



TALKING BACK TO THE CITY

A MANUAL FOR WINNING — AND RESISTING — LOCAL DRUG POLICY



PIVOT
LEGAL SOCIETY

REST IN POWER



Flora Munroe



Greg Fresz



Myles Harps

**TO ALL THE STREET PEOPLE,
ALL THE VANDU MEMBERS,
AND ALL THE PEOPLE WHO
HAVE DIED AT THE HANDS
OF THE POLICE.**

— HUGH LAMPKIN, VANDU BOARD MEMBER

And to our fallen members, friends, and lovers. Especially
Flora, Greg, and Myles — beloved Board members and
co-authors who we lost before the release of this report.

Rest in power.

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The momentum and energy for this project was provided by VANDU's Board and membership, past and present. Pivot and VANDU are inspired by our comrades across the country who continue to fight for drug policy reform against the odds. When we stand together, we are stronger.

ABOUT THE AUTHORS

Pivot Legal Society is a human rights advocacy organization based in the Downtown Eastside (DTES) of Vancouver, BC. Pivot's mandate is to use the law to address the root causes of poverty and social exclusion. By making the most tangible violations of human rights the focal point of our efforts, we exert maximum pressure to shift society toward greater equality and inclusivity.

The **Vancouver Area Network of Drug Users (VANDU)** is a group of people who use or have used illicit substances, and who work to improve the lives of other people who use illicit substances through user-based peer support and education. VANDU is committed to increasing the capacity of people who use illicit drugs to live healthy and productive lives. VANDU is also committed to ensuring that drug users have a real voice in their community and in the creation of programs and policies designed to serve their needs by affirming and strengthening people who use illicit drugs to reduce harms both to themselves and their communities.

TERRITORIAL ACKNOWLEDGEMENT

Pivot and VANDU's offices are located on stolen lands of the unceded territories of the x^wməθk^wəy'əm (Musqueam Indian Band), Sḵwxwú7mesh (Squamish Nation), and səlilwətał (Tsleil-Waututh Nation). We are grateful to Indigenous Peoples for their continuous relationship with their lands and are committed to learning to work in solidarity as accomplices in shifting the colonial default.

AUTHORS

METHODOLOGY

The contents of this report come foremost from our collective wisdom and experience as drug users, allies, and activists whose expertise spans decades, cities, and crises. From March 2022 to April 2023, Pivot and the VANDU Board conducted over 20 focus groups. Caitlin Shane facilitated the meetings, often with a co-facilitator from the Board. Nina Taghaddosi transcribed all meetings.

In Phase I, Board members reflected on their experience with using a variety of advocacy tactics, including direct action, working with government, and working with researchers. In Phase II, Board members and Pivot staff developed the report's core recommendations and accompanying content. In Phase III, Board members and Pivot staff reviewed the report together, chapter-by-chapter, line-by-line.

Pivot staff also conducted numerous individual interviews with VANDU chapter groups (i.e., the Eastside Illicit Drinkers Group for Education) and general members.

The recommendations and legal information derive from a variety of traditional research sources, including legislation, caselaw, and academic journal articles. All legal information is current to April 2023.

FOREWORD

Since 2016, BC has been in an official public health emergency due to an extraordinary increase in overdose deaths.ⁱ We know, however, that a crisis has raged since long before then, and that the overdoses in question were entirely preventable — caused by an unregulated drug supply wrought by drug prohibition. For decades, we have lost our people to the state-sponsored war on substance use and users, government inaction, and the gradual but intentional erosion of social services and supports. The crisis is one of deadly policy — forged in an ongoing legacy of racism, anti-poor ideology, and neoliberalism.

In the wake of BC's emergency declaration, virtually every level of government has vowed to use "all tools" to prevent overdose-related deaths.ⁱⁱ Yet in BC alone, an estimated 10,505 people have since then died from the unregulated drug supply.ⁱⁱⁱ We fiercely disagree that all tools are being used. How could we believe otherwise, when it is a daily struggle for our comrades around the province to simply provide overdose prevention services (OPS) in their communities? At a time when local governments are fighting tooth and nail to shut down drug user services and supports, it is impossible to believe that all available powers and resources are being mobilized for anything other than the continued suppression of and violence against people who use drugs (PWUD).

Though we tend to think of drug policy as the arena of federal lawmakers, it is here on the streets where drug users die from policy at the hands of police, bylaw enforcement officers, city councils, and the public. *Talking Back to The City*

is a response to the deadly action and inaction of local governments. It is a response to the persistence of oppressive and colonial power at the local level, drawing a straight line from the earliest genocide to the drug poisoning crisis of the present. This is not to say local governments bear all responsibility, only that there are things cities can do that would drastically change our lives for the better. "Cities saying they're committed to reconciliation and human life need to start with ending the War on Drugs," to quote late VANDU member Myles Harps. The recommendations made in this report are not groundbreaking; they are in most cases bare minimum responses that can be readily implemented to save lives immediately. This basic minimum far exceeds the middle-of-the-road approach so favored among our current generation of politicians and public health professionals.

While VANDU and Pivot authored this report with a hope of educating local governments about the tools they have (or don't have), our primary goal is to build strength and solidarity with our allies around Turtle Island, whose daily struggle sustains and inspires us. Our individual experiences may be distinct, but we all face the same patterns of power, corruption, and stigma. For that reason, the tools and tips we share apply not only in so-called Vancouver but in cities across BC, and in most cases, throughout Canada. Pushing cities to do better is only one tactic of resistance.

We hope our successes and failures can serve local movements; we welcome hearing about yours too.

In solidarity,

Pivot and VANDU

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Decriminalize PWUD, our spaces, and our safe supply initiatives

- Local government** Apply to the federal Minister of Health for an exemption from drug laws, including simple possession
- Community** Apply to the federal Minister of Health for exemptions to allow personal possession, necessity trafficking, and/or safe supply initiatives
- Police** Stop enforcing drug laws

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Amend bylaws and policies that disproportionately harm PWUD

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End drug and paraphernalia seizures by law enforcement

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- Police** Cease the harmful and illegal practice of drug and drug paraphernalia seizures

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- Community** Demand support from health authorities and the Province to overcome municipal barriers to OPS

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Create “bubble zones” around harm reduction services

- Local government** Legislate “bubble zones” around harm reduction services and drug user-run spaces
- Community** Adopt no-police policies at healthcare facilities, local businesses, and drug user-run spaces
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- Local government** Scale up naloxone training for city employees, including those who work in public facilities, parks, and schools
- Fund peer-run overdose prevention and response
- Police** Adopt policy of non-attendance at overdose events

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Integrate alcohol into local harm reduction, safe supply, and decriminalization efforts

- Local Government** Decriminalize drinkers
- Create safe indoor and outdoor spaces for drinkers
- Create and scale up safe supply programs for drinkers, including managed alcohol programs and alcohol exchanges
- Community** Start drinkers’ chapters in every drug user-led group and build connections between organizations that serve drinkers in the community
- Police** Adopt policies of non-enforcement for provincial and federal laws that harm drinkers

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Ensure PWUD have decision-making power in all drug-related bylaws and policies

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Fund drug user groups and services

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- Defund** police and reallocate to community
- Tax** the rich
- Buy** property and lease it to PWUD
- Community** Engaged in participatory budgeting

RECOMMENDATIONS



Photo credit: Sozan Savehlaghi

CONTEXTUALIZING LOCAL GOVERNMENT POWERS

In BC there are two main forms of local government: municipalities and regional districts,¹ governed by city councils and regional district boards, respectively. This report uses the term “local government” and “city” throughout to refer to both municipalities and regional districts, except where otherwise specified.

Local governments are creatures of statute. This means cities do not have constitutional status or inherent powers, but rather their jurisdiction and authority flow from the province. If a local government exceeds the jurisdiction found in its statutes, their action can be considered *ultra vires* (beyond

their powers). As governments, cities must always act in ways that respect peoples’ rights under the *Canadian Charter of Rights and Freedoms* (the “Charter”) – for example, they cannot endanger someone’s safety without extraordinary justification.

Though the power of local governments is limited, it can be impactful. Local governments have a range of tools that can help – or harm – residents and their access to services, supports, and legal protections. Key government tools are discussed in this section.

POLICIES, BYLAWS + BYLAW ENFORCEMENT

Bylaws are laws that legally implement a decision made by a city council or regional district board. A bylaw applies to people only within the jurisdiction of the council or board and can have a range of uses, including prohibiting or allowing activities, and regulating services. Bylaws are typically enforced by city-employed **bylaw enforcement officers**, though police officers are sometimes vested with enforcement powers.

Bylaws must pass through three readings by the relevant council or board before being adopted, usually at a public hearing. Cities typically only have authority to pass bylaws respecting matters of local governance, though there is some allowance for bylaws that touch on matters of provincial interest. For instance, under the *Community Charter and Public Health Bylaws Regulation*, cities may adopt bylaws respecting public health, but *only* if Ministerial approval is obtained.ⁱⁱ Bylaws must also be in accordance with common law principles,ⁱⁱⁱ the *Charter*, and Human Rights legislation, meaning that they cannot be discriminatory or unjustifiably infringe one's *Charter* rights.^{iv} Bylaws can be repealed (deleted) and amended (altered) by way of a city council or regional district board motion. They can also be challenged by the public or the State through the courts.

Local governments can also approve policy motions, which are put forward and approved by a vote of council/board. **Policies** are not laws or bylaws in the strict sense, but they relate to the governance of a city and can have material impacts on residents. For example, Vancouver City Council approved the Access to City Services Without Fear policy in 2016, which gives clear direction to employees of City of Vancouver facilities to deliver services irrespective of immigration status.^v

ZONING + COMMUNITY PLANS

Planning is a future-oriented process through which a local government creates an official community plan that sets out objectives and policies about land use for a given area or community. Each particular property within the community plan area will be “zoned” for a particular use, meaning that the *primary* use of the occupant must fall within the permitted uses of the zone.^{vi} For instance, a piece of land may be zoned as “residential,” “business,” or “industrial,” etc. The zoning power is broad, but not unlimited. All zoning bylaws must be consistent with the official community plan. Additionally, a city generally cannot prohibit a use in all zones (effectively banning a service or business from a community).^{vii}

Zoning is highly political! It is deeply shaped by political and economic forces – in particular, the real estate industry. Zoning decisions can drive gentrification as well as income- and race-based displacement. Zoning does not have to be exclusionary, however. Cities can use “inclusionary zoning” mechanisms to increase affordable housing and community amenities, including for PWUD (see Recommendation 4).

SERVICES, EXPENDITURES + POLICE

Local governments, particularly municipalities, fund and deliver a wide range of **services**, from roads^{viii} and engineering infrastructure to libraries, community centres, and public pools. The last several decades have seen governments gutting and eliminating many public services across Canada, including social housing, alongside the trend of privatization of government-owned industries and services.^{ix} Yet some city-run services remain intact, increasingly holding out as the last representatives of public ownership and operation outside the dictates of profitability and the market. This is something to think about and cherish every time you use your community pool or library.

Municipalities are also responsible for funding **police**.^x In BC, cities can either contract with the RCMP for police services or establish their own municipal department. If they establish their own police force (as they do in Vancouver), a police board is appointed to directly oversee services. The mayor is the chair of the police board. In municipalities across BC, the largest single government expenditure continues to be the police. In 2023, 26% of the total budget in the City of Vancouver is projected to go to the Vancouver Police Department,^{xi} larger than any other single expenditure or department. These figures are continuing to grow as municipalities take a more punitive approach to issues such as poverty and crime, in a context of wider austerity and growing inequality across Canada. Police budgets are also expanding as police departments further insert themselves into sectors that should have nothing to do with policing, including health care and community outreach services.

MUNICIPAL TAXES

Corporate and income taxation in Canada are the prerogative of federal and provincial levels of government. Yet municipalities have a wide range of mechanisms for taxing residents and corporations, even if those mechanisms are often underused.^{xii} This includes property taxation and the ability to tax developers through development cost levies, negotiated amenities, and important zoning decisions that have the potential to redistribute wealth and generate revenue for the municipality.

A huge source of revenue for municipalities is collected through the mechanism of the **property tax**, a flat tax rate applied to the assessed value of the property. The current regime of property taxation is “regressive” rather than progressive, because the same rate applies to all property owners regardless of their wealth or income. For decades, Vancouver has boasted among the lowest property tax rates in North America (cut to just 0.27% for 2022), making it a haven for developers and landlords.^{xiii}

In recent decades the municipal system of taxation has typically been used to generate wealth for the upper tier of society through property tax exemptions, coordinated development incentives, and other mechanisms to minimize the tax rate for developers, landlords, and land-use corporations. However, there are proactive steps local governments can take to foster services, supports, and space for poorer communities. The current

municipal system of DCLs (Development Cost Levies), for instance, could be scaled up to operate as a meaningful progressive taxation on wealth and capital. The same is true for other mechanisms available to municipalities for new development projects, namely the Community Amenity Contributions (CAC) system, where the city negotiates with the developer for public goods and services. The City of Vancouver also collects a DCC (Development Cost Charge) on behalf of Metro Vancouver for all new developments in the city (see Recommendation 4).

OTHER MUNICIPAL REVENUES

In addition to taxation and developer levies, municipalities can also generate revenues through operating city-owned services and facilities, issuing fines (parking tickets, bylaw infractions, etc.), and leasing city-owned land and real estate. A municipality can also receive grants and transfer payments from higher levels of government. Revenues can also come through the selling of city debentures or bonds, where investors and banks lend capital to the municipality.



Photo credit: Sungpil Yoon

RECOMMENDATION ONE

DECRIMINALIZE PWUD, OUR SPACES, AND OUR SAFE SUPPLY INITIATIVES

“Decriminalization for all!”

The War on Drugs has never been about protecting public health or safety as we know it. Nor has it ever intended to apply equally to all people. By design, drug laws exist to consolidate and maintain power for some, namely by maintaining control over poor and racialized people through both criminal and administrative penalties.ⁱ

In 2023, we are up against two-faced governments that are trained to say the right things while quietly enforcing the same violent approaches to drug use. We reject the idea often touted by “progressive liberal reformists” of an “equitable,” “trauma-informed,” or “reconciliatory” approach to criminalization — war is war, and we will not be tricked. If criminalization is the harm, the only solution is eliminating prohibition in whole.

VANDU and Pivot have fought for the decriminalization of drug users for years. In response, police and government have routinely been dismissive or downright hostile. Last year however, along with comrades around BC, we made progress. We successfully pushed the Province to obtain an exemption from the federal government to effectively decriminalize the personal possession of small amounts of certain drugs in BC.ⁱⁱ

Though the ‘decriminalization’ policy we won is inadequate, it’s a step forward. It is a symbol of



‘Public health approach’ my ass. Everything we do as drug users is treated as a crime.

— VANDU Board Member

our strength as a movement — one that dreams of a world where drug possession, necessity trafficking, and safe supply initiatives don’t mean harassment, stigma, incarceration, or criminal records. As our late member Myles Harps said, “you shouldn’t be criminalized for keeping your medicine with you.” “They have no business telling me what I can and can’t do,” agrees VANDU member Howard Bell.

When governments admit that decriminalization is not the silver bullet for a safe drug supply, they’re right. But what they miss is that pushing decriminalization further — removing the sanctions that criminalize our compassion clubs and safe supply initiatives — would allow for *actual* safer supply with less legal risk. The exemption power under the *Controlled Drugs and Substances Act (CDSA)* is a tool with massive potential. Limiting its use to decriminalize simple possession alone is a lost opportunity.

WHAT WE NEED

LOCAL GOVERNMENT

Apply to the federal Minister of Health for an exemption from drug laws, including simple possession

The CDSA is a federal criminal law that creates offences for activities like drug possession and trafficking, but it also explicitly allows any person or group (including entire cities and provinces) to apply for an exemption from any drug-related offence. For instance, a local government can apply to the federal Minister of Health for an exemption to protect all people in that jurisdiction against the enforcement of personal drug possession — and more. Federal exemptions have routinely been used to allow medical trials, drug possession at supervised consumption sites, and now, drug possession of small amounts in BC.

The Minister may, on any terms and conditions that the Minister considers necessary, exempt from the application of all or any of the provisions of this Act or the regulations any person or class of persons or any controlled substance...if, in the opinion of the Minister, the exemption is necessary for a medical or scientific purpose or is otherwise in the public interest.ⁱⁱⁱ

Recently, both the City of Vancouver and the Province of BC applied to the federal government for an exemption to decriminalize personal drug possession within their jurisdictions. BC's approved exemption (which decriminalizes adults who possess less than 2.5 grams of certain drugs for personal use) came into effect on January 31, 2023. Though BC's model is flawed, it


KNOW YOUR RIGHTS

‘Decriminalization’ of personal drug possession in BC

From **January 31, 2023 to January 31, 2026**, the Province of BC has decriminalized the personal possession of certain types and amounts of drugs for people in BC.




REMEMBER: you only need to identify yourself to police if you're being arrested, driving a motor vehicle, or receiving a bylaw ticket. If you believe you have been wrongly charged for personal drug possession, tell your lawyer.

Please review the full exemption for details that may not be included on this card:



Police will distribute ‘health service referral cards’ to people who possess drugs. Police cannot require you to access these services; they can assist you to do so **ONLY** if you ask.

DISCLAIMER: This is public legal information, current to December 2022. It is not legal advice. Please consult a lawyer or advocate for specific advice.
https://www.pivotlegal.org/need_help

Are you protected by BC's decriminalization policy?	
Yes - and your drugs won't be confiscated	You're 18+, in BC (& not crossing a domestic or international border), AND you possess less than 2.5 grams TOTAL of any of these drugs: opioids, cocaine, meth, MDMA (ecstasy)
No	<ul style="list-style-type: none"> You're under 18 You possess more than 2.5 grams TOTAL of any illicit drug(s) You possess any amount of any drug not listed above You're engaged in another criminal activity besides personal drug possession, (as defined above), including: possession for the purposes of trafficking, trafficking, importation/exportation, etc. You're selling, sharing, or transporting drugs to another person You're at a school (K-12), licensed childcare facility, or airport You're in a car or watercraft operated by someone under 18 You're in a car, watercraft, or on public transit and your drugs are accessible to the driver/operator

demonstrates the power of local governments to concretely move toward decriminalization.^{iv}

As the federal government insists it will not soon be decriminalizing drug possession nationally, local governments in Canada should individually request exemptions for their own jurisdiction — for personal drug possession, necessity trafficking, and to allow for community-led safer supply initiatives. “Governments themselves hire us to be ‘ethical substance use navigators,’ so they should at least apply to exempt trafficking so we can do our job!” says VANDU Board member Dave Hamm.



COMMUNITY

Apply to the federal Minister of Health for exemptions to allow personal possession, necessity trafficking, and/or safe supply initiatives

The ability to apply for an exemption is not reserved for governments. In theory, an individual or group of individuals — i.e., a single person who uses drugs or even a drug user-led group — could apply to the federal government for an exemption against any *CDSA* offence. Members of a heroin compassion club, for instance, could apply for an exemption for offences related to compassion club activities (including possession, possession for the purposes of trafficking, and trafficking).

Given the health risks of prohibition and an unregulated drug market, there is a strong public health and safety rationale for the Minister of Health to extend decriminalization to all people in Canada via exemption. There may also be a sound legal argument that the offence of simple possession and its enforcement is unconstitutional, violating the right to life, liberty, and security of the person and the right to equal treatment under the law. Viewed this way, granting exemptions may be necessary for the federal government to safeguard against the enforcement of unconstitutional laws.



POLICE

Stop enforcing drug laws

Another approach local governments can take toward decriminalization is for police forces to adopt policies of non-enforcement with respect to drug possession and street-based drug trafficking, meaning that they would not investigate or arrest people in connection with these offences.

VANDU member Ryan Maddeaux rightly asks: “the police don’t respond to every emergency so why are they choosing to continue to pursue these minor offences?”

Of course, this tactic isn’t ideal: we know that asking police to develop policies regarding drug users’ lives can lead to overly restrictive approaches that don’t meet our needs. Police-led policies will also likely preserve (and expand) the roles and discretion of police and, in turn, police budgets. If you’re considering this avenue, demand that police policies be written. Written policies increase the likelihood that we have some recourse if police do not abide by their own policies.

PIVOT AND VANDU SAT ON THE PROVINCE'S CORE PLANNING TABLE FOR DECRIMINALIZATION

HERE ARE SOME OF OUR TAKEAWAYS:



BE PREPARED

Before participating in any government consultation, make sure you and your group are on the same page. Create your own terms of reference and non-negotiables and be prepared to walk away if your demands are being dismissed.



AVOID THRESHOLD QUANTITIES ALTOGETHER

Or push for a threshold quantity high enough to protect people who purchase larger quantities.^v "We wanted a minimum of 4.5 grams for each individual substance, not cumulative, and not 2.5," explains VANDU Board member Dave Hamm.



AIM HIGH

Seek an exemption that also decriminalizes "necessity trafficking" (defined as the sale or exchange of drugs for subsistence, to support personal drug use costs, or to provide a safe supply).^{vi}



INCLUDE YOUTH

Youth are excluded from BC's decriminalization policy. Consider refusing to participate unless youth are involved.



COLLABORATE WITH PEOPLE IN RURAL AND REMOTE COMMUNITIES

Needs differ from place to place. VANDU member Brian O'Donnell explains, "In rural areas [a 2.5g threshold] isn't nearly enough because sometimes people don't have regular access to their dealer."



BEWARE ADMINISTRATIVE QUANTITIES

An exemption removes criminal sanctions, but if you're not vigilant, cities may try (oftentimes illegally) to replace those sanctions with administrative ones. The City of Campbell River, for instance, passed a bylaw in direct response to BC's decriminalization policy that prohibits the consumption of illegal drugs^{vii} on public property. See recommendation 2 for information about illegal bylaws.

RECOMMENDATION TWO

AMEND BYLAWS AND POLICIES THAT DISPROPORTIONATELY HARM PWUD

“What’s legal for most is illegal for us”

If there’s one thing we’ve learned, it’s that laws and policies are not applied equally, however neutral they might appear on paper. PWUD, especially those living at the intersections of poverty, racism, and colonialism, will always be targeted. As VANDU’s late Board member Flora Munroe said, “stigma is always there. Whether you can see it or whether they’re trying to hide it. It’s always there.”



If you don’t have much money and you’re hanging out outside, you’ll be moved along, ticketed, or arrested.

— Marge Humchitt, VANDU Elder

Bylaws that prohibit things like sitting on public sidewalks (Penticton),ⁱ ‘panhandling’ (Salmon Arm, Penticton, Maple Ridge),ⁱⁱ sleeping in recreational vehicles (Surrey),ⁱⁱⁱ and jaywalking are discriminatorily enforced against people who are poor and who rely on public space.^{iv} This includes PWUD.

Back in 2010, VANDU won a reduction in the City’s speed limit from 50 to 30 km/h along a 6-block stretch in the DTES.^v A 2009 study had revealed this stretch was the most dangerous place for pedestrians in all of Vancouver.^{vi} At the same time, it was DTES pedestrians who were being targeted for jaywalking offences.

To make it happen, we used all our tools, starting with some direct action: “We got up at 6am and went to Burrard station [outside the DTES] and we counted how many jaywalkers there were and how often police were ticketing them. Of course,



Photo credit: Sara Wylie

they weren't ticketing those people. At Davie and Burrard there was a cop car sitting there, people jaywalking all around him, but no tickets. When we counted in the DTES, everyone was getting ticketed. We got an apology from the Chief of Police," remembers Board member Lorna Bird.

Through actions like this, report-writing, media presence, and consistent lobbying at City Hall, VANDU won a lower speed limit and additional pedestrian safety measures for the neighbourhood. Meanwhile, Pivot and VANDU filed a 2013 Freedom of Information request (FOI) to prove

that over a four-year period, 76% of jaywalking and 31% of panhandling tickets were issued in the DTES.^{vii} The finding was the basis for a formal police complaint filed by Pivot and VANDU that same year.

We are not naïve; we know that many local governments know that seemingly neutral laws and policies come down harder on marginalized communities. We raise the recommendations below as tools that communities can advocate for as part of a concerted effort to challenge the discriminatory application of those laws.

WHAT WE NEED

LOCAL GOVERNMENT

Repeal discriminatory by-laws or amend them as they apply to PWUD

Local governments have extensive power to tailor how, where, and against whom bylaws are enforced. For example, cities routinely include exemptions in their bylaws that protect certain people and activities from enforcement, whether in service of public interest, public safety, or even when it's considered too challenging for a person to comply. However, protections like these are usually extended to wealthy or property-owning classes. Poor people are not only expected to comply with all bylaws but are over-policed for non-compliance. At times, they are the reason the bylaw was drafted in the first place. A bylaw prohibiting sitting on public sidewalks or panhandling, for instance, is clearly meant to discourage poor people and people who rely on public space.

The City of Penticton's *Good Neighbour Bylaw* is illustrative. It exempts from noise regulations people who operate residential household equipment (such as "pool pump motors" and "air conditioning units") in addition to people for whom the City's Chief

Building Officer believes it will be "impossible or impractical" to comply with noise regulations due to construction. That same bylaw prohibits people from sitting on most public sidewalks, in addition to asking for money, donations, or things of value "whether by spoken, written or printed word or bodily gesture."^{viii}



*We live here too. We are the public.
But public health? Public safety?
That doesn't include us apparently.*

— Ryan Maddeaux, VANDU member

Such thinly veiled discrimination sets people up to fail: "you get a bylaw ticket, you can't pay it, you get punished for not paying it, you have to hustle to pay it, you get charged for hustling, and on it goes," says one VANDU Board member. Therefore, bylaws that are enforced disproportionately against marginalized groups should either be repealed or amended to limit their discriminatory application. A bylaw prohibiting outdoor camping in a public park could be amended so as not to apply to unhoused people.^{ix} A bylaw prohibiting jaywalking could be amended so as not to apply within a particular neighbourhood. Special protections for people who use drugs and other marginalized people do not infringe *Charter* or human rights legislation, as they belong to a legally-protected class of initiatives — those aimed at "the amelioration of conditions of disadvantaged individuals or groups."^v

COMMUNITY

Track the enforcement of bylaw tickets

Civilians are entitled to access enforcement statistics about all laws, including bylaws. Pivot and VANDU's 2013 FOI revealed that jaywalking tickets in Vancouver were being issued almost exclusively against poor people. This primed us to file a related police complaint and to pick up media coverage. Because enforcement data does not always include information about recipients' identity (race, gender identity, etc.), filing the request based on neighbourhood or geography may be most informative. For an FOI template, see Appendix A.

APPENDIX A TEMPLATE FOI

The following is an example of a freedom of information request (FOI) filed to the City of Vancouver about jaywalking and smoking tickets. You can use this template to assist in filing FOIs about any bylaw that interests you.

Both local governments (i.e., municipalities and regional districts) and police departments can be involved in local bylaw enforcement. You should file an FOI with each body that has bylaws on the topic you are investigating. Furthermore, if you are investigating documents held by the Province or health authority, you will need to file with them too.

All local governments, police departments, and other government bodies should have webpages with information about the FOI process, including where to submit your request. Some will have an electronic submission form, which you should use if possible, as it is clearer for staff (this template may still assist you with language). When in doubt, search online for "freedom of information request" + "name of local government/police department" to find relevant information.

Note: many places require small fees to file FOIs, and larger fees before receiving information. Most places have some option to apply for fee waivers on the basis that you cannot afford the fee or that the information is for the "public interest." Check the relevant website for options.

See endnotes for additional resources on filing FOIs.ⁱ

City of Vancouver
Corporate Information and Privacy Office
City Clerk's Department
3rd Floor, City Hall - 453 West 12th Avenue
Vancouver BC V5Y 1V4
foi@vancouver.ca

February 1, 2023

Re: Freedom of Information Request

Good Morning,

I would like to make three requests for information pursuant to the *Freedom of Information and Protection of Privacy Act, RSBC 1996 c. 165* for information pertaining to enforcement of local bylaws.

- i. Machine readable, aggregated data regarding tickets issued by City of Vancouver employees or contractors from January 1, 2021 to present for violations of section 12(2) of the *Street and Traffic Bylaw No 2849* ("No pedestrian shall jaywalk on a roadway") including but not limited to the following information:
 - a. Date the ticket was issued.
 - b. Officer badge number or other identification.
 - c. Location where the ticket was issued.
 - d. Anonymized information regarding the ticket recipient, including whether their address was listed as "NFA" (No Fixed Address), age, gender, and race – if recorded.
- ii. Machine readable, aggregated data regarding tickets issued by City of Vancouver employees or contractors from January 1, 2021 to present for violations of section 2.2(c) of the *Health Bylaw No 9535* ("A person must not smoke... on public transit including a school bus, passenger bus, ferry, or rapid transit") including but not limited to the following information:
 - a. Date the ticket was issued.
 - b. Officer badge number or other identification.
 - c. Location where the ticket was issued.
 - d. Anonymized information regarding the ticket recipient, including whether their address was listed as "NFA" (No Fixed Address), age, gender, and race – if recorded.
- iii. A machine readable list of all actors tasked with enforcement of the following bylaws from January 1, 2021 to present:
 - a. Section 12(2) of the *Street and Traffic Bylaw No 2849*: No pedestrian shall jaywalk on a roadway.
 - b. Section 2.2 of the *Health Bylaw No 9535*: A person must not smoke... on public transit including a school bus, passenger bus, ferry, or rapid transit.

Kindly locate these records and forward them to my below-listed email address. If you have any questions or concerns about this request, please do not hesitate to contact me.

Please find my cheque for \$30 as a deposit for these three requests at \$10 each.

Thank you for your attention to this matter,

Your Name
4321 Your Street
Vancouver, BC V5L 1G2
e. YourEmail@gmail.com
c. (604) 111-1111

Office and address of specific FOI department. Include e-mail of department if submitting the request by e-mail.

Date you are submitting the request.

Full name of Provincial/Territorial FOI Statue. You can find this by searching online for "Freedom of Information legislation" + "Name of your Province/Territory."

If this FOI is to the local police department, replace with the name of that department, i.e. Vancouver Police Department.

If possible, find and include the exact name, section and wording of the bylaw you want information on (as demonstrated here). If not, simply describe the type of bylaw you are concerned with: i.e. "Any bylaw prohibiting jaywalking in the City of Vancouver."

Pick the time period you are interested in. It can be a good idea to start with a shorter time period (i.e. a year) so that the request is processed faster. You can follow up with a second FOI if you want further information on other dates. If the time of year (i.e. winter) significantly impacts the data you want, consider ensuring you have two or more years.

This question is only for FOIs to local governments (not police departments). This question helps you find out who is currently given authority by the local government to enforce a certain law. Some local governments will subcontract bylaw enforcement to non-government employees.

If the government body requires a fee to file an FOI, include this information here (or include your request for a fee waiver if that option is available). The City of Vancouver does not currently require a filing fee.

Your contact information: name, e-mail, phone, address.

RECOMMENDATION THREE

END DRUG AND PARAPHERNALIA SEIZURES BY LAW ENFORCEMENT

“Drug confiscation keeps the cycle of criminalization going”

Though police departments claim to rarely arrest people for drug possession, they continue to seize our drugs.ⁱ They don't give paper notices and there's no charge, but the damage is done: our supply is gone and now we've got to hustle to replace it — sometimes by illegal means, sometimes from an unfamiliar dealer, sometimes while dopesick.ⁱⁱ Confiscating drugs doesn't stop drug use, it just drives it underground: if you think your drugs might be seized, you're going to keep it hidden. A recent Vancouver study found that “the seizure of drugs by

police may increase PWUD engagement with the unregulated toxic drug market; increase the risk of drug-related harm; and undermine peer-based overdose responses.”ⁱⁱⁱ



When they take people's drugs, they're creating crimes in the future. The person who owned those drugs might have to commit crimes to make money to replace those drugs.

— *Brian O'Donnell, VANDU member*

Police and bylaw officers will even seize *harm reduction supplies*, including needles, pipes, and naloxone. It isn't illegal to possess drug paraphernalia in Canada, but it's still being treated as a crime. VANDU Board member Lorna Bird saw it recently: “this old man came all the way out to the DTES from Surrey. The cops grabbed his bag [of harm reduction gear] and crushed it

all.” Board member Hugh Lampkin recalls when VPD officers used to seize glass pipes and crush them into the sidewalks: “VANDU told the health authority about it. They told police to stop, but they didn't. So we went to the press, and that seems to have worked.”

These are supplies that are handed out by the health authority, by nurses, at OPS — and yet they're being seized and used to investigate us! “It doesn't make any sense,” VANDU member Brian O'Donnell explains, “it's one government institution shooting another in the foot!” This practice threatens our health and safety as drug users. It also frustrates federal prosecutor guidelines (which direct prosecutors not to impose conditions that limit drug paraphernalia possession),^{iv} undermines regional and provincial health initiatives to scale up harm reduction, and is arguably illegal.

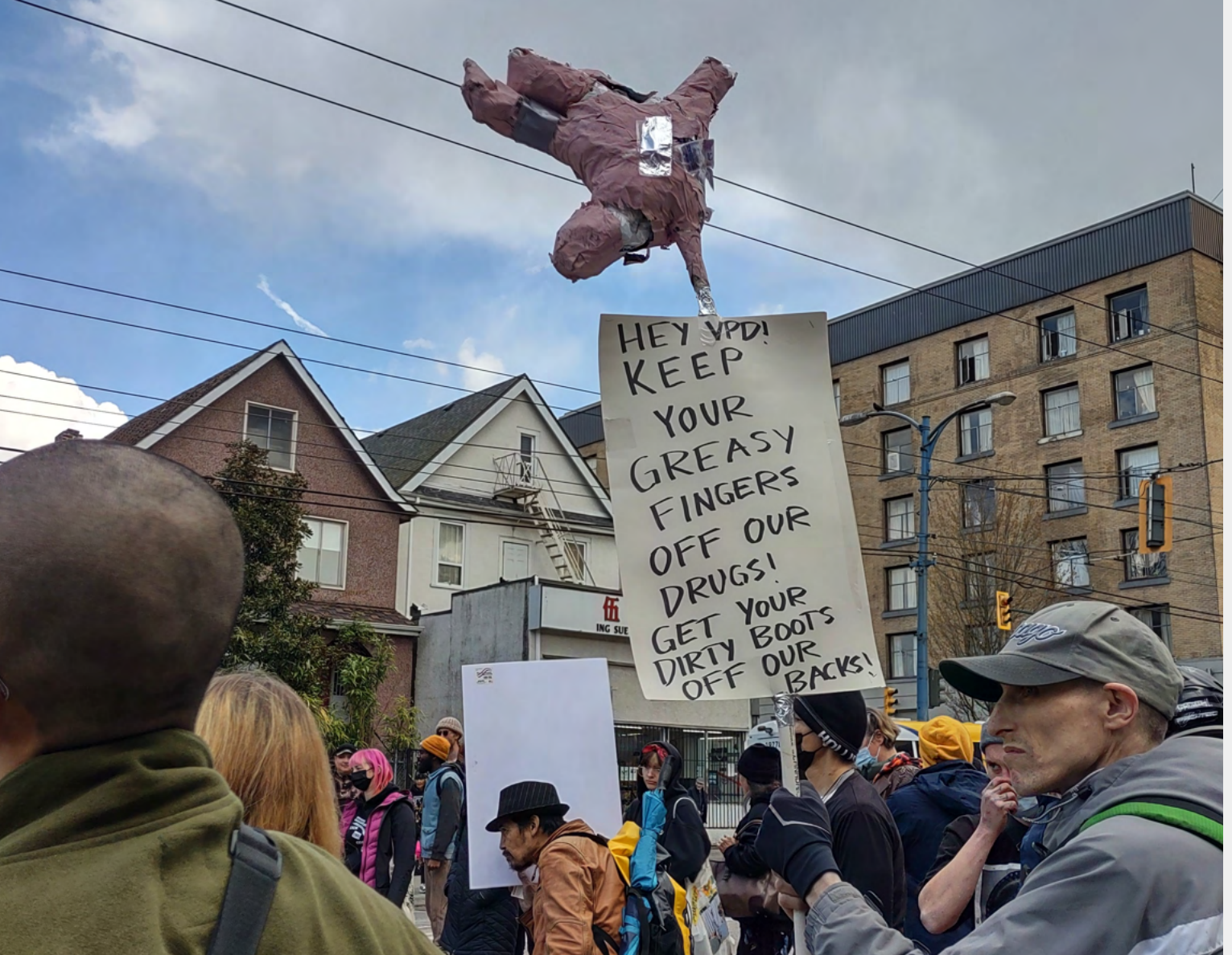


Photo credit: Anna Cooper

WHAT WE NEED

LOCAL GOVERNMENT

Repeal all anti-harm reduction bylaws

Some cities, like Langley and Penticton, have bylaws that seriously limit the use and distribution of harm reduction supplies.^v These bylaws are almost certainly unconstitutional and are usually passed illegally: local bylaws that impact harm reduction require provincial Ministerial approval because they relate to public health,^{vi} yet cities are neither seeking much less obtaining such approval. If you know that your city council is considering a bylaw that will inhibit access to harm reduction, immediately write to your medical health officer (“MHO”) and the office of the Minister of Mental Health and Addictions. These bodies have the legal capacity to prevent such bylaws from passing. For more information about the Ministerial approval requirement, see Recommendation 4.

COMMUNITY

Demand receipts from law enforcement when drugs and paraphernalia are seized

The VANDU Board struggled with this recommendation. “Where we want to be ideally is where they’re not taking our stuff at all,” explains VANDU member Ryan Maddeaux. Asking for receipts can feel like a compromise, but it’s also a way to let law enforcement know we’re keeping track. It gives us a basis for reporting illegal seizures to the BC Ministry of Mental Health and Addictions, whose decriminalization exemption prohibits police from seizing up to 2.5 grams of certain drugs for personal use. Lorna recalls that VANDU and its allies used this practice when police carried out “street sweeps” of the DTES Street Market: “We made them itemize everything that was taken. They’ll take your stuff and say it’s stolen goods, but they don’t prove it. So, we made it harder for them, asking for paperwork.”

POLICE

Cease the harmful and illegal practice of drug and drug paraphernalia seizures

In January 2023, Health Canada granted BC an exemption from the CDSA so that it is typically no longer a criminal offence for adults to possess up to 2.5 grams total of most drugs for personal use.^{vii} The new policy limits police ability to seize drugs and paraphernalia:

- Police must not seize a person’s exempted drugs (including opioids, cocaine, meth, and MDMA) under the total amount of 2.5 grams, per the order of Health Canada.^{viii}
- Police and bylaw officers must not ever seize harm reduction supplies: paraphernalia possession is NOT a criminal offence, and bylaws that prohibit it are likely unconstitutional and should not be enforced. Paraphernalia possession arguably no longer constitutes reasonable and probable grounds for investigating an offence in BC (as personal drug possession below 2.5 grams is decriminalized), so police should not detain or arrest someone based on possessing paraphernalia.



The cops are pissed off that the laws are changing. They think that drug users are bad, that they’re scum, and that we need to lock them up. So now they’re pissed and they’re crushing people’s pipes.

— Ryan Maddeaux, VANDU member

SEIZING DRUGS WON'T STOP US FROM USING THEM. INSTEAD...

We use drugs in isolation because we don't wanna get jacked up again

We lose our safe supply

We purchase from a dealer we may not know or trust

We have to hustle for cash to buy a new supply

We continue to avoid police

We have to engage with the illicit market again, and so the market is fuelled: "Police who are doing this are just adding to the violence of drugs. They're blaming us, but it's them," says VANDU Board member Hugh Lampkin

We experience withdrawal

RECOMMENDATION FOUR

END LOCAL INTERFERENCE WITH DRUG USER SPACES AND SERVICES

“As soon as they see us doing well, they want to cut us down”

VANDU operates a thriving overdose prevention site, publicly supported by the health authority, the City, even police. But it wasn't always this way. When we first set up a “shooting gallery” or injection room over two decades ago, it was shut down multiple times. Board member Lorna Bird recalls: “Police put chains on the doors to lock us out, but we'd come back and cut them the next morning.” Even Vancouver Coastal Health ordered that the backroom OPS at VANDU's current location cease operations in 2016. We persevered though, because we couldn't keep watching our friends die, and because we knew we were on the right side of history. Not long after the public health emergency was declared in BC, that same health authority came back and asked us to re-open our site. “It was proof we were right,” says VANDU Board member Kevin Yake.



When it comes to bylaws and municipalities, business licenses and zoning and coercion make it so that drug user groups can't get space – that's an issue we need to address.

— VANDU Board member

We know it's not easy, especially when you live in a small community with little support. Knowing your rights is crucial: “we need to educate each other about our rights, and what techniques work for staying put,” says VANDU Board member Dave Hamm. A big part of that is knowing what rights local governments and police *don't have* — especially when it comes to shutting down your OPS. At the end of the day,

cities have virtually no power to shut down sanctioned OPS, but that doesn't mean it won't be a fight. At minimum, your health authority and the Province should protect you against local threats, especially since you're doing what your health authority *should have been doing* since at least 2016, when it was issued a Ministerial Order to establish OPS wherever there is need.ⁱ



WHAT WE NEED

LOCAL GOVERNMENT

Cease the discriminatory use of zoning bylaws, business licenses, and complaints

Too often, drug users face an onslaught of municipal tactics aimed at closing harm reduction services and preventing new ones from opening altogether. Though cities frequently use zoning requirements, business license denials, and incident reports or complaints to shut down services, such tactics are likely illegal and can be resisted with help from your health authority and the Province. To comply with current orders and laws surrounding OPS, local governments should cease the following:

- The adoption and use of illegal bylaws that ‘zone out’ OPS and harm reduction services.
- The use of business license denials to close OPS and harm reduction services.
- The use of complaints (related to behaviour, police incidents, and COVID-19 compliance) as means to illegally shut down harm reduction services.
- The use of ‘nuisance bylaws’ to condemn harm reduction services.

The bottom line is that local governments are creatures of statute, and therefore have *no* constitutional or inherent status. Interference with provincial health services by local governments CAN be overcome with some political will from the Province and health authorities.

WE HAVE LOST 1000
PEOPLE FROM FENTANYL
OVERDOSES IN THE LAST 6 YEARS
HERE IN BC STOP THE
DEATHS. SAFE SUPPLY
NOW

Zoning bylaws

Some cities, like the City of Fort St. John, have amended their zoning bylaws to include new land uses, such as “supervised consumption services” or “harm reduction services.”ⁱⁱ This means those services can only be provided on accordingly zoned property. Though some local governments claim these amendments facilitate harm reduction services, the outcome is the opposite: existing services that previously operated under land use designations like “community service” or “health service” become “non-conforming use properties” overnight and cannot expand their services without rezoning.ⁱⁱⁱ In addition, new harm reduction services have no choice but to attempt the unguaranteed, resource-intensive process of rezoning, as there is usually no property yet zoned for these uses. Though zoning is a municipal power, there are limits to that power, particularly where public health and harm reduction are concerned. In the current context, we know that local governments are frequently passing and enforcing zoning bylaws illegally:

- *Zoning bylaws for harm reduction services are enacted without necessary approval from the Province:* Local governments seeking to pass bylaws about public health must first obtain provincial government approval through regulation, agreement, or Ministerial approval, as public health is a matter of “concurrent authority” in which the Province has a constitutional interest.^{iv} This is true for bylaws passed pursuant to the *Community Charter*, the *Local Government Act*, or any other Act.^v However, approval is not being sought by local governments, nor is the Province actively requiring it. The *Public Health Act* also requires your Medical Health Officer to advise local governments on bylaws, policies and practices respecting public health.^{vi} The same Act legally requires local governments to consider that advice.^{vii}
- *Zoning bylaws are being used in a discriminatory way:* Highly specific designations are not required for other health or community services. For instance, local governments do not zone specifically for “dialysis clinics” or “cancer centres.” Ultimately, harm reduction zoning appears to be more about controlling Who uses the property rather than *how* it is used. This is illegal, according to common law standards^{viii} and human rights legislation prohibiting discrimination based on disability.^{ix} For more information on discriminatory zoning, see Pivot’s backgrounder.^x
- *Zoning bylaws are being used to illegally inhibit provincial health services, including OPS:* Health authority-sanctioned OPS cannot be impeded by any zoning bylaw because these services are delivered pursuant to the 2016 Ministerial Order. Drug user groups and service providers who deliver sanctioned OPS are ‘agents’ of the Province, acting in furtherance of the Province’s authority to provide health services.^{xi} Therefore, they are not bound by municipal instruments (like restrictive zoning), according to the doctrine of paramountcy.^{xii} In essence, the Province’s jurisdiction is superior to that of cities, which have no inherent constitutional powers and are created and delegated power by the province.

Though we typically see cities using zoning as an *exclusionary* tool — one that creates revenue and property acquisition for elites while systematically eroding the already limited services

and spaces that poor people (including PWUD) can access — it does not have to be this way. The Cities of Vancouver and Surrey have used mechanisms of “inclusionary zoning” (sometimes called “density bonusing”) to scale up affordable housing and/or community amenities in rezoned neighbourhoods.^{xiii} As part of this approach, local governments use planning ordinances to require that a percentage of new construction be affordable to people with low to moderate incomes, or that developers who receive a bonus provide cash or in-kind contributions.^{xiv}

Evidently, local governments must take special care when zoning (and rezoning), given the tremendous hand the practice plays in gentrification and displacement. Cities should adopt policies that require, prior to every major rezoning, an evaluation of potential impact on marginalized communities, including PWUD; a detailed study of displacement trends in the area; and an assessment of changes in the neighbourhood’s rent and land values.^{xv}

Business Licenses

Local governments oftentimes require a business license from people who offer services to the community, including harm reduction services. Unfortunately, licenses are frequently denied or revoked when it comes to providers of OPS. Many local governments have laws that prevent business licenses from being “unreasonably refused,” but breaches of this standard can be hard to challenge in court.^{xvi} Instead, local governments should know that sanctioned OPS pursuant to the 2016 Ministerial Order need not be bound by these licenses. As noted above, operators of sanctioned OPS are agents of the Province and are therefore not bound by municipal instruments, given the paramountcy of the provincial government.

Complaints

OPS are routinely shut down or threatened because of behaviours or activities that are incidental to, and not necessarily caused by the site itself. The fact that litter is found outside of a bottle depot or that fights occur outside of a bar is not typically cause for shutting down those businesses. So why are OPS held to a higher, illegal standard? Cities act outside their powers when they impose additional rules on a service provider without explicit legal requirements under a bylaw. And even if additional rules are explicitly imposed by law, these rules could still be discriminatory or unreasonable if they only target drug users’ service providers.

Shuttering a life-saving facility cannot be the de facto response to what is most often an issue of resources: like any service, drug user spaces require adequate, consistent funding and material supports to serve their members properly. In addition, local governments need to ensure that basic supports such as washrooms, garbage collection, and needle disposal are provided to all members of the community; drug user groups cannot be held responsible for the State’s failure to provide.



Provincial health law overrides municipal zoning, especially in the context of safe consumption sites and OPS

— *VANDU Board member*

COMMUNITY

Demand support from health authorities and the Province to overcome municipal barriers to OPS

Remember: OPS are required by Ministerial order *wherever there is need*. At the time of writing there are only 42 sanctioned OPS in BC — a number that the Province's own Standing Committee on Health agrees is inadequate,^{xvii} and that therefore violates the Ministerial Order and provincial legislation.^{xviii}

Most of the legal protections we note above are stronger when you have an OPS designation from your health authority. Health authorities have the power to make this designation quickly and easily, given the intentional flexibility of the Order. We've heard from OPS providers, however, that their designation is contingent upon litter and refuse being cleared from the site, or other criteria set out by the health authority. These conditions are extraneous to the Order and therefore shouldn't be required by the health authority. The sole criterion for establishing OPS is *need*. There is need in every community. If health authorities are concerned about site cleanliness and efficiency, they should provide operators with the funding and resources needed to address those concerns.

For more information on the duty of the health authorities to provide OPS, see Pivot's backgrounder.^{xix}



Photo credit: Anna Cooper

RECOMMENDATION FIVE

CREATE “BUBBLE ZONES” AROUND HARM REDUCTION SERVICESⁱ

“Notice to police:

When you cross this line, you put people at risk”

Every day at VANDU’s OPS, we see: police cars parked out front; officers hanging around the door; clients being asked to show ID or to ‘chat’ with officers before entering. **This is killing us.** The presence of law enforcement officers near drug user spaces is enough to drive away PWUD and cut off our access to life-saving services.ⁱⁱ These are the same services that health authorities and the Province urge us to use and that, in many cases, are demanded by Ministerial Order.ⁱⁱⁱ



A ‘bubble zone’ is not just inside the space. It’s around the whole... area because we know that they’re [police] lurking out front and that deters people from going inside and using safely.

— Brian O’Donnell, VANDU Member

No one wants to be searched, arrested, detained, or have their name run through the police database. As a matter of life or death, VANDU takes steps to keep police off the property. Our OPS has a sign instructing police not to enter. Our staff and members monitor the door and intercept officers who enter without legal cause — unfortunately, this happens all the time! We also keep the peace and settle conflict internally to

avoid giving police reason to enter. As VANDU Board member Dave Hamm says, “if you’re calling for ‘no police,’ then you have to be prepared to fill any gaps yourselves.” “We have conflict resolution groups and committees dedicated to solving internal problems so that we don’t need to rely on the police,” said VANDU’s late member Myles Harps.

Real protections are needed for people who operate and use drug user spaces. “We’re busy enough saving lives. We shouldn’t have to worry about police scaring off our people too,” said VANDU’s late member Flora Munroe. Minimally, local governments should enact measures that limit law enforcement presence around harm reduction services so that we can do our job and keep each other safe.



WHAT WE NEED

LOCAL GOVERNMENT

Legislate “bubble zones” around harm reduction services and drug user-run spaces

BC has already legislated bubble zones around abortion facilities to overcome access barriers. Within “access zones” of 10, 50, and 160 metres around facilities, it is illegal to engage in protest, sidewalk interference, and the intimidation of patients and service providers.^{iv} “Sanctuary Cities” across Canada are similar; these jurisdictions prohibit police from requesting information from undocumented migrants who are accessing services.^v

Local governments should use similar tools to protect access to harm reduction services. A bylaw could prohibit, within a given radius of facilities, activities that threaten the health and safety of PWUD. Prohibited activities should include:

- Bylaw enforcement officers loitering, soliciting information from people outside of the building, engaging in intimidation tactics, and entering harm reduction facilities.
- Bylaw enforcement (by police and bylaw enforcement officers) that disproportionately impacts PWUD and deters site access, including bans on sitting or erecting tents, carrying harm reduction supplies, smoking, etc.

Though cities may not outright ban *police* presence at a location, they can push the Police Board (on which city councils are represented) to align policing policy with the spirit of the City’s directives. They can also work with police forces to develop Sanctuary City-style policies that promote access without fear. Some police activity may need to be exempted from a bubble zone or Sanctuary City policy (see list of “limited circumstances” on the next page).

COMMUNITY

Adopt no-police policies at healthcare facilities, local businesses, and drug user-run spaces (See Appendix B for VANDU's no-police policy template).

Tenants or owners of most premises (including healthcare services, businesses, peer-run centres, and shelters) can improve client access and educate staff on clients' rights by creating policies that limit police presence on site. Tenants and property owners can legally deny police entry to their premises except in limited circumstances, for instance where:

- Police have a valid warrant (arrest warrant, search warrant).
- Police are in "hot pursuit" of a fleeing suspect.
- There are "exigent circumstances," for instance:
 - there is an urgent need to access evidence located on the premises;
 - there is imminent risk of death or bodily harm;
 - there has been a call to 911; or
 - evidence of a crime is on site and at risk of destruction.

Unfortunately, these policies are limited to the geographic premises. Currently, tenants/owners do not have a strong legal basis to request that police leave public property surrounding the premises (i.e., sidewalks, alleyways).

If you notice that police are loitering outside an OPS, you may also want to directly report it to the professional standards section of your police department or the health authority. VANDU has begun doing this, issuing a reminder that the practice deters clients from accessing provincially sanctioned services.

POLICE

Adopt policy of non-presence around harm reduction sites

In our experience, engaging police about policy reform is a last resort, given that this type of advocacy typically serves police interests first, not ours. Any resulting policies also retain ample police discretion, which means policy and practice can look vastly different.

Still, your local police department or detachment can adopt general policies to deprioritize patrolling around harm reduction sites, which may improve site access. (For instance, the VPD has a policy that deprioritizes simple possession enforcement.^{vi} They also have an informal policy that states officers must not *block* an OPS entrance). You can advocate for this policy directly, or you can file a police complaint, which can result in policy changes. Ensure all policies are in writing.

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WORK TO
DRUGS THROUGH
COMMITTED
DRUGS TO LIVE
COMMITTED TO
IN THEIR COMMUNITY
IES D



SAFE
SUPPLY

NOVEMBER / DECEMBER 2

SUNDAY	MONDAY
20	21
27	28
	VANDU CLOSED



25 YEARS AGENDA

Notice to Police:

STOP

When you cross this line,
you put people at risk

- VANDU OPS



APPENDIX B

POLICY REGARDING POLICE (VPD/RCMP) ENTRY AT VANDU

VANDU seeks to reduce the presence of police officers at and around the premises (380 East Hastings) for a variety of health, safety, and security reasons. These include:

- **PROTECTING ACCESS TO VANDU OVERDOSE PREVENTION SITE (OPS):** VANDU runs an OPS, and police presence at and around overdose prevention services is proven to deter client access and, consequently, reduce the use and availability of harm reduction strategies.
- **PROTECTING ACCESS TO VANDU SPACE, SERVICES, AND COMMUNITY:** VANDU's Board and membership comprise people who continue to be disproportionately targeted by police harassment, violence, and criminalization. Minimizing police presence allows for the comfort and safety of VANDU members, new and old, to use the space and its services without fear of police interaction.
- **PROMOTING CONFLICT RESOLUTION AND DE-ESCALATION:** VANDU is trained and highly skilled in settling conflict and addressing medical emergencies (i.e. overdoses) internally, and this approach is preferred to the escalating and counter-productive effect that police involvement can have.

For the above reasons, VANDU maintains the policy that police may not enter the premises except with legal cause. In accordance with current law, and if there is personal comfort and safety in doing so, VANDU staff and members will deny entrance to police except in the following circumstances:

- i. There is consent:** A representative of VANDU consents to police entering.
- ii. The police have a valid warrant:** Police have a valid search warrant or arrest warrant. VANDU representatives may ask to see a copy of the warrant to confirm that the date, time, address, parameters, and/or name are accurate.

If the search warrant requires people to clear the premises, VANDU may ask to have a representative on site to witness the search and ensure police do not go beyond the warrant's limitations (though police may choose to decline this request).

iii. There are exigent circumstances:

- a. **WEAPONS:** Police have reasonable grounds to believe that a weaponⁱ used in the commission of an offence may be in the premises and exigent circumstances prevent a warrant from being detained.ⁱⁱ

Example: police have reasonable grounds to believe the knife used to stab a complainant is inside the space and immediate entry is required to prevent the destruction of evidence (i.e. potential fingerprints/DNA on the knife).

- b. **EVIDENCE, OFFICER SAFETY, or PUBLIC SAFETY:** Police can search for and seize evidence without a warrant if a warrant is justified but impracticable to obtain due to exigent circumstances.ⁱⁱⁱ Police can only do this if entering is urgent, and immediately necessary for police to preserve evidence, officer safety, or public safety.^{iv} Urgency must be shown to have been such that taking the time to obtain a warrant would pose serious risk to those imperatives.

- iv. There was an abandoned 911 call:** Police can enter to protect life and safety following an abandoned 911 call, or wherever it can be inferred that the 911 caller is or may be in some distress.^v

- v. Police are in "hot pursuit":** There is a fleeing suspect that police are actively trying to apprehend. Hot pursuit is defined as "a continuous pursuit conducted with reasonable diligence, so that pursuit and capture along with the commission of the offence may be considered as forming part of a single transaction."^{vi}

- vi. Mental Health Act apprehension:** Police can enter to protect life and safety pursuant to a valid need to apprehend someone under the *Mental Health Act*.

RECOMMENDATION SIX

SUPPORT A COMMUNITY-BASED APPROACH TO OVERDOSE

*“Q: What would a non-police-based approach to overdose look like?
A: Heaven”*

When it comes to overdose response, PWUD are the experts. “We respond to so many overdoses in our OPS and on the sidewalk. We’re always there,” says VANDU Board member Lorna Bird. This expertise and consistency, provided without judgement, leads many PWUD to prefer the overdose prevention services of peers to those of governments, healthcare professionals, and non-profits.

If peers are expertly responding to overdoses, then why do we hear from communities around Canada that police routinely interfere while peers are administering naloxone? Why are police still attending overdose calls when we *know* that fear of police attendance means people won’t call 911? There is no role for police in public health, especially not when their actions undermine harm reduction.ⁱ Elder Clint (Anishinaabe) of VANDU’s chapter group, Western Aboriginal Harm Reduction Society (WAHRS), describes the lack of care exhibited by police and even paramedics when they respond to people experiencing an overdose: “I once heard EMS say, ‘let’s not waste too much time on this guy, he’s pretty far gone.’ That’s not right. I stayed with him, and Elder Marge sang over him.” Reflecting on this same incident, Elder

Marge (Heiltsuk) recalls, “I did the Four Directions prayer over him, told him he wasn’t alone, and that there was a church across the street that he might take comfort from.”



We need some type of peer-based walk around or patrol, where people who live in the neighbourhood walk around instead of the police.

— *Delilah Gregg, VANDU Board member*

We need community-based, culturally safe responses that prioritize health and health privacy for PWUD in order to properly treat overdoses as health emergencies (and not stigmatizing events or opportunities for criminal investigation by police). This is achievable: skill up the public to administer naloxone and do rescue breathing (including City employees who work in public facilities); fund PWUD and drug user-run groups to directly respond to localized overdoses; remove police from overdose calls; and ensure OPS are accessible to *all*.



Photo credit: Sozan Savehniahi

WHAT WE NEED

LOCAL GOVERNMENT

Scale up naloxone training for city employees, including those who work in public facilities, parks, and schools

Overdoses can happen anywhere, in both public and private spaces. City-run facilities (such as libraries and recreation centres) are notable because they are some of the only free, publicly accessible indoor spaces left in the city. Public parks and school playgrounds are also important sites for overdose response because they are used by people of all backgrounds and incomes.

Demands are escalating in North America for library staff to be equipped with overdose response training.ⁱⁱ Elder Clint asks: “Shouldn’t Narcan training be expected as part of First Aid? [City employees] usually already need training on WHMIS [Workplace Hazardous Materials Information System], so why not naloxone training?”

Despite the role of library staff as frontline service providers, some cities, like the City of Edmonton, have policies that *restrict* most city employees from administering naloxone during work hours. The Vancouver Public Library had a similar policy in 2018, but this policy was reversed due to well-deserved public backlash.ⁱⁱⁱ Trained librarians (plus Park Board staff and other workers at city facilities in Vancouver) can now respond to overdoses while on shift.^{iv} Other municipal libraries across Canada have staff trained in naloxone administration, including the Toronto Public Library, Niagara Falls Public Library, and Calgary Public Library, but some of these policies are limited only to staff who have received training from their respective employer.



Police need to stop interfering when peers or other overdose responders are doing their job and saving a life.

— VANDU Board member

Policies restricting city staff's use of naloxone have deadly consequences. They also strip workers of their autonomy and undermine many cities' claims to support a public health approach to substance use. Health Canada states that naloxone "is safe to keep on-hand and... cannot be improperly used."^{vi} Moreover, provincial Good Samaritan laws add legal protection for most people who respond to overdoses in the unlikely event of accidental injury or death.^{vii} There is far more to gain than lose — in cost, public safety, and human life — when public employees are trained and equipped to respond to overdoses.

- City councils and Chief Administrative Officers can work with senior leadership to implement policies that ensure all public service staff employed by the City be trained in administering naloxone.
- The office of the City Manager can work with individual city departments and elected councils and boards^{viii} to formalize corporate policies that expect all public service staff within their jurisdictions to be trained in administering naloxone.

We recommend that cities also make naloxone more readily available on city property, including in parks and on sidewalks. Defibrillators are widely available in public locations; so why not naloxone? Elder Clint points to the example of X̱wemelch'stn (Capilano 5 Reserve, Squamish Nation): "There are signs where they have naloxone posts stuck in the front yard, and they say, 'we have naloxone here' on the rez in North Van."

Fund peer-run overdose prevention and response

The simplest way to achieve a fulsome public health overdose response is to support, through material funding, OPS run by PWUD. These services are required by Ministerial Order, but many local governments enact barriers, whether with bylaws, business license denials, complaint processes, or law enforcement interference (see Recommendations 4 and 5). Like any business or service, OPS require adequate, consistent funding to operate effectively.

OPS need to be accessible, both in quantity and quality. VANDU Board member Lorna explains that "If there's a wait, people will walk away. I've seen it happen."

Health services are not one-size-fits-all, and cities should support a spectrum of services designed to meet diverse access needs. We need youth-friendly spaces, spaces for women and non-binary folks, spaces for people using mobility aids such as scooters and walkers, sites that allow inhalation as a mode of consumption, mobile services, and Indigenous-only spaces.

The City of Vancouver has already partnered with some service providers to support these specialized spaces. Board member Delilah Gregg says, “there’s a women’s-only tent called SisterSpace. It’s open late-night.”^{ix} SisterSpace is currently the only women-only, community accessible site in the world. Many more are needed. Elder Clint notes that unfortunately, “most Indigenous-only spaces are just on reserve.” “This is a matter of safety,” says VANDU Board Liaison Elli Taylor. “Some of us want to remain anonymous and some of us are targeted — especially survivors of domestic abuse. If you know a guy is going to be there that you’re trying to avoid, you just won’t go.”

POLICE

Adopt a policy of non-attendance at overdose events and ensure officer compliance

If overdoses are to be rightfully treated as medical emergencies, then police should not attend overdose-related 911 calls, except in extraordinary circumstances. Fear of police attendance means people simply won’t call for help during an overdose emergency. This is exactly why Canada passed the *Good Samaritan Drug Overdose Act* in 2017.^x That Act doesn’t go far enough though, offering very limited protections if police attend and choose to undertake a criminal investigation. The only way to be sure people will call 911 for help is if they *know* police won’t attend.

BC Emergency Health Services introduced a non-notification policy in June 2016, designed to encourage dispatch call centres to solely alert fire services and paramedics to reduce police presence at overdoses.^{xi} Police departments should amend their policies accordingly. For instance, the VPD has had a written policy of non-attendance to overdose events since 2006.^{xii} This means officers won’t attend routine overdose calls except in exigent circumstances. While the non-notification policy and VPD guidelines for attending overdoses have led to decreased police attendance at overdose events, they have not completely alleviated concerