public safety” — the stated aims of the *Controlled Drugs and Substances Act* — and in fact work *against* them, as the accounts above amply show. Indeed, current drug laws have been an unjustifiable source of harm to the health, safety, and well-being of people who use drugs and communities more broadly.

Not only do the drug laws and their enforcement deter people from accessing critical health services, they also hinder the creation and operation of sustained and responsive health services. As one respondent shared:

“The overarching criminal legal structure is the primary driver for why these services and services related to people who use drugs are not considered within universal healthcare and get treated as exceptional. Everything needs a section 56 exemption [from the CDSA].<sup>77</sup> Everything requires more scrutiny than would otherwise be required under any other health service. And what we have seen is it has created a bifurcation that is not borne out in the evidence but is in the public narrative that somehow harm reduction services are different than treatment, are different than healthcare, when in fact they’re not.”

DRUG POLICY EXPERT 4

At the same time, drug laws have not affected rates of drug use, or the availability of criminalized drugs:

“By and large the enforcement of drug laws is not stopping the fact that people are buying and selling and trading and sharing drugs with one another. There’s ample evidence to show that in terms of having any sort of deterrent effect, these laws are not working. They’re not getting to the root of the issues. They’re not addressing the fact that people are going to continue to use drugs for all sorts of very good reasons... These laws don’t deter activities from happening. They just drive them underground and make them more dangerous.”

DRUG POLICY EXPERT 1

## UNINTENDED CONSEQUENCES OF PARTIAL REFORMS

Moreover, despite the public health principles underlying the depenalization of simple drug possession, it has also entrenched a false distinction between those who use and sell drugs, which numerous respondents confirmed are not mutually exclusive categories. Failing to consider drug suppliers and producers in law reform efforts, and the corresponding shift in enforcement focus on activities construed as drug trafficking, has resulted in multiple harms including increasingly punitive charges and penalties as well as heightened risks of toxic drug injury, death, and violence.

As several respondents underscored, piecemeal reforms can have dangerous, unintended consequences, particularly for more marginalized people who use drugs, and some expressed frustration with the approach taken to decriminalize thus far:

**"[Decriminalization] has largely served as an opportunity for cops to harass folks more often and to be selective in how they apply that harassment. Because it's the sort of thing like, 'Oh hey, we notice you guys are smoking a pipe out here and we just want to make sure you are just carrying for personal use and not for trafficking purposes.' And so the fact that decriminalization is making a starker distinction between the two gives police more pretense to search people, gives police more discretion to say, 'Oh yeah, this person in fact was carrying a scale with them so even though they only have a personal amount, we're also going to charge them with intent to distribute.' Decriminalization effectively gives police more discretion to fuck with people. And it'll benefit folks who have closer proximity to privilege, and it just makes things strictly worse for Indigenous people, homeless people, disabled people."**

**HARM REDUCTION WORKER, PETERBOROUGH 1**

**"Any sort of law reform amendment that maintains the criminalization of said activity that you're allegedly 'partially decriminalizing' not only is ineffective, but it doubles down on harming and criminalizing the people that are disproportionately targeted by criminalization in the first place, aka Black people, Indigenous people, migrant people, trans people, and so on. It doubles down on the criminalization of people that are disproportionately criminalized while potentially benefiting some segment of said population that are more resourced, have more access, and are more privileged."**

**DRUG POLICY EXPERT 3**

When the issue of quantity thresholds arose, many discussed their arbitrariness and ineffectiveness in legally distinguishing between those who possess drugs for personal use versus for the purpose of selling or sharing. Despite some scholars suggesting clearer delineations of police power and accountability mechanisms in response to inappropriate expressions of police discretion,<sup>78</sup> a recurrent theme was the inherent antagonism between people who use drugs and police when all the activities surrounding their drug use are criminalized.

Several respondents thus stressed the need to simply decriminalize people who supply drugs:

**"If we don't talk about selling and trafficking, then we still have these issues around people getting connections to drug sellers that they feel positive relationships to, or the ways in which drugs are sold and the fears around actually procuring drugs will still exist. So there has to be some level of decriminalization for trafficking and selling as well so that people can feel safe to procure drugs. And that sellers selling drugs also can feel some safety in selling them to people. Because those are drug service providers."**

**DRUG POLICY EXPERT 2**

**"You might be decriminalizing a person in the moment when they are walking into a supervised consumption site, but in the moment where they share something with their girlfriend they are not. There's a real disconnect there in terms of the actual experience that someone has of decriminalization... So, by not decriminalizing the interaction itself, you don't decrease the stigma around that interaction, you don't increase the safety around that interaction. It doesn't change things manifestly in a way that would be more helpful."**

**DRUG POLICY EXPERT 4**

**"It's a net positive to stop arresting people for possessing drugs for their own use. Great. We should not be doing that. We never should have been doing that... But, you know, it's a missed opportunity, in my view, to not extend that to things like [possession for the purpose of trafficking], and particularly because if the goal of decriminalization is really to provide legal protection, and to some extent health benefits to people who use drugs, then you need to look at who's actually being enforced against by these laws, who's suffering the harms of these laws. Of course, it's marginalized and racialized drug users, those are folks who are likely to engage in things like splitting or sharing, or gifting, or trading substances which is [possession for the purpose of trafficking]."**

**DRUG POLICY EXPERT 1**

Strikingly, all respondents supported the decriminalization of people who engage in activities construed as "necessity trafficking" or "social supply," although very few suggested that decriminalization should be limited only to those activities. Several discussed the unhelpful distinction between "good sellers" and "bad sellers" and the racial undertones of this division:

**"All the work that we're doing, whether it's being a lawyer or trafficking drugs is necessary to make money, to live in the world, to pay the rent. And so, there's a villainization that happens, and a delegitimizing of trafficking by creating these categories... In a context where government itself is refusing to regulate the drug supply, dealers are the ones providing safe supply to people. They're the ones creating the relationships with people to provide a product that is in demand, and that is never, not going to be in demand."**

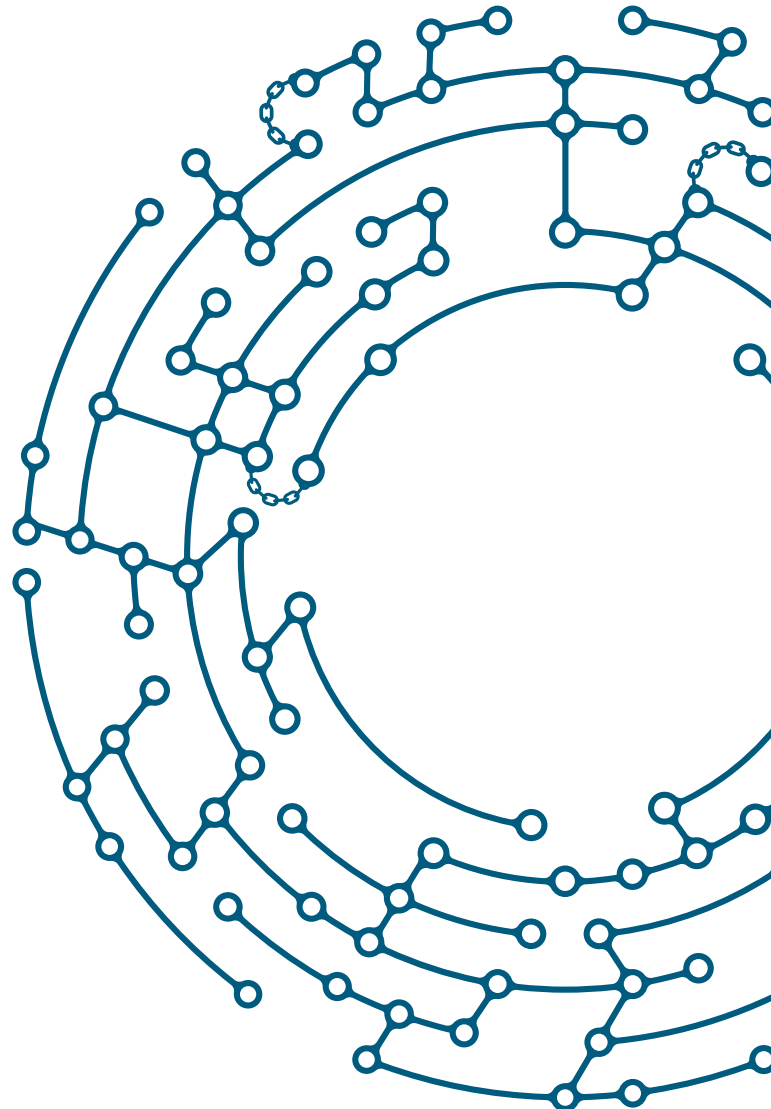
**DRUG POLICY EXPERT 1**

"I think it's a concession and I think it's incrementalism, to be like, 'Oh, it's necessity trafficking so you're a good guy because you procure drugs for other people and so you're necessity trafficking.' But we also live in a capitalist system where people are trying to survive. And drug selling is a lucrative kind of business for people. It's also economical for some people, the only place they can access ways in which to make money or maybe they're on social income supports that just don't give them enough money every month. And so they have to have some other kind of way to make money that is not on the books. And so drug selling can be that. So, I think we are making huge missteps by just saying this is necessity trafficking. I mean, I think it could be necessity trafficking for anybody. Like you could then say, 'Well, this person had to sell drugs because they still needed to feed their family.' But I think that there's this thing of trying to say who's a good drug dealer and who's a bad drug dealer and trying to create this dynamic of who's good, who's bad, when ... the laws are unjust."

**DRUG POLICY EXPERT 2**

"We're talking about notably decriminalizing racialized and Black communities. If we're talking about upholding the rights of all people in a community, we're not only talking about upholding the rights of people who use drugs. We're talking about everyone's right in that community, including the people that are associated with and involved in the criminal activities related to the production and circulation of the drugs that the people who use drugs are accessing and deciding and wanting to access."

**DRUG POLICY EXPERT 3**





## NECESSARY DIRECTIONS FOR REFORM

### A Holistic Approach to Decriminalization

As one respondent shared, “What is clear is that criminal prohibitions, which have been the primary way to deal with drugs for the last 150 years since the racist beginnings of Canada’s *Opium Act* or whatever, is a complete failure” (Lawyer 3). Rather, Canada’s prohibitionist drug laws have resulted in the harmful demonization of people who use drugs, and particularly Indigenous and Black peoples. Consequently, most respondents in our study called for an **overhaul of current drug laws, as well as the decriminalization of personal drug possession and activities related to drug supply and distribution — meaning police could no longer charge, arrest, or otherwise punish someone for engaging in these activities.** Although some respondents expressed the need to regulate public drug consumption, others referred to the continuing availability of other laws of general application to address concerns that may arise with decriminalization.

If decriminalizing all activities related to drug possession and supply or distribution were to occur, respondents explained that this would reduce the fear and barriers people face in accessing meaningful supports:

**“If substances were decriminalized, they wouldn’t be as afraid of police... I think it might create a situation where people won’t have to go and hide, which is a big cause of death. A lot of the times people are out of sight. So, I think that would potentially change. I’ve asked a couple of people as well like, ‘How would decriminalizing drugs help change your life?’ And a lot of what I’ve heard people say is like they’d be just less afraid of the cops and less afraid to go back to jail and just feeling a bit more safe. To have those conversations, especially for the folks who are sharing, or selling to their friends ... It’s community. They’re just helping out their friends. They’re helping out themselves.”**

**HARM REDUCTION WORKER, SUDBURY 1**

**“I’d have been able to get the help a lot quicker than I got it now, right? You wouldn’t have thrown me in jail because I was an addict. You’d try to find me help to better myself, right?”**

**PERSON WHO USES DRUGS, SOUTH AMERICAN WOMAN, TORONTO 4**

**“I do think a lot of fear and the threats that surround access, acquisition, and use would dissipate. I think whether that is from other folks who use drugs or deal drugs or police, people would be able to move around their lives in a bit more of a relaxed fashion and address maybe some of their other goals.”**

**HARM REDUCTION WORKER, TORONTO 1**

One person shared that decriminalization would lessen the stigma associated with drug use and described the experience in Portugal, which decriminalized the personal possession of all drugs in 2001, instead treating simple possession as an administrative offence:

**“They said [in Portugal] a cop car drives by and nobody reacts, nobody’s heads swivel. The hair on the back of your neck doesn’t stand up. People aren’t scared because what happens there is if you get caught with drugs, you can get your drugs taken. You get a ticket. The next day you go to a place where a doctor, a psychologist, and a psychiatrist see you, they offer you treatment. If you refuse treatment, they offer you housing... What it’s shown is that as a community, when we realize that it’s our brothers and our mothers and our sisters and our fathers and our uncles and aunts, cousins that are dying of these addictions, we start to humanize addicts. Whereas opposed to this system, they’re dehumanizing us.”**

**PERSON WHO USES DRUGS, WHITE MAN, TORONTO 3**

Importantly, respondents rejected any involvement of police in healthcare delivery in a decriminalized environment, reflecting apprehensions found in other research among people who use drugs about discursive shifts from regulation through criminal legal systems to medical systems, with police playing a health role.<sup>79</sup> As one respondent explained:

"You have police saying, 'Oh, I'm in favour of decrim,' but they were in favour of decrim because they see this as a health issue. So, drug use has been painted as this health issue. And so, it's pathologized people. And so, law enforcement sees their role as also helping people and, so this could also switch to where we see involuntary treatment come in and they're like, 'Yeah, well, we're not going to get you for possession, but you are an addict. So, we're going to help you and we're going to involuntarily capture you, and you put you over here. And so now your prison wall is a hospital room and so creating patient prisoners and pathologizing drug use ... that kind of pathology of drug use has really increased in the last couple of years .... You hear people saying, 'We need decrim because this is a health issue,' when using drugs isn't a health issue. It's an issue around the laws. Having a wound from having to be outside and injecting drugs that aren't great for injecting a wound can be a health issue. And so, I think this really narrow kind of viewpoint has been negative and I see policing and law enforcement seeing their role in more like catch people, put them in drug courts, catch people, put them on Suboxone or Sublocade. They see themselves as more therapeutic arbitrators, which is where we're headed and where we should be really afraid of."

DRUG POLICY EXPERT 2

## Regulation and Legalization

Some respondents also urged policymakers **not to limit themselves to decriminalization and also take immediate steps to legalize and/or regulate controlled substances**, describing how this would be the only way to effectively address the current, toxic drug supply:

"When it's just focusing on simple possession, it's not really giving room for legalization and regulation so that people know what they're putting into their bodies so that people don't have to play Russian Roulette every time they buy dope off the street so they can, you know dose accordingly or appropriately based on their needs, their mood, their tolerance, what have you."

HARM REDUCTION WORKER, SUDBURY 2

"'Cause I find the drug war, as they name it, where they jail people like me for keeping ourselves alive and comfortable by having to steal things that we wouldn't have to if they just prescribed it properly at the pharmacy. 'Cause if I got a seven gram of crack cocaine, and two fentanyl patches every morning, I'd have no need to go get street drugs from anyone else. And I'd have enough that I could share with people who are really sick who miss the pharmacy. And I wouldn't be selling it to make money."

PERSON WHO USES DRUGS,  
DEMOGRAPHIC DATA REMOVED, OTTAWA 6

"If we ended prohibition, legalized everything, and brought it into a framework, you wouldn't suddenly just be able to start selling only carfentanil instead of fentanyl. There would be at least some market mechanisms to be able to respond to that. But in an underground economy, profit is the only thing. There's no real other mechanism that substance users might have to say, 'We really would rather not have the xylazine in our drugs.'"

HARM REDUCTION WORKER, PETERBOROUGH 1

"But I think it would be about quality, like similar to the Liquor Control Board [of Ontario], I think trying to make sure that the product is not created with [malice], that it's not poisoning, that there's an acceptable level of X, Y, and Z that is in X, Y, and Z drug and that is being met, and it's not causing deaths."

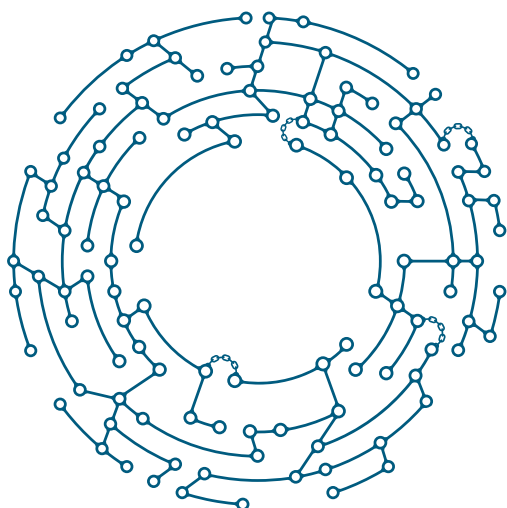
HARM REDUCTION WORKER, OTTAWA 2

"Drug legalization is the biggest third rail political issue in the country. People conflate drug legalization with liberalization and like, advertised supplies like alcohol and it is deeply imbued with values and moral judgments around who is a drug user and whether or not people should ever use drugs rather than simply being viewed as going through a regulatory process of reform to ensure that we control what is in it, control who can access it, control who can make it, when, where, how, and why. Because right now we do not have those rules. We have one rule, and that rule says you can't do any of it. It didn't work. So, other than the prohibition that says you can't do any of this: possess traffic, possess for the purpose of trafficking manufacture, there aren't other rules."

DRUG POLICY EXPERT 4

Such calls for legalization and regulation are not unprecedented. According to Health Canada's own Expert Task Force on Substance Use, the federal government should "immediately develop and implement a single public health framework with specific regulations for all psychoactive substances, including currently illegal drugs as well as alcohol, tobacco, and cannabis" in order to "minimize the scale of the illegal market, bring stability and predictability to regulated markets for substances, and provide access to safer substances for those at risk of injury or death from toxic illegal substances."

The Task Force further called on the federal government to "scale up access to safer alternatives to the toxic illegal drug market in partnership with people with lived and living experience and the organizations that represent them."<sup>80</sup> In 2023, the United Nations High Commissioner for Human Rights also called on Member States to "adopt alternatives to criminalization, 'zero tolerance' and elimination of drugs, by considering decriminalization of usage; and take control of illegal drug markets through responsible regulation, to eliminate profits from illegal trafficking, criminality and violence."<sup>81</sup>



## Scale Up of Healthcare and Voluntary Supports for People Who Use Drugs

Correspondingly, respondents emphasized the need to redistribute resources currently used to enforce drug offences to more robust health and social programs and to **scale up harm reduction supports and voluntary treatment services**, particularly those that are **gender-sensitive and culturally responsive services** for communities that have been historically neglected:

"There's very little mainstreaming of harm reduction services in communities that are predominantly racialized communities and obviously synonymous to communities that are targeted by police... The harm reduction services themselves are often limited to people who use drugs, and specifically to people who use drugs that are perceived as being at increased risk of being transmitted or transmitting HIV, or being at increased risk of overdose or dying... Services would [need to] be seen as relevant and would be offered to all members of said communities. And so that includes people who produce and transform and distribute and sell drugs..."

**DRUG POLICY EXPERT 3**

"[The government is] not willing to pay \$39,000 to put an Indigenous person, a single mother, who wants to, and has shown that they want to, get help to get clean."

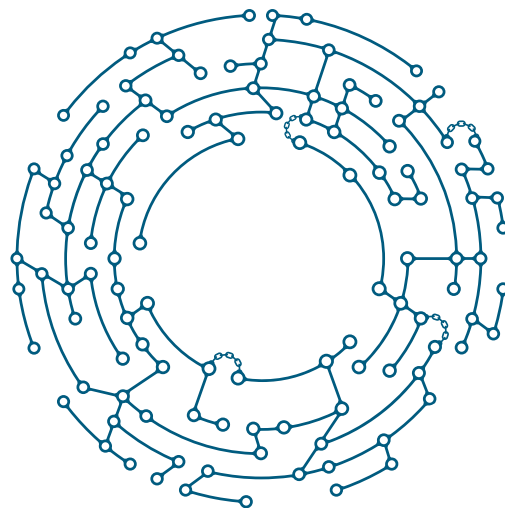
**PERSON WHO USES DRUGS, INDIGENOUS WOMAN,  
PETERBOROUGH 2**

"We cannot get a bed for an Indigenous woman with addiction issues because there's no programs. And if you're an Indigenous male, no programs. The only time you could get a bed is if you're willing to go to a place ... that is very Jesus-oriented, very Christian-oriented ... "

**LAWYER 6**

"I certainly do not believe that everyone who uses drugs has a mental health condition; however, in the population that we're working with where we have so many survivors of residential school or intergenerational trauma from the residential schools ... drug use is seen as the problem as opposed to what actually are the reasons why people are using drugs in the first place. And I think in order for decrim or regulation to be successful, besides courage and education, we also have to be looking very closely and acting upon what other issues people are dealing with and helping them through those situations as well."

**DRUG POLICY EXPERT 5**



## Address Intersecting Sources of Exposure to Criminalization

Respondents also urged policymakers to **consider drug law reform along with other structural factors that harm people who use drugs and which result in over-exposure to interactions with the criminal legal system**, a longstanding call by health and human rights experts.<sup>82</sup> As discussed above, a resounding theme was the housing crisis and how a shameful lack of housing forced people to live and consume drugs in public spaces:

**"Can we ... also work in tandem to stop the criminalization of homeless people and work on just like we're asking for decrim, ask for decrim of homelessness? We have a lot of laws against homelessness and more laws increasing every day. So, encampments is a big target and the use of those laws, including involuntary treatment, are being discussed at high levels."**

