



Decriminalization of the possession of illicit substances for personal use: A proposed theory of change to improve community safety and well-being outcomes in Canada

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ABSTRACT

Addressing the harms associated with criminalizing the problematic and addictive use of substances is a complex undertaking. In many cases, problematic substance use has a relationship to prior and current adversities and has been characterized as an “affliction of inequality.” Community partners, leaders and policy makers will benefit from an informed understanding of the potential role of decriminalization as part of system-wide efforts that have the potential to achieve urgent societal goals. We draw on relevant and up-to-date domestic and international research to present a theory of change for approaching the decriminalization of personal substance use as one part of an integrated strategy addressing health and safety. The proposed theory of change should serve as a guide to understanding, designing and participating in effective whole-of-system strategies and actions. As a living document—and starting point for collaborative community safety and well-being planning—the material presented here should be refined as additional evidence and insights become available.

Key Words Addiction; drug policy, drugs, problematic substance use; whole-of-system responses; theory of change.

INTRODUCTION

The decriminalization of simple possession of illicit substances is a focus of debate and discussion in Canadian society and policing. Over the past 2 years, there have been growing calls from constituencies across Canada to decriminalize the simple possession of illicit substances. For example,

- In May 2022, the Province of British Columbia was granted an exemption under the Federal *Controlled Drugs and Substances Act* to allow for the possession of small amounts of substances within that province. The exemption came into effect on January 31, 2023. Other jurisdictions are considering seeking similar exemptions as they try to deal with the present addiction crisis; and
- Both the Canadian Association of Chiefs of Police and the British Columbia Association of Chiefs of Police have set out resolutions supporting decriminalization, but only as part of an integrated set of health and public safety reforms (Special Purpose Committee on the Decriminal-

ization of Illicit Drugs, 2020; British Columbia Association of Chiefs of Police, 2021).

Notable within this discourse are two distinct but related tendencies. One is a restricted framing of the problem that does not include, or fully contemplate, evidence implicating the need for broader policy reforms. The other can be characterized as *reacting* to aspects of crises rather than *responding* strategically and holistically in ways that address both immediate and longer-term benefits for individuals and for society.

From a public policy perspective, pressures to respond to urgent demands for simple solutions can make it difficult to develop and implement actions that are informed by the best available evidence and lived experience. While unidimensional solutions are currently receiving the most attention, the issues embedded within “decriminalization” are complex, are interconnected and can be made worse by interventions that are incomplete and insufficient.

When thinking about issues like this, it can be useful to reflect on relevant past experiences aimed at reforming

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Canadian services addressing addiction and mental illness. One such case was the deinstitutionalization of psychiatric services in Canada, over a 40-year period, beginning in the 1960s (Sealy & Whitehead, 2004). As these psychiatric hospitals were depopulated, individuals who had experienced chronic mental illnesses were discharged into the community, where they were to receive access to community-based services. But those community-based programs were often fragmented, incomplete, and lacking integration (Trainor et al., 1999).

Canadians who experienced serious mental illnesses and who happened to be poor or otherwise disadvantaged were the most severely impacted. Despite the good intentions of governments and human services, many struggled to integrate into their communities, find safe affordable housing, and obtain appropriate and timely treatment and supports. As a consequence, many ended up unhoused and frequently in contact with the police and criminal justice system—the system of last resort in these circumstances.

...the post-asylum world involved a complicated matrix of services that were not under the jurisdiction of any one governmental department and did not necessarily fit neatly into Canada's constitutional federalist framework. Medical services, housing and employment needs along with financial and family support services required a delicate degree of bureaucratic coordination in a ... world of red tape. (Dyck, 2011, p. 187)

The deinstitutionalization of psychiatric services offers lessons and insights into what could occur in the context of decriminalization if a carefully planned, correctly-scoped, approach is not developed and implemented—especially as it pertains to individuals and communities experiencing social and economic marginalization. The rationale for deinstitutionalization was given impetus by values related to community integration, recovery, and personal agency, influenced by the nascent mental health consumer movement. However, the resulting impacts on public health, social, and policing systems were in many cases unanticipated, negative, and persistent.

Understanding and responding to such wicked problems requires that a diversity of perspectives, information sources, and experiences be considered. In short, a whole-of-system lens and corresponding framework for change are required.

APPROACH

The present article describes an empirically-based and pragmatic approach police and other community-based leaders can use to: (a) develop a contextualized understanding of where, how, and why decriminalization may enhance community safety and well-being outcomes; and (b) implement collaborative reforms with a high likelihood of helping vulnerable/marginalized individuals avoid unnecessary contact with the justice system.

Our overarching objectives were to:

- Clarify the issues that decriminalization aims to address as a policy issue;
- Assess relevant knowledge on what works to alleviate the harms associated with the use of substances; and

- Establish guideposts for decriminalization that reflect its potential contribution, within a system-wide approach, to a complex set of societal problems, the ultimate aim being to improve individual and community safety and well-being outcomes.

We sought to describe the features of an evidence-informed approach in which the decriminalization of personal substance use is one part of an integrated and effective strategy to address the multiple harms associated with the problematic use of addictive substances. This entailed: reviewing the research on the relationship between the legal status of substance possession and the criminalization of marginalized substance users (Moniruzzaman et al., 2022b); examining additional domestic and international policy-focused research relevant to decriminalization and collaborative community safety and well-being; and designing a proposed theory of change. This theory was refined based on dialogue with key informants representing a diversity of expertise and lived experience. The result is a strategic mix of pragmatic, mutually-reinforcing actions for driving community safety and well-being outcomes, consistent with Canadian values related to justice and social inclusion.

