



August 10, 2020

The Honourable Patty Hajdu
Minister of Health

The Honourable Bill Blair
Minister of Public Safety and Emergency Preparedness

The Honourable David Lametti
Minister of Justice and Attorney General of Canada

VIA EMAIL

Re: Decriminalizing simple drug possession

Dear Ministers,

We are writing to follow-up on the joint letter we signed in May urging the federal government to decriminalize drug possession.¹ We also write in support of Premier Horgan's letter to Prime Minister Trudeau, calling for the decriminalization of simple possession under section 4(1) of the *Controlled Drugs and Substances Act* (CDSA).²

As we noted in our previous letter, there is an urgent need to adopt evidence-based policies to support the health and safety of people who use drugs. The concurrent effects of two public health emergencies—the COVID-19 pandemic and the overdose crisis—have been tragic. A record 175 people died from overdose in British Columbia in June, breaking the province's previous record set only the month before.³ Similar spikes in overdoses can be seen across the

¹ <https://bccla.org/wp-content/uploads/2020/05/Drug-Decriminalization-Open-Letter-to-Government--May-13.pdf>

² *Controlled Drugs and Substances Act*, SC 1996, c 19 [CDSA];
<https://twitter.com/richardzussman/status/1285359822720782338>.

³ BC Coroners Service, "Illicit Drug Toxicity Deaths in BC, January 1, 2010 – June 30, 2020," (July 16, 2020), online <<https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf>>.

country.⁴ As Premier Horgan said in his letter, “behind these statistics lies a very personal tragedy.”

As BC’s Provincial Health Officer—Dr. Bonnie Henry—has observed, the criminalization of simple drug possession has impeded public health initiatives, increased the stigma of substance use, incarcerated otherwise law-abiding citizens, imposed direct economic costs, and disproportionately affected already marginalized groups.⁵ It has also inhibited safer consumption practices, resulting in people consuming drugs alone, rushing their consumption, and avoiding health services.⁶

Decriminalization has produced measurable success in reducing health and societal harms, and there has been a growing movement towards its adoption both internationally and within Canada.⁷ Earlier this month, the Canadian Associations of Chiefs of Police called for reforms to the CDSA, and the development of health-based diversions and alternatives to criminal sanctions.⁸

Although Premier Horgan called for changes to section 4(1) of the CDSA, the federal government is capable of taking immediate action to decriminalize simple possession of drugs. As noted in our previous letter, the Minister of Health can do this through a proactive exemption under section 56(1), where it is “necessary for a medical or scientific purpose or is otherwise in the public interest.”⁹ Alternatively, Cabinet can create regulations to make an exemption for “any person or class of persons or any controlled substance” under section 55(1)(z), or by regulating law enforcement under section 55(2).¹⁰

As stated before, all people in Canada should be exempted from the criminal prohibition on simple possession in section 4(1) of the CDSA, regardless of whether that takes the form of a ministerial exemption or a Cabinet regulation.

⁴ CBC News, “Toronto had 16 suspected overdose deaths over just 9 days in July,” (July 20, 2020), online: <<https://www.cbc.ca/news/canada/toronto/suspected-opioid-overdose-deaths-sixteen-july-toronto-1.5656905>>; CBC News, “Signs of opioid overdoses surging in Winnipeg during pandemic,” (July 22, 2020), online: <<https://www.cbc.ca/news/canada/manitoba/winnipeg-pandemic-opioid-overdoses-1.5658305>>; CBC News, “P.E.I. has 1 new confirmed fentanyl death, another possible: Morrison,” (July 9, 2020), online: <<https://www.cbc.ca/news/canada/prince-edward-island/pei-health-drugs-fentanyl-deaths-morrison-1.5643681>>; CBC News, “Health Min. Reiter says ‘we have to do better’ after drug overdoses kill 6 in Regina over 36 hours,” (July 2, 2020), online: <<https://www.cbc.ca/news/canada/saskatchewan/overdoses-regina-deaths-1.5635342>>.

⁵ Office of the Provincial Health Officer, “Stopping the Harm: Decriminalization of People Who Use Drugs in BC,” (April 2019), at 18-22, online: <<https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/reports-publications/special-reports/stopping-the-harm-report.pdf>> [Stopping the Harm].

⁶ *Ibid* at 19.

⁷ *Ibid* at 31-33.

⁸ Canadian Association of Chiefs of Police, “Decriminalization for Simple Possession of Illicit Drugs: Exploring Impacts on Public Safety & Policing,” (July 2020), online: <https://www.cacp.ca/index.html?asst_id=2189>.

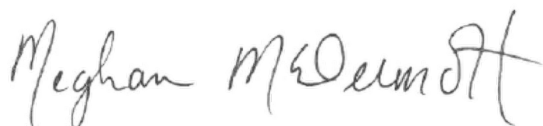
⁹ CDSA, s 56(1).

¹⁰ CDSA, ss 55(1)(z), 55(2).

By decriminalizing simple drug possession, Canada would be taking steps towards approaching substance use as a health rather than a criminal justice issue. It would also address the current inconsistencies in enforcement, which vary across police departments.¹¹

Of course, decriminalization of simple drug possession can only be one piece of a much broader harm reduction and health-based approach to substance use. However, it is an immediate step that the federal government can take in adopting evidence-based policies. We urge the federal government to immediately decriminalize simple drug possession.

Sincerely,

A handwritten signature in black ink that reads "Meghan McDermott". The signature is written in a cursive, flowing style.

Meghan McDermott
Senior Staff Counsel (Policy)
British Columbia Civil Liberties Association

CC: John Horgan, Premier of British Columbia

¹¹ Canadian Association of Chiefs of Police, "Decriminalization," *supra* note 8, at 5.