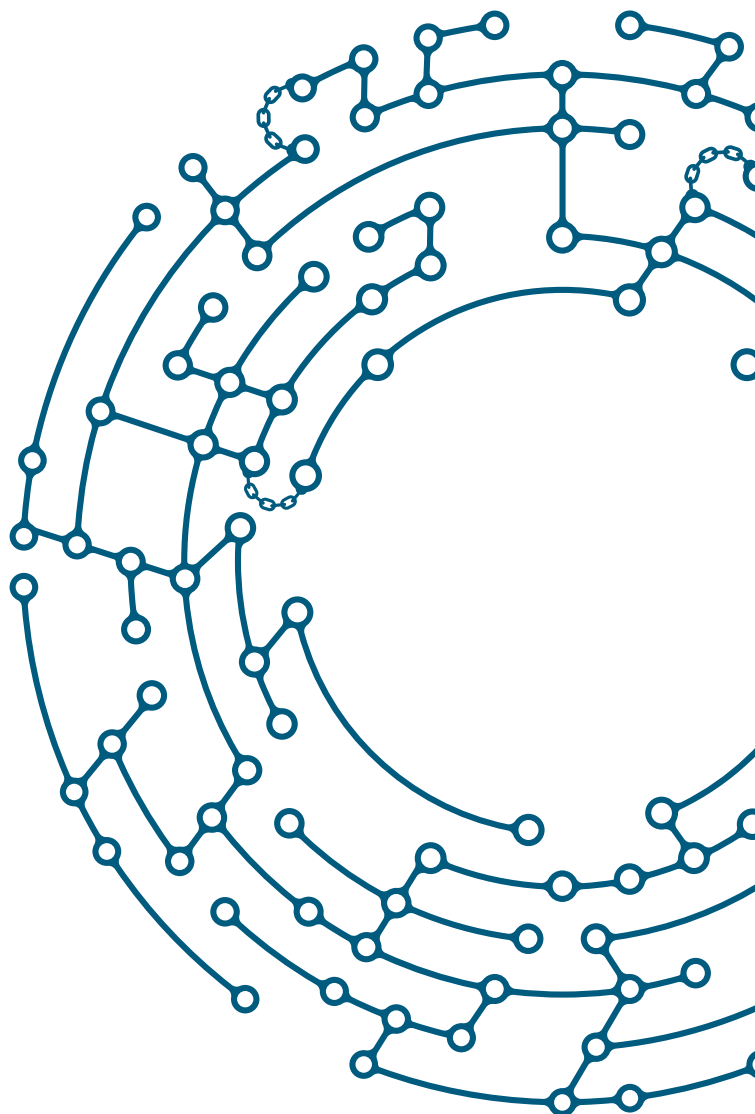
**DRUG POLICY EXPERT 2**

This is especially pertinent in a context where local and provincial governments hostile to people who use drugs have increasingly enacted laws and policies further punishing people who use drugs in public space,<sup>83</sup> erecting numerous additional barriers to harm reduction services, including by defunding critical social and health services,<sup>84</sup> and authorizing involuntary drug treatment<sup>85</sup> — thereby violating the rights to autonomy, life, health, liberty, and equality of people who use drugs. As a respondent emphasized:

**"When we talk about full decriminalization, we're also just saying it's the first step. It's not like, 'Yay, you get your rights, you get your well-being.' You don't yet. It's just that the barrier that is in the way of getting anything you need is then removed... Until you remove the threat of criminalization, you have no chance of actualizing your rights. Period. And you have no chance in accessing the services and supports you need..."**

**DRUG POLICY EXPERT 3**

It is indisputable that the current drug control framework needs substantial reform. Respondents across community, legal, policy, and academic sectors attested to the colossal harms of Canadian drug laws, including preventable overdose deaths, denial of access to lifesaving care, employment discrimination, housing barriers, and others that entrench a legal underclass of people who use drugs. These are the people paying the highest price for Canada's failed drug policies. Study respondents have provided clear calls for transformative change. Grounded in their expertise, and particularly the experience of people who use drugs, we hope our findings will inform deliberation and dialogue among drug policy experts, researchers, and affected communities. We also hope to assist policymakers in making more informed decisions that improve the criminal legal system's approach to substance use and ultimately reduce harm to people who use drugs. By centering those most impacted, this report offers an evidence-based roadmap for law and policy reform that reduces harm, restores trust, and reorients Canada's approach to substance use toward social justice and human rights.



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