

## A Public Health Approach to Drug Policy

**Date:** June 28, 2018

**To:** Board of Health

**From:** Medical Officer of Health

**Wards:** All

### SUMMARY

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Around the world, governments are considering different approaches to drugs. Some countries are decriminalizing drug use and possession while others are legalizing and regulating drugs. In Canada, it will soon be legal for adults to purchase cannabis for personal use. Some health officials and others are calling for changes in our approach to other drugs, especially in the midst of the current opioid overdose crisis.

The *Toronto Overdose Action Plan* recommended that Toronto Public Health conduct a community dialogue on what a public health approach to drug policy could look like for Canada. Toronto Public Health worked with a diverse steering committee to advise on project materials and process. Ipsos Public Affairs was contracted to facilitate community sessions, conduct interviews with people who use drugs, and to host an open online survey and a representative general public survey on this topic.

The evidence on the health and social harms of our current criminalization approach to illegal drugs as well as that of alternative approaches such as decriminalization and legal regulation strongly support the need to shift to a public health approach to drugs in Canada. The community dialogue process confirmed that Torontonians agree the current approach is not working, and we should treat drug use as a public health and social issue, not a criminal issue. Further, a shift in drug policy needs to be comprehensive. Not only do Canada's drug laws need to be changed, but we need to scale up prevention, harm reduction and treatment services to ensure we can provide the supports that people require.

### RECOMMENDATIONS

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The Medical Officer of Health recommends that:

1. The Board of Health call on the federal government to decriminalize the possession of all drugs for personal use, and scale up prevention, harm reduction and treatment services.
2. The Board of Health call on the federal government to convene a task force, comprised of people who use drugs, and policy, research and program experts in the

areas of public health, human rights, substance use, mental health, and criminal justice, to explore options for the legal regulation of all drugs in Canada, based on a public health approach.

## **FINANCIAL IMPACT**

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There is no financial impact associated with this report.

## **DECISION HISTORY**

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In March 2017, the Board of Health approved a report and recommendations from the Medical Officer of Health related to the Toronto Overdose Action Plan, including a recommendation for Toronto Public Health to undertake a community dialogue on a public health approach to drugs.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.HL18.3>

In September 2017, the Board of Health approved a motion asking the Medical Officer of Health to develop and present to the Board of Health the best possible public health advice on the issue of the decriminalization of drugs.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.HL21.1>

## **COMMENTS**

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Around the world, governments are considering different approaches to drugs. Some countries are decriminalizing drug use and possession while others are legalizing and regulating drugs. In Canada, it will soon be legal for adults to purchase cannabis for personal use. Some health officials and others are calling for changes in our approach to other drugs, especially in the midst of the current opioid overdose crisis.

The *Toronto Overdose Action Plan* recommended that Toronto Public Health conduct a community dialogue on what a public health approach to drug policy should look like for Canada. This recommendation reflected a strong theme raised in the community consultations for the Action Plan, calling for decriminalization or even legal regulation of drugs as criminalization has created significant risk factors for overdose and other health and social harms.

This staff report outlines the evidence about the harms of our current approach to drugs as well as alternative policy approaches, including decriminalization and legal regulation, summarizes the results of the community dialogue process, and makes recommendations for action going forward.

### **Why should we change our approach to illegal drugs?**

People from all walks of life have used alcohol and other drugs throughout history, for many reasons. Most substance use does not harm the individual or anyone else. Some people can develop problematic use or become dependent on drugs. The reasons for this are complex, and include genetic, biological and social factors, including experiences of trauma.

Decisions about the legal status of drugs in Canada, including alcohol, were not based on scientific assessments of their potential for harm. They were often based on moral judgements and racist ideas about people and the drugs they were using.<sup>1</sup> Laws prohibiting the use and possession of cannabis, heroin and other drugs are relatively recent, enacted in the early 1900s. The "War on Drugs," which began in the 1970s, has not been effective in reducing either the supply or demand for drugs. People continue to want to use drugs regardless of their legal status. Alcohol was once illegal in Canada, but people still wanted to consume it. Some turned to the illegal alcohol market, sometimes with tragic results. The federal government soon realized that the health, social and criminal harms of alcohol prohibition far outweighed any benefits. It is for the same reasons that cannabis laws have changed in Canada, and why some want to see similar action for all drugs.

### **Harms from criminalizing drug use**

Research has found that laws that criminalize people simply for using and possessing drugs have resulted in serious health and social harms, including:

- Negative beliefs and stereotypes of people who use drugs from service providers, family members and society at large.<sup>2 3</sup> People who use illegal drugs are judged more harshly than people who use other drugs such as alcohol<sup>4</sup>;
- Criminal records that make it hard for people to find a job and a place to live<sup>5 6</sup>;
- Difficulty accessing harm reduction services, increasing the risk of injury, disease, and other harms<sup>7</sup>;
- Forcing people into unsafe spaces and high-risk behaviours, increasing overdose and blood-borne infections like HIV, hepatitis and tuberculosis<sup>3 7 8</sup>;
- Creating an illegal drug market that produces stronger drugs for higher profits resulting in poisonings, overdoses and other harms<sup>5</sup>; and,
- Costing \$2 billion a year for police, courts, and prisons to enforce drug laws<sup>9</sup>.

Some people who use drugs are more impacted by our drug laws than others, including people who are homeless/living in poverty, people with mental health and substance use issues, people from racialized groups, Indigenous people, women and youth.

### **What would a public health approach to drug policy look like?**

A public health approach would be comprehensive and based on principles and strategies that have been shown to support healthy individuals, families and communities. Principles include evidence-informed policy and practice, a commitment to social justice and human rights, and addressing the social determinants of health. Strategies include health promotion and protection, prevention, harm reduction and treatment. A public health approach could include the decriminalization of drugs for personal use or the legalization of drugs with strict regulation.

### **Decriminalization**

Decriminalization refers to the removal of criminal penalties for the personal use and possession of drugs, however, the production and sale of drugs is still illegal.<sup>10</sup> There are different models of decriminalization used around the world applied to some or all drugs. For example, Portugal and the Czech Republic have laws that allow the personal use and possession of all drugs (within specified amounts). In the Netherlands, cannabis is still illegal but officials allow it to be consumed and sold in licensed "coffee shops."<sup>11</sup> Some countries impose administrative penalties such as fines or mandatory

treatment. For example, in Portugal, people found with drugs above permitted amounts twice in a six-month period are referred to a "dissuasion commission" of health/social workers who may issue a fine, refer them to treatment, or take no further action.<sup>12</sup> In Uruguay, there are no penalties for the possession of "a reasonable quantity" of drugs for personal use, but there are criminal penalties for people who produce drugs.<sup>12</sup>

The International Drug Policy Consortium and the Global Commission on Drug Policy recommend a "best practice" model of decriminalization with no penalties for the use or possession of drugs for personal use, although there could be restrictions on activities such as use in public spaces.<sup>12 13</sup> This model also ensures that evidence-based health, harm reduction, treatment, and support services are available.

Countries that have decriminalized personal drug use and possession and invested in public health interventions have seen results:

- In Portugal, there has been a reduction in drug use among vulnerable populations, and increases in the number of people accessing treatment.<sup>10</sup> There have been significant decreases in HIV transmission (85%), and drug-related deaths.<sup>14</sup>
- In the Czech Republic, HIV rates are less than 1% among people who inject drugs, one of the lowest rates in the region.<sup>15</sup>
- In California, there was \$1 billion in savings to the criminal justice system in the 10 years after the possession of cannabis was decriminalized in 1976.<sup>16</sup>
- Police in jurisdictions that have decriminalized drug possession effectively have reported improved community relations because of the reforms.<sup>17</sup>

### **Legal regulation**

While decriminalization can reduce some harms for people who use drugs, they are still dependent on an illegal market where the contents and strength of drugs are unknown. Parts of this unregulated drug supply in Canada have become toxic leading to overdoses and death. Determining how best to regulate all drugs would be complicated and take time. Currently, no country in the world has done this, but most have regulated alcohol, tobacco and pharmaceutical drugs. Medical cannabis is regulated in Canada and elsewhere, and Uruguay, some US states, and now Canada have regulated or are soon to regulate non-medical cannabis.

In a regulated market, how drugs are produced, distributed and sold would need careful consideration, and depend on the drug and its potential for harm. For example, high-risk drugs could be available by prescription-only and distributed through pharmacies. Lower-risk drugs could be sold through government-controlled stores similar to how alcohol is currently sold and cannabis will be sold in Ontario. Under a public health approach to legal regulation, there would be strict government control and regulation of the production (e.g. purity, strength), sale, marketing and consumption of any drug. Developing a regulation framework should also apply lessons learned from what has and has not been effective in the regulation of other drugs, such as alcohol, prescription drugs, and cannabis.

### **Community dialogue in Toronto**

Toronto Public Health convened a diverse steering committee of drug policy experts, including people who use drugs, to support this initiative. This group provided advice on the community dialogue process and activities, and development of a discussion paper

and accompanying fact sheets to inform this initiative. Through a Request for Proposal process, Toronto Public Health secured Ipsos Public Affairs (Ipsos) to facilitate the community dialogue. Ipsos worked with Toronto Public Health and the steering committee to implement this initiative in May 2018.

The full report of the results of the community dialogue prepared by Ipsos is available online at [www.tph.to/drugstrategy](http://www.tph.to/drugstrategy). Highlights of the report are summarized below:

There were four components of the community dialogue process:

- Two in-person community sessions, one downtown and one in Etobicoke, open to anyone interested in participating;
- Interviews with 20 people who use drugs at four community agencies in the north, central, east and west areas of the city;
- An open online survey available to anyone interested in participating; and,
- A representative general public survey.

Toronto Public Health promoted the community dialogue activities through media, social media, distribution lists, websites (both Toronto Public Health and City of Toronto), and information was sent to all members of Council to promote. Toronto Public Health also had a dedicated website with information about how to participate and the discussion paper and fact sheets to inform the dialogue. The general public survey was sent to a pre-established panel of participants selected by Ipsos to provide statistically significant representation across age, gender and region of the city.

### **Who participated in the community dialogue?**

Sixty people participated in the community sessions. Most participants were community members already engaged in this topic (e.g. service providers, family/friends of people who use drugs) and people who use drugs. More than half (63 percent) of participants were women, 27 percent were men, two percent identified as another gender, and eight percent preferred not to answer. They ranged in age from 25 to 55 and over.

Participants identified as White North American (48 percent), White European (26 percent), Indigenous (seven percent), and several other groups.

A total of 346 people completed the open online survey. Two-thirds of respondents were female (65 percent), 28 percent were male, three percent identified as another gender, and 4 per cent preferred not to answer. They ranged in age from 18 to 55 and over. Respondents identified as White North American (45 percent), White European (25 percent), Mixed Background (seven percent), East Asian (five percent), Indigenous (two percent), Black Caribbean (two percent), and several other groups,

A total of 20 people with lived experience were interviewed to capture the views of the people most directly affected by our drug laws. Eleven of the people interviewed were male, nine were female. They ranged in age from 25 to 61. Eight participants identified as Mixed Background (e.g. White and Indigenous), six as White European, five as White North American and one as Indian-Caribbean.

The representative general public survey was completed by 503 people (credibility or confidence interval of +/- 5 percent, 19 times out of 20). Among respondents, 53 percent were female, 47 percent were male, and ranged in age from 18 to 55 and over.

Respondents identified as Canadian (37 percent), British origin (27 percent), Asian origin (21 percent), Eastern European origin (12 percent), Western European origin (11 percent), and a range of other groups.

### **What were people asked about?**

A discussion paper and accompanying fact sheets were developed to provide evidence-based information to participants. In addition, a core set of questions were developed for use in the various community dialogue activities in the following areas:

- Opinions of how well our current approach to illegal drugs is working
- Awareness of the health and social harms of existing drug laws
- Level of support for a public health approach to drugs
- Opinion on the federal government consulting with Canadians about decriminalizing the personal use and possession of all drugs
- Opinion on the federal government consulting with Canadians about legally regulating all drugs

At the community sessions, there were presentations by drug policy experts to help inform the discussions. Key topics included an overview of the research on the harms of existing drug laws, what constitutes a public health approach to drugs, and an overview of decriminalization and legal regulation as alternative approaches. The majority of the time was spent in facilitated small group discussions focused on the areas listed above.

### **Key findings from the community dialogue**

The feedback from participants across the community dialogue activities and online surveys was remarkably consistent. There was, of course, a diversity of opinion with respect to details of issues discussed, but broad agreement on the key areas of discussion.

Key themes that emerged from the community dialogue are outlined below.

*Canada's current approach to drugs is broken and changes need to be made.*

- In the open online survey, 78 percent of respondents felt that Canada's current approach is not working and changes need to be made.
- In the representative general public survey, 74 percent felt changes are needed to our current approach to drugs.
- Reasons why people felt the current approach is not working included: the current approach focuses on the drugs themselves, and not the root causes of drug use; criminalizing drug use leads to incarceration of people who should be offered supports and services instead; and, people who need support are not getting it, and too many are dying as a result.

*Any alternative approach to the current policy moving forward should address drug use as a public health and social issue, not a legal or criminal issue.*

- Participants noted that alternative approaches on their own are not enough, and that comprehensive strategies that address the social determinants of health are needed to address the complexity of drug use (e.g. adequate incomes, affordable housing, mental health supports, access to primary care, addressing stigma).

- Participants often did not make the distinction between decriminalization and legal regulation as specific options for change. Rather they focused on the urgent need for change, beginning with eliminating stigma and providing necessary prevention, harm reduction and treatment services. Some were confused by the differences between decriminalization and legal regulation.

*Decriminalization is a step in the right direction as an alternative approach to the current policy, however, it is not a panacea.*

- In the open online survey, 80 percent of respondents felt the federal government should consult with Canadians about decriminalizing the possession of drugs for personal use.
- Participants felt that while decriminalization is necessary to address the stigmatization of drug use, and reduce the harms of people being incarcerated for using drugs, that it will not address all issues.
- Some participants were concerned that changes would stop at decriminalization and not continue toward legal regulation.
- Some felt that while personal drug use should be decriminalized, the production and trafficking of drugs should remain illegal.
- Some also felt that decriminalization would not address the current contaminated drug supply, which is leading to overdoses, while regulation of drugs would.

*There is strong support for a public health approach to drugs*

- In the open online survey, the vast majority (91 percent), supported a public health approach to drugs, with three-quarters *strongly* supporting this approach. Reasons for support included: support for harm reduction/public health approaches, supporting decriminalization of drugs and opposing the War on Drugs; and, a belief that it will reduce harm, prevent deaths, and stop the stigmatization of people who use drugs.
- In the representative general public survey, support for a public health approach heavily outweighed opposition (61 percent vs. 26 percent). Reasons for support included: that drug use should be treated as an illness, not a crime; would like to try a different approach; and the need to create safe spaces for people to use drugs.

*Legal regulation, and a public health approach to drug policy that focuses on harm reduction, is the ideal solution to improving Canada's drug policy.*

- Participants acknowledge that this approach will take time, but it is the ultimate goal in changing Canada's approach to drugs.
- In the open online survey, 75 percent of respondents felt the federal government should consult with Canadians about legally regulating all drugs for personal use.
- There were more concerns over the subtleties of what legal regulation might entail (relative to decriminalization). For many, decriminalization is more straightforward while legal regulation is more complex.
- Participants felt having drugs regulated would keep people safer, particularly with respect to more potent drugs.
- There was concern about where any redirected funds might go under legal regulation, and that they should be directed to public health and social services, not to corporate profit.

While many participants agree that the federal government should have an open dialogue and consult with Canadians about decriminalization and legal regulation, some felt the outcome would depend on who was consulted (i.e. their knowledge, experience and attitudes towards drugs and drug use).

Participants also highlighted the need for more education for the general public about drugs, drug use, harm reduction and the overdose crisis to better understand the complexity of the issues. Some participants also felt that young people are not being provided with information that may help them make informed decisions about drug use (e.g. safe use vs. abstinence) and this should go hand-in-hand with decriminalization and removing the stigma of drug use.

### **Actions going forward**

The evidence on the health and social harms of our current criminalization approach to illegal drugs, and alternative approaches to drug policy strongly support the need to shift to a public health approach to drugs in Canada. The community dialogue process undertaken by Toronto Public Health has confirmed that Torontonians also feel the current approach is not working, and that treating drug use as a public health and social issue would be more effective. Further, that a shift in drug policy in Canada needs to be comprehensive in nature. Not only do our drug laws need to be changed, but we also need to scale up prevention, harm reduction and treatment services to ensure we can provide the supports that people require.

The need to change our approach to drugs is a discussion that is happening worldwide. Health and drug policy organizations around the world are calling for a new approach to drugs ranging from decriminalization to legal regulation, including:

- Canadian Public Health Association
- Canadian Drug Policy Coalition
- Canadian Mental Health Association
- Canadian Society of Addiction Medicine
- Centre for Addiction and Mental Health
- Health Officers Council of British Columbia
- American Public Health Association
- Global Commission on Drug Policy
- World Health Organization

The overdose crisis in Toronto and elsewhere in Canada highlights the urgency of the need to change our drug policy. Eliminating criminal sanctions (decriminalization) for the possession of all drugs for personal use will go a long way to reducing the stigma against people who use drugs, and facilitate access to much needed health and social services, including treatment and harm reduction services that need to be enhanced. It is therefore recommended that the Board of Health call on the federal government to decriminalize the possession of all drugs for personal use, and scale up prevention, harm reduction and treatment services.

While decriminalization will help reduce health and social harms for people who use drugs, it does not address the contamination of drugs in the illegal market. There are no controls on the content and purity of drugs in the illegal market. The result of this lack of regulation is that drugs can and are being cut or adulterated with other drugs (e.g.

fentanyl and fentanyl analogues) and toxic substances, and this is the main contributor to the overdose crisis in Canada. It is therefore recommended that the Board of Health call on the federal government to convene a task force to explore options for the legal regulation of all drugs in Canada, based on a public health approach. The task force should include people who use drugs, and policy, research and program experts in the areas of public health, human rights, substance use, mental health, and criminal justice.

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## **SIGNATURE**

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