

We acknowledge the land on which we gather is the unceded territory of the Coast Salish Peoples, including the territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and səliwətaʔ/Selilwitulh (Tseil-Waututh) Nations.

Dear Minister Farnworth,

Approximately one month ago, you summarily dismissed the Provincial Health Officer’s urgent call to effectively decriminalize illicit drug possession in B.C., within hours of the Health Officer releasing her report.¹ Currently, nearly 100 people die across the province every month of fatal overdose. Rather than meaningfully respond to this crisis with evidence-based drug policy, you cited jurisdictional constraints in order to reject recommendations supporting a harm reduction-based provincial policing priority and legislative amendments to divert police resources away from drug possession enforcement. You maintained that “no one province can go it alone.”

We urge you to reconsider. When Pivot Legal Society visited communities throughout B.C.’s five health authorities in 2017, interviewees repeatedly stated that police work at cross-purposes with the aims of public health, whether through enforcing simple possession offences, confiscating harm reduction equipment, or obstructing access to life-saving overdose prevention sites and supervised consumption sites.² These harms are disproportionately weaponized against people experiencing homelessness, and specifically racialized communities – namely Black, Indigenous and People of Colour.

Your ministry and the Province bear responsibility to ensure the health and safety of people who use drugs. People continue to die as a result of a toxic drug supply, and the crisis continues to be exacerbated by the criminal enforcement of low-level drug offences, such as possession for personal use and lagging health services and supports.

Federal drug prohibition does not preclude the Province from taking immediate action to adopt the Provincial Health Officer’s recommendations and urgently address the opioid crisis through provincial action, both by establishing a harm reduction-based provincial policing priority and by enacting legislative amendments to divert police resources away from low-level drug law enforcement. These actions are well within the jurisdiction of the Province and your ministry. We call on you to lead the following.

I. Set policing priorities focused on harm reduction

B.C.’s *Police Act* was recently amended to give you, the Minister of Public Safety and Solicitor General, express authority to “establish priorities, goals and objectives for policing and law enforcement in British Columbia” (s. 2.1). This power allows you to set priorities in response to local need, the evolving nature

¹ <https://www.cbc.ca/news/canada/british-columbia/bonnie-henry-decriminalization-report-1.5108463>

² Darcie Bennett and D.J. Larkin, *Project Inclusion: Confronting Anti-Homeless and Anti-Substance User Stigma in British Columbia* (Vancouver: Pivot Legal Society, 2018) at pp. 44-52.

of crime, and the specific requirements of B.C. policing.³ Prioritizing harm reduction in the context of an opioid crisis is entirely in keeping with these factors. B.C. has the highest rate of fatal overdoses in the country and faces a staggeringly toxic drug supply. Accordingly, B.C. needs a public health approach to drug use that accounts for the nature of drug use and addiction, the harms of criminalization, and the impact of stigma on the health and safety of people who use drugs. Treating substance use as a matter of criminality is an outdated and harmful approach, and governments at every level are adapting laws, policies, and practices to reflect public health aims and to mitigate the harms of harsh drug laws and aggressive law enforcement, neither of which are relevant or evidence-based goals or objectives during a public health emergency. You have the power to establish harm reduction as a policing priority, including redirecting police resources away from possession enforcement.

2. Amend the *Police Act*

Amending B.C.'s *Police Act* to limit low-level drug law enforcement is also entirely appropriate, given the Province's authority to govern both the administration of justice and health care in B.C. The Province bears responsibility for policing and law enforcement in B.C., including enforcement of federal criminal law. It also has responsibility for ensuring the health of people living in B.C. As the federal government expressly acknowledged in 2016, drug use is a matter of public health.⁴ Similarly, in April 2016, B.C. declared a public health emergency.⁵ Provincial legislation to mitigate the harms of drug prohibition and improve access to life-saving harm reduction facilities, then, is consonant with the provincial health power. One need only consider B.C.'s life-saving overdose prevention sites, which operate pursuant to a provincial Ministerial Order absent any changes to existing federal drug laws.⁶ However, people who use drugs still face criminal sanction for drug possession outside of overdose prevention sites.

People who use drugs and their allies continue to emphasize the ineffective, stigmatizing and deadly effects of the war on drugs. Police enforcement of simple possession offences, which your ministry continues to endorse, remains a significant impediment to the accessibility of harm reduction services across the province. As the Minister of Public Safety and Solicitor General, it is your responsibility to take bold and immediate action to prevent these harms.

We urge you to reconsider the Health Officer's recommendations and look forward to your response.
Sincerely,

X

³ <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/inquiries/mmiw/bc-submission-app-g.pdf> at p. 9.

⁴ <https://www.canada.ca/en/health-canada/services/substance-use/canadian-drugs-substances-strategy/strengthening-canada-approach-substance-use-issue.html#a3>

⁵ <https://news.gov.bc.ca/releases/2016HLTH0026-000568>

⁶ <https://www.islandhealth.ca/sites/default/files/2018-04/overdose-prevention-services-health-ministry-order.pdf>