POLICY AND RESEARCH RELATED TO DECRIMINALIZATION

Addiction and problematic substance use are significant public health and societal issues. The choice to experience the effects of mind- and mood-altering substances is not a moral failing, nor are behaviours involving the problematic use of substances, which often stem from complex personal and group experiences. Moreover, emerging and recovered knowledge is shedding new light on the potential value of various psychoactive substances, such as psychedelics, for western medical and traditional healing and community building practices (e.g., Aday et al., 2020),¹ and greater recognition of harms associated with familiar psychoactive substances such as alcohol (e.g., Paradis et al., 2022; see also Johnson, 2016). In this context, moving hurriedly to decriminalization in the absence of a sound, pragmatic framework that integrates relevant health and social supports may result in policy failure.

For example, while those who currently use illicit substances unproblematically may enjoy a lessening of the risk of becoming criminalized, it does not follow that those whose current use is problematic will necessarily transition towards unproblematic use solely because of a change in law regarding substance possession. In some cases, these individuals may end up with reduced access to treatment and support services, while nothing new is done to address the conditions that gave rise to, or perpetuate, problematic use.

By contrast, Portugal's National Strategy for reversing an addiction and poisoning crisis offers a number of insights into what can be achieved through a broader and more integrated perspective (Greenwald, 2009; Hughes & Stevens, 2010). For one, it dealt with concerns about accountability within a

¹Pollan (2018) also provides an extensive account, suitable for both academics and the public, including a lengthy list of peer reviewed research.

public health context—not as a criminal matter. In addition, it focused the attention of all Portuguese citizens on a range of measures aimed at enhancing opportunities for social inclusion and the resources necessary to achieve improved health and public safety outcomes.

However, the Portuguese model is not the only one that might offer value to the Canadian context. International evidence regarding the decriminalization of substance possession has been synthesized in a recent structured review (Moniruzzaman et al., 2022b). The review included multiple databases and examined 2,518 articles, with 11 publications satisfying all inclusion and exclusion criteria. The results indicate that the decriminalization of substances can produce potential benefits but only when introduced alongside strategies and resources to promote recovery from addiction. When implemented unilaterally, the decriminalization of drug possession has been followed by evidence of increased harms.

The elements of what we believe would be an effective pathway forward are also aligned to growing public expectations for policy that reflects reconciliation and social justice objectives, the need for consultation, as well as other emerging research which was reviewed in addition to that identified in the review conducted by Moniruzzaman et al. (2022b).

For example, in Canada, extensive evaluation of the Housing First initiative, At Home/Chez Soi, demonstrated that supporting people's needs for safe, stable, inclusive housing is an effective platform for recovery, even for those with the most complex mental health and addiction needs (Goering et al., 2014). There is also a body of policy- and practice-based research that adds to our knowledge about the importance of supporting stability and inclusion, in the context of looking at how people are defined within systems of care, and of efforts to examine the broader societal values that sustain risks for instability and exclusion (e.g., Rosenheck, 2012).

Consequently, attention to upstream factors is essential. It has long been known that efforts directed at the upstream conditions that constitute risks for adverse childhood experiences and trauma, including poverty, social exclusion, and family violence, would not just lessen the longer-term risk for addictive behaviours but would have numerous other beneficial impacts on human development, community safety, and general prosperity (e.g., Felitti, et al., 1998; Whitfield, 1998; Foegen, 1998).

The pan-Canadian At Home/Chez Soi initiative was both designed and implemented with people who had relevant lived experience, and a similar approach is needed to successfully develop an effective strategy to prevent the criminalization of people who use substances. Effectively addressing harmful substance use in Canada requires recognition of the enduring impacts of historical trauma/mass trauma and developmental trauma (e.g., Maté, 2022) and social exclusion (e.g., Cohen, 2022; Cacioppo & Patrick, 2008). Doing so would also serve to ensure policy relevance while concurrently addressing the widening public trust deficit (e.g., Edelman, 2022).

It is also crucial to include and respect the experiences of people who have journeyed to recovery from addictions. They possess crucial insights into the factors that contribute to change, and yet their voices are often excluded from policy planning. Many of those who have recovered from addiction and mental illness report stigma associated with speaking

out about their experiences, signaling a need for immediate action to ensure their respectful inclusion in planning.

The use of illicit substances is widespread across industrialized populations, with many of the harms associated with the use of addictive substances—notably, criminalization and death—being risks for all users; however, these harms are not evenly distributed (Stevens, 2011). The burden of using illicit and addictive substances is experienced most profoundly by those who live on the margins of society (Marmot & Wilkinson, 1999, cited in Stevens, 2011).

Although criminal activity and criminalization are important public policy challenges associated with illicit substances, evidence has long revealed illicit substance use to be best understood as a problem implicating public health, societal inequities, and social exclusion (Alexander & Somers, 1990). The most effective approach to resolving this problem is one that recognizes these dimensions and incorporates a blend of person-centred responses focusing on addressing social harms, ensuring equitable access to essential resources, and enhancing collaborative community safety and well-being practices (see, for example, Trainor et al., 2004; Norris, 2020). To that end, criminal justice reforms and corresponding changes to policing practices are necessary but, in and of themselves, insufficient to achieve broad community safety and well-being outcomes.

Over the past decade, Stevens and colleagues have undertaken extensive policy-focused work to examine the bases for, and implications of, various “drug policies” (Stevens, 2011), including jurisdiction-specific, utilization-focused evidence-based policy research (Hughes et al., 2018). Most recently, this has included the development of a synthesis and corresponding framework for alternatives to criminalization for simple substance possession (Stevens et al., 2022).

Several persistent findings and conclusions from this extensive body of multi-jurisdictional work are relevant to the Canadian context, with the caveat that “research in this area is complex, incomplete and not capable of providing definitive answers about what the outcome of any given approach will be in [a particular jurisdictional] context” (Hughes et al., 2018, p. 78):

- Although illicit substance use is widespread and not confined to socio-economically marginalized groups, “the health and criminal harms of problematic drug use are most likely to be experienced by people who are economically, socially and racially excluded” where substance use, dependence and related harms can be viewed as “afflictions of inequality” reflecting social exclusion, and asymmetrical distributions of power and opportunity (Stevens, 2011, pp. 129; 13).
- While societal inequity is “indispensable to the understanding of contemporary patterns of drug use, drug control and related harms,” health service practices tend to focus on individual responsibility to change unhealthy behaviours, with interventions generally ignoring broad structural determinants of risk, such as poverty, inequality, and features of social, institutional and physical environments (Stevens, 2011, pp. 5–6). Understanding the dynamics of disconnection and its influence on substance-related interactions with police can be difficult to unpack. For example, research conducted in the UK

(Stevens, 2008) indicates that, while Black people are at a higher risk for arrest than White people at a population level, the experience of racism at the individual level takes place “alongside all the inequalities that go with it” (Stevens, 2011, p. 99). Yet, as Maynard (2017, p. 99) points out, citing work by Owusu-Bempah and Wortley (2011), the use and sale of illicit substances is more frequent in White than in Black communities.

- Policies on substance use, themselves, may often sustain “inequalities in the distribution of power, resources and respect” through their blend of social welfare and social control measures. Conversely, public health approaches focus on promoting well-being while concurrently mitigating a range of physical and social-psychological harms (Stevens, 2011, p. 5).
- The importance of substance users/people with lived experience having a voice in the development of government approaches to illicit substances, a space traditionally driven by the perspectives of the medical/health and law enforcement sectors, cannot be overstated (Stevens, 2011).
- That prohibitionist policy is neither a rational nor an effective response to the known harms of substance use (Stevens, 2011).
- Mixed approaches, drawing from depenalization, diversion, and decriminalization, may be advantageous in situations involving high levels of both cannabis and opioids, where linkages exist between problematic use and unemployment (Hughes et al., 2018).

Concurrent with the present work, Stevens et al. (2022) reviewed English-language research on decriminalization of possession for personal use from nine jurisdictions. The specific search terms and methodology they used differed from the previously mentioned review (Moniruzzaman et al., 2022b) in that it included reforms related to cannabis, resulting in 158 articles identified for retrieval and analysis. This research process was guided by the following considerations related to alternative measures for dealing with simple possession (Table I).

Based on their review, Stevens et al. (2022, p. 31) conceptualized the range of policy alternatives to criminalization of simple possession into three categories, identifying two possible negative outcomes that could arise under different circumstances of implementation (Table II).

The result of these efforts was a general theoretically grounded, empirically informed framework intended to address: the level and nature of substance use; social integration

TABLE I Considerations guiding development of Stevens et al.’s (2022) framework (p. 32)

<p>Whether alternative measures for dealing with simple drug possession:</p> <ul style="list-style-type: none"> • Avoid criminalizing people who use drugs <ul style="list-style-type: none"> ◦ Without increasing the health harms of drug use ◦ While not intensifying the role and harms of organized criminal involvement in drug supply; • Maintain the possibility to intervene in drug use; • Divert those who need it into treatment <ul style="list-style-type: none"> ◦ Without flooding the treatment system with those who do not need it • Are cost effective.
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of people who use substances; levels of organized crime; health harms associated with substance use; and the overall social costs of substance use. The following key considerations were identified (Stevens et al., 2022, p. 31).

At a macro-level are the conditions of the social systems in which alternatives to decriminalization operate. Stevens and colleagues identified two related categories:

- **Structural conditions** involving the distribution of resources and power within a society that influence who controls the consumption of substances; and
- **Evolving social mores** shape policy and practice reform.

These structural and cultural conditions may, in turn, influence the shape and practices of institutional contexts, such as:

- **Political environments** impacting the implementation of decriminalization across jurisdictions—for example, the use of administrative law and non-criminal penalties;
- **Illicit markets** as reflections of declining moral condemnation of substance use, especially where unproblematic

TABLE II Framework for classifying policy alternatives to the criminalization of personal possession, with potential unintended negative outcomes

Policy Position	Definition
Depenalization	Reduction in the use of existing criminal sanctions, without changes to legislation
Diversion	<p>Either <i>de facto</i> (in practice) initiatives or <i>de jure</i> (in law) legislation that direct people away from criminal sanctions and towards educative, therapeutic, or social services</p> <p>Post-sentence or post-conviction diversion is not included, as they are not alternatives to criminalization</p>
Decriminalization	<p>The <i>de jure</i> removal of criminal sanctions for the possession of substances for personal use</p> <p>Criminal sanctions may be replaced by civil penalties (e.g., fines), by measures for diverting people towards health or social support (e.g., dissuasion commissions in Portugal), or by no sanction at all (full decriminalization)</p>
Potential Negative Unintended Outcome	Definition
Net widening	Bringing more people into contact with the criminal justice system than before the alternative was implemented
Mesh thinning	Imposing more control on people brought into the criminal justice system than if the alternative did not exist

Based on Stevens, A., Hughes, C., Hulme, S., & Cassidy, R. (2022). Depenalization, diversion and decriminalization: A realist review and programme theory of alternatives to criminalization for simple drug possession. *European Journal of Criminology*, 19(1), 31.

use becomes more widespread among those with higher socio-economic status;

- **Use of criminal sanctions** in the context of shifting attitudes about the role of the criminal justice system and the ways that finite public resources are prioritized and allocated;
- **Practice culture and priorities of police and prosecutors** and the ways that these may impact arrest and charging practices (reflecting differing levels of resistance to the use of alternatives to criminalization);
- **Healthcare and welfare system capacities supporting social integration**, to calibrate the availability of effective services to the levels of demand created by the use of alternative measures; and
- **Research and evaluation capacity**, notably whether attention is paid to emerging evidence, and whether communities and systems can collaborate to fund and learn from the results of research and evaluation.

As these elements were shown to interact dynamically through various feedback loops, it can be expected that some outcomes may have reciprocal effects on initial conditions, and that mechanisms in each of these areas may, in turn, influence the broader context of substance use in a community or society. For example, attitudes and beliefs about substances and those who use them—i.e., that lesser penalties might decrease the stigma of substance use—could potentially encourage some to seek help, or loosened social norms that act as formal and informal deterrents to acceptability might create gateways to use for others.

From an operational policy perspective, Greer et al. (2022) proposed a set of features to help structure the design of non-criminal responses to the possession of substances for personal use. They cautioned that decriminalization should not be considered as a single concept or a static model that can be adopted across contexts. Rather, they argued that decriminalization should be seen as a way of framing sets of systematic interventions, adapted to the unique circumstances of implementation within specific contexts.

Similarly—and importantly for the Canadian context—the Health Canada Expert Task Force on Substance Abuse (May 2021, p. ii) emphasized five core issues as the context for its recommendations:

- Stigma
- Disproportionate harms to populations experiencing structural inequity
- Harms from the illegal market
- The financial burden on the health and criminal justice systems
- Unaddressed underlying conditions.

In addition to specific recommendations related to the features of decriminalization, the Task Force emphasized the following: the need to invest in a range of supports for those who use substances or who are in recovery; the importance of establishing a base of evidence related to substance use and the effectiveness of public policy related to the health and well-being of Canadians; and the necessity of involving people with personal experience in implementing the recommendations of the Task Force. The Task Force also foregrounded

respect for the sovereign rights of Indigenous peoples and the provision of appropriate approaches to prevention and treatment as key elements of a suitable response.

In its second report, focusing on the draft Canadian Drugs and Substances Strategy (Health Canada, n.d.), the Health Canada Expert Task Force (June 2021) drew attention to the role of lived, living and historical trauma in the lives of many who use substances problematically—with attention to historical experiences among Indigenous populations in Canada.

In addition to calling for contextually sensitive approaches to public policies on substances and echoing its earlier (May 2021) call for significant investments in addressing the impacts of substance use, the Task Force advocated for public policy that is person-centred and evidence-based and that attends to the stigma often associated with substance use. Finally, the Task Force recommended that, in addition to decriminalization, the Drugs and Substances Strategy should be informed by an overarching public health framework. Notably, a public health framework is neither a medical nor a justice led approach, *per se*. Instead, it integrates “non-medical factors that influence health outcomes”—what are known as *the social determinants of health* (e.g., World Health Organization, 2023). These include housing, employment, and relationships.

In its second report, the Task Force (June 2021) also advocated for broad access to a publicly funded supply of addictive drugs (PSAD), including a range of distribution channels.² The latter recommendation reflects the depth and urgency of concern about the addiction crisis in Canada. Yet findings from a recent rapid review by Moniruzzaman et al. (2022a) indicate that there is not—at present—a body of evidence demonstrating either the safety or effectiveness of PSAD as a solution to the broader objectives which decriminalization seeks to address.

Two contemporaneous initiatives are underway in Canada that might help address this lacuna. In British Columbia, a 3-year exemption to the federal *Controlled Drugs and Substances Act*, involving the personal possession of small amounts of illicit substances, came into force on January 31, 2023. This may provide an opportunity for impact data to be collected and evaluated. In Ontario, the Centre on Drug Policy and Evaluation plans to conduct research on a longitudinal cohort of people who use addictive substances to assess the use and impacts of the integration of three supervised injection sites in Toronto with the services of the community health agencies to which they are linked (Centre on Drug Policy Evaluation, 2022). A key anticipated focus of this second initiative is to evaluate outcomes for people who use substances.

The complex nature of problematic substance use and the need for a holistic multi-system response were captured in a recent communiqué from the Union of B.C. Indian Chiefs

²“Develop strategies to use existing health infrastructure as sites for safe supply distribution including pharmacies, public health clinics, harm reduction services, and other appropriate service locations. ... Although a significant initial investment will be required to reshape the system and address the drug toxicity crisis, costs can be expected to decrease over time as the impact of new, more effective policies is felt.” Health Canada Expert Task Force on Substance Abuse: Report 2 (2021, June, pp. 10–11).

(UBCIC, August 31, 2021), in which its President, Grand Chief Stewart Phillip, stated:

The overdose crisis is a symptom of unaddressed, long-term problems that only holistic and systemic changes can address. The recent BC Coroners Service Death Review Panel report highlighted the links between overdoses, poverty, and housing instability as well as mental health conditions. We call for safe and affordable housing, mental and physical health systems free from racism and discrimination, accessible socio-economic services to support people in crisis, and a full spectrum of culturally appropriate substance use services to meet the needs of all people who use drugs.

As the Scottish Drug Deaths National Task Force (2022) asserted, “the right to the highest attainable standard of physical and mental health [should be] accessible and enforceable for people who use drugs, removing any discriminatory separation between drug dependency and other health conditions.”

Drawing from the preceding research and the recommendations of Greer et al. (2022), Table III describes the features of a proposed framework for decriminalizing currently illicit substances in Canada. Together, these features are intended to support the role of police agencies as a core partner in collaborative community safety and well-being practice and to position them as contributors to constructive social change, where it is recognized that the problematic use of substances is principally a social and health issue, rather than a criminal one.

THEORY OF CHANGE

A theory of change describes and illustrates how and why certain impacts are expected to happen in a particular context, as a result of a set of linked activities (Center for Theory of Change, n.d.). It is a high-level description of the connections between the specific elements of an initiative and its intended outcomes. These connections may be based on theory-generated ideas and/or founded in reviews of evidence of what works. For example, Flynn et al. (2020) and Stevens et al. (2022) outline a literature search and synthesis process comprised of the following sequence: identification, screening, eligibility, inclusion. Theories of change have several important uses (Botschner & Corley, 2021):

- Organizing thoughts about complex problems and how to tackle them;
- Framing, planning, monitoring, and evaluation work; and
- As reference points for ongoing reflection, learning, and public communications about progress in implementing

a social innovation and how this aligns to the things its constituents and stakeholders consider important.

From a *what works* perspective, theory-based design and evaluation looks to frame and understand how, for whom, and under what contexts complex interventions work or not (Flynn et al., 2020). Theory-driven approaches to evidence synthesis and intervention design benefit from the development of an initial theory of change (Pawson, 2016).

While definitions of what constitutes suitable evidence may vary, Davies and colleagues’ general, policy-focused definition is useful: evidence “(however construed) can be independently observed and verified, and ... there is broad consensus as to its contents (if not its interpretation)...[and it]... comprises the results of ‘systematic investigation’” (Davies et al., 2000, pp. 2–3).

However, unlike evidence-based program-level design and delivery, systems-level initiatives emphasize complex processes that benefit from shared learning and systematic collaboration among key stakeholders. Directed at the level of individual systems or ecosystems (systems-of-systems), this typically includes work to understand and shape conditions that are associated with a likelihood of producing positive effects or minimizing negative effects (i.e., determinants of health or risk).³

Examining and addressing the relationships that can bring about changes in systems, as opposed to the discrete parts of programs, involves social innovation (Patton, 2016). This kind of context-based learning and collaboration is a hallmark of community safety and well-being practice (e.g., Nilson, 2018).

Theories of change should not be static—they should be used as reference points for ongoing learning and reflection (e.g., through research and evaluation) and can be refined as the learning journey progresses.

While more expansive in scope and complexity than ordinary programs, frameworks for system-level change may use a logic model⁴ format to show the relationships between ultimate goal(s), long-term and intermediate outcomes, and the strategies to be used to bring those about. Importantly, these should also specify core assumptions (evidence, values) about how the desired change can and should be created (Ebrahim, 2019). This basic structure is shown in Figure 1.

³This is often referred to as collective impact. See, for example, Walzer et al. (2018).

⁴Logic models help planners and evaluators map out the relationships between the inputs, activities, and outcomes involved in a change process (Taylor & Botschner, 1998).

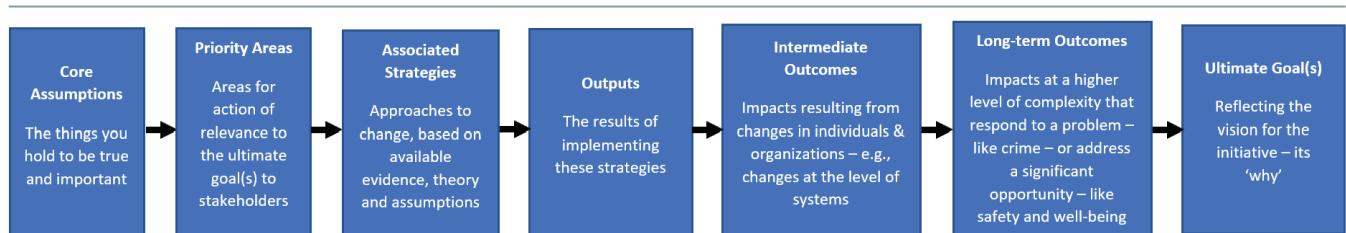


FIGURE 1 Framework for System-Level Change

In the case of large, complex issues, a broad initial framing can help to structure the ongoing work of learning and refining the intervention (Shearn et al., 2017).

Although criminal activity and criminalization are important public policy challenges associated with illicit substances, the thrust of evidence points to illicit substance use as a problem of public health,⁵ societal inequities, and social exclusion.⁶ The most effective approach to resolving this problem is one that recognizes these dimensions and incorporates a blend of person-centred, whole-of-system responses focused on addressing social harms, inequitable access to essential resources, and enhancing collaborative community safety and well-being practices.

Figure 2 presents a theory of change that positions criminal justice reforms and corresponding policing practices as necessary but, in and of themselves, insufficient to achieving broad community safety and well-being outcomes. This requires shared accountability for the harms that current and historic practices and inequities, including criminal justice processes, have on members of socially excluded communities.

⁵At the individual level, this may include early developmental traumas, as well as those occurring at various points across the lifespan. Population-level historical trauma and racialized trauma (ongoing collective and individual exposure to race-based stressors) may also be implicated.

⁶In addition to experiences of overt trauma or systemic racism, this can also include lack of access to resources resulting from economic marginalization—which, itself, may be a consequence of systemic racism.

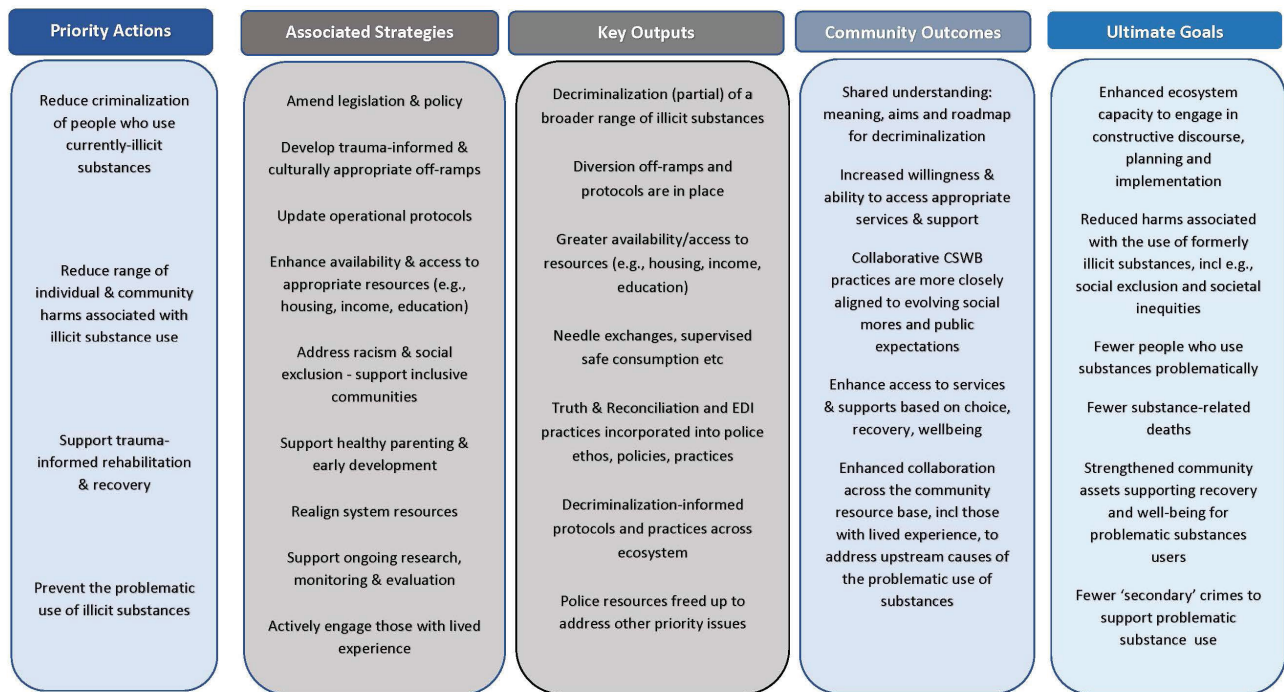
We propose four priority areas for action that, based on the available evidence, could shape the social and service conditions within a jurisdiction to optimize the likelihood that a set of proximal and longer-term outcomes may be realized. The associated strategies and their anticipated outputs seek to address upstream, midstream, and downstream (acute) issues and opportunities. Thus, this framework includes a strategic mix of intensity and beneficiaries, across the range of proposed interventions.

In addition to population-level outcomes, the theory of change identifies important system-level benefits, including reduced substance-related criminal activity; opportunities to allocate police resources to serious crime and other enforcement priorities; and enhanced capacity across the human service ecosystem to engage in collaborative learning and joined-up action.

The theory of change emphasizes the importance of efforts to enhance social inclusion and address societal inequities—through the involvement of people with lived/living experience in ongoing learning and activities focused on refining this framework for change.

The journey implied by the theory of change involves confronting new ideas and grappling with changes that are sometimes at odds with long-held beliefs, customs, and practices. This process will benefit from an openness to exploring and challenging assumptions and a commitment to crafting a common base of values while avoiding attempts to characterize the problems of, and responses to, the addictive use of substances in terms of single issues and solutions. As contexts

Decriminalization: Theory of Change to Improve Related Community Safety & Wellbeing Outcomes



Key assumption: The problematic use of substances is largely a social and a public health issue.

FIGURE 2 Decriminalization: Theory of Change to Improve Related Community Safety and Well-Being Outcomes. EDI = equity, diversity, and inclusion; CSWB = community safety and well-being.

TABLE III Decriminalization policy: Design considerations for Canadian jurisdictions¹

Feature	Details/Considerations
1. Reform architecture	
Reform objectives	<p>Understanding that problematic substances use is primarily a public health and social issue:</p> <ul style="list-style-type: none"> • To reduce the harms of criminalization associated with apprehension for the use of illicit substances, including those stemming from social exclusion and societal inequities² • To reduce the prevalence of deaths arising from overdoses and from poisoned supply of illicit substances^{3,4} • To enhance access of persons with complex needs to services, supports (notably housing⁵ and income⁶) and an enhanced community resource base⁷ supporting equity, inclusion, choice, recovery and well-being—recognizing that these are among the root causes of problematic substance use • To reflect evolving social mores and public expectations related to the recreational use of currently illicit substances and emerging research findings related to the potential physical and psychological health benefits of certain substances that are currently classified as illicit • To support the deployment of finite police resources towards more serious crimes that pose a greater risk to public safety.
Legal framework^{8,9}	<p>In the context of Bill C-5, currently before the Senate of Canada, the <i>Criminal Code</i> and the <i>Controlled Drugs and Substances Act</i> would be amended to reduce criminal consequences of simple possession for personal use. Some of its features include:</p> <ul style="list-style-type: none"> • Removal of mandatory minimal sentences for simple possession crimes • Conditional sentences • Diversion <p>This approach does not constitute full decriminalization, in the sense that it retains the options of other non-criminal sanctions (e.g., within a public health model) and/or diversion to services and supports. The potential benefit of enhanced access to needed treatment and resources should be tempered with measures aimed at preventing net widening, especially with respect to racialized community members.</p> <p>These amendments would be applied largely through provincial and municipal policing authorities and practices.</p> <p>Currently, British Columbia has received an exemption from federal law under section 56(1) of the CDSA, on the basis of a plan that includes adequacy of supports available to substance users, sufficient training to law enforcement to enable them to facilitate access to these resources, and a monitoring system to document the impacts of decriminalization. In this jurisdiction, those over 18 years will not face criminal penalties if found with less than 2.5 grams of any opioid, cocaine, methamphetamine, or MDMA (or any combined amount of these four substances, which have been identified as most probably connected to the ongoing opioid crisis).</p> <p>The exemption will not apply if there is evidence the adult is using the substances for more than personal use.</p> <p>If simple possession remains a criminal offence, but removal of punishment is an objective (i.e., depenalization), then eligibility criteria (Feature 2) and actions upon detection (feature 3) will need to be established.</p> <p>If simple possession is removed from the criminal code, it must be decided whether or not alternative penalties will be applied. If no additional penalties are applied, then prosecutorial/police discretion or diversion are not relevant. Models with no new penalties are considered full decriminalization.</p>

¹Adapted from Greer, A., Bonn, M., Shane, C., Stevens, A., Tousevard, N., & Ritter A, (2022), The details of decriminalization: Designing a non-criminal response to the possession of drugs for personal use, *International Journal of Drug Policy*, 102, pp. 20–22. <http://creativecommons.org/licenses/by/4.0>

²See Stevens, A., (2011), *Drugs, crime and public health: The political economy of drug policy* (Routledge).

³See Hughes, C. E., & Stevens, A., (2010), What can we learn from the Portuguese decriminalization of drugs? *The British Journal of Criminology*, 50(6), 999–1022, and Scottish Drug Deaths Task Force, (July 2022), *Changing lives: Our final report*.

⁴See Rao, I. J., Humphreys, K., & Brandeau, M. L., (2021), Effectiveness of policies for addressing the US opioid epidemic: A model-based analysis from the Stanford-Lancet Commission on the North American opioid crisis, *The Lancet Regional Health—the Americas*.

⁵See Goering, P., Veldhuizen, S., Watson, A., Adair, C., Kopp, B., Latimer, E., Nelson, G., MacNaughton, E., Streiner, D., & Aubry, T., (2014), *National At Home/Chez Soi final report* (Calgary, AB: Mental Health Commission of Canada).

⁶See Hughes, C. E., & Stevens, A., (2010), What can we learn from the Portuguese decriminalization of drugs? *The British Journal of Criminology*, 50(6), 999–1022.

⁷See Trainor, J., Pomeroy, E., & Pape, B., (2004), *A framework for support*, 3rd edition (Toronto, ON: Canadian Mental Health Association, National Office).

⁸Summary according to Klippenstein, L., (2022), Decriminalization of drugs in Canada: What does it mean and how would it work? *Law Now* (August 9).

⁹See also, in this regard, recommendations of the Health Canada Expert Task Force on Substance Use (2021 May 6), Report 1.

Feature	Details/Considerations
Reforms that occur in law (<i>de jure</i>) or reforms that occur only in practice or procedure (<i>de facto</i>)	<p>Modest <i>de jure</i> reforms are underway, as described above.</p> <p><i>De facto</i> reforms should reflect, but also extend, those embodied in Bill C-5, should it be proclaimed.</p> <p>Minimally, these should focus on ongoing training, supervision and support for the effective implementation of practice changes reflecting identified <i>de jure</i> reforms, as well as any exemptions granted to particular jurisdictions.</p> <p>For more effective and durable changes in policing practices to support the aforementioned objectives, police services should foster, support, and incent a culture of collaborative community safety and well-being that foregrounds problematic substance use as a social and a public health problem, and which recognizes:</p> <ul style="list-style-type: none"> • That its root causes lie in social distress and exclusion; • That effective responses involve: <ul style="list-style-type: none"> ◦ Collaboration to strengthen the community resource base; and ◦ A culture of community safety practice that seeks to redress systemic discrimination and historical trauma as determinants of a multitude of harms.
2. Eligibility criteria	
Age	In light of exemptions currently granted to British Columbia, and emerging brain science showing that brain development extends from childhood to 24 or 25 years of age, it would be prudent to begin by fixing eligibility somewhere between 18 and 25 years. From a practical standpoint, 18 years may be the most feasible age cut-off.
Population	Calls to action related to truth and reconciliation, and Gladue, should inform decisions related to population-specific considerations.
Previous and concurrent offending	<p>Scaled (intensified) non-criminal sanctions (such as suspension of a driver's license) where use/possession represents an ongoing threat to public safety should be considered. Because there is evidence implicating substance use in domestic and intimate partner violence, this should be considered as an opportunity to align policies and practices across these two issue domains. More active, trauma-informed, supportive diversions to resources, based on choice, respectful engagement and an understanding of the root causes of problematic substance use, should be deployed.</p> <p>Consideration of whether previous convictions will be expunged retroactively if simple possession is no longer a criminal offence should parallel steps taken in relation to cannabis, or, for example, as recommended by the Expert Task Force on Substance Abuse.¹⁰</p>
Place	This should be considered based on an analysis of the geographic distribution of substance use, substance-related harms, and social and economic marginalization, so as to avoid over-policing and under-supporting those experiencing societal inequities and social marginalization.
Type(s) of substances	Independent evaluation of the effectiveness of British Columbia's approach should inform this decision.
Threshold quantity (TQ)	<p>There is currently no single TQ that has been identified in the published research literature upon which to base a recommendation. As above, information from an evaluation of BC's implementation of its exemption should inform a refinement of TQs in other provinces (notwithstanding potentially salient differences across geographies and jurisdictions).</p> <p>The cautions identified by Greer et al. (2022) should be considered carefully in determining TQs, which should reflect provincial data on possession, health risks, and geographic characteristics.</p> <p>In addition, provinces should recognize the potential cross-jurisdictional dynamics involving sparsely populated areas adjacent to jurisdictional borders and how differing TQs between provinces may unintentionally incent an increase in cross-border traffic.</p>
3. Actions upon detection of substances for personal use	
No actions/sanctions	Not applicable in the current context
Deterrence strategies	Determination of application of administrative or civil sanctions, such as fines, driver's license suspension, community service orders, should consider factors such as whether possession was concurrent with intoxication and intimate partner/domestic violence or the operation of a motor vehicle.
Diversion and referral to therapeutic or educational strategies	<p>Diversion should be undertaken to enhance access to needed health and social services, consistent with reform objectives (above).</p> <p>Training, education, and organizational cultures within police agencies should be calibrated and supported to minimize the risk net widening by bringing more people into the orbit of the criminal justice system.</p>
Enforcement strategies	<p>Determining if/when police can confiscate/destroy substances: This interacts with age and population, such as enforced confiscation for minors.</p> <p>Responses to non-compliance with diversion should focus on persistent, trauma-informed and respectful engagement, over criminal penalties. As previously indicated, the specific contexts of driving under the influence and of intimate partner/domestic violence should be considered as occasions that may warrant the application of criminal penalties where community-based referrals are determined to be unsuited to the situation.</p>

¹⁰ See also recommendation 4 in Expert Task Force on Substance Use: Report 1 (May 2021)

change, so may certain values, interpretations of evidence, and the ways in which evidence is sought and established.

Police agencies are core partners in collaborative community safety and well-being practice. They can also contribute to constructive social and system change where it is recognized that the problematic use of substances is principally a social and health issue, rather than a criminal one. But they cannot do this alone—achieving collective impact of this nature will require mobilizing a diversity of perspectives and efforts, some of which have not traditionally been at the table.

Successfully separating people who use substances from the consequences of criminalization will require a shared vision, together with an integrated set of policies and practices to address the range of upstream risks and downstream harms. An effective approach should entail a person-centred, whole-of-system response that focuses on addressing such social and societal issues as marginalization and inequitable access to essential resources, and by enhancing collaborative community safety and well-being practices that prevent, and enable recovery from, substance-related harms.

CONCLUSION

There is significant evidence showing that negative outcomes associated with the use of illicit substances are concentrated among those most exposed to risks for ill-health, criminalization, and victimization. These harms are often exacerbated by the application and enforcement of policies traditionally aimed at controlling the distribution and use of illicit substances (Stevens, 2011). Moreover, in many cases, problematic substance use is a direct consequence of past or current adversities (e.g., Maté, 2008) and can be characterized as an “affliction of inequality.”

Addressing these harms is a multifaceted undertaking, but one that has been shown to be achievable in Canada and internationally. Community partners, leaders, and policy makers will benefit from an informed understanding of the potential role of decriminalization as part of system-wide efforts to achieve urgent societal goals, including helping make our communities safer and healthier.

There are no silver bullets. Such complex issues cannot be resolved through unitary or unidimensional solutions. A set of recommended actions, expressed as a theory of change, is offered to guide the development and implementation of whole-of-system strategies for enhancing community safety and well-being, with particular attention to illicit and addictive substances.

The theory of change is intended to guide coordinated and collaborative efforts to shape conditions known to increase the likelihood of achieving intended outcomes. It is not a substitute for an action plan. Rather, it should support the development of a well-informed plan of action. More particularly, it should serve as a guide to understanding, designing and participating in the delivery of effective whole-of-system strategies. In this respect, it can be a centrepiece for engaging in dialogue and ongoing learning with various stakeholders and constituencies.

Furthermore, the theory of change can help partners and collaborators maintain a focus on the interacting conditions that can either promote or derail positive community safety and well-being outcomes. It may not be possible to shape all

of these conditions at once—different approaches may be required for different contexts, such as urban and rural settings, or as Indigenous controlled and managed initiatives. However, the theory of change can serve as an essential reference to ensure alignment of the strategies as designed and implemented over time, perhaps in a phased manner, benefiting from ongoing learning through research and evaluation (whether as time-focused pilot demonstration projects or longitudinal initiatives). As a living document, the current theory of change should be further refined as additional relevant evidence and insights become available and are reflected through the lenses of evolving societal values and priorities.

There is much to learn from our past experiences implementing single-focus, large-scale, changes to Canadian health and human services. Many of the unintended outcomes of these initiatives had profound and negative implications for our most marginalized community members. Seeking to address the harms of criminalized substance use in the absence of a broad, whole-of-system, framework risks repeating that history, by inadvertently perpetuating marginalization through inattention to root causes and by foregoing essential opportunities for healing and recovery. Evidence and experience strongly indicate that working collaboratively, transparently and systematically to address determinants of risk and promote community safety and well-being stands the greatest chance of benefitting those who have been most adversely affected by current policies.

CONFLICT OF INTEREST DISCLOSURES

The authors have no conflicts of interest to declare.

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