

December 6, 2021

Deputation to Toronto Board of Health

Re: Toronto's submission to Health Canada for a section 56 exemption to the *Controlled Drugs and Substances Act*

I make this submission on behalf of the HIV Legal Network, Parkdale Queen West Community Health Centre, and South Riverdale Community Health Centre. Our organizations **support the long-overdue decriminalization of drug possession**. The war on drugs has waged grave and disproportionate harms on Black and Indigenous communities, and decriminalization is a necessary anti-racism strategy.

Going forward, we implore Toronto Public Health to center the people most directly affected by criminalization in the exemption process: people who are most often profiled, harassed, arrested, and charged for their drug use. **The meaningful and equitable input of people who use drugs, particularly those from Indigenous and Black communities, must be prioritized in the proposed “Quantities Panel” and the Evaluation team, and their participation should be adequately compensated.** People who use drugs, and particularly those who have been most harmed by punitive drug laws, are best equipped to determine the appropriate quantities and thresholds reflecting real-world drug use practices and to develop an evaluation plan for an exemption that is intended to benefit them. Without the expertise and leadership of people who use drugs, there is a real danger of “net widening” and further criminalization.

Additionally, **Toronto's exemption and corresponding evaluation should not be tied to health outcomes, including the current overdose crisis.** The criminalization of drug possession has perpetuated numerous harms and human rights violations against people who use drugs and there is no justification for continuing to do so. The removal of the constant threat of criminalization is itself a positive outcome, irrespective of impacts on health. While we strongly urge the city to reallocate savings realized through drug decriminalization to low-threshold supports and services for people who use drugs, it is beneficial to remove criminalization and its attendant stigma and other harms from the lives of people who use drugs — even in the absence of new services. Accordingly, **an evaluation of this exemption, and indicators of success, cannot hinge on health outcomes.** Rather, an assessment should be based on fair and appropriate measures based on the objectives of decriminalization (i.e. a reduction in the number of charges laid for simple possession and of

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people being charged, as well as demographic analysis to address potential continued bias in the application of the law).

We further implore the Board of Health to support an exemption that prioritizes **clear rules prohibiting police from confiscating people’s substances, paraphernalia, or medical supplies, and strict limitations relating to when police can stop, search, and investigate a person for drug possession**. Moreover, as many members of the working group have also emphasized, **police should not be tasked with referring people to services**, as such an encounter would still be experienced as coercive. It is imperative that the proposed “dedicated outreach team” that is responsible for making referrals to the community anchors includes people who use drugs and other skilled and trained frontline workers.

While outside the scope of authority of the Board of Health, we also urge the Board **to support calls for the expungement of records for those who have been criminalized for simple possession — convictions which has been disproportionately borne by Black and Indigenous communities, and to support the legal regulation of controlled substances**. Decriminalization is an important and necessary step, but it is not a standalone solution and will not address the toxic illicit drug supply.

The work of undoing the harmful legacy of drug criminalization is only beginning, and we conclude by recommending that **Toronto Public Health supports a longer-term working group comprising people who use drugs and civil society organizations who can provide input and oversight to the exemption process**, including during negotiations between Toronto Public Health and Health Canada. This would facilitate ongoing transparency and accountability to the communities most directly affected by the proposed exemption.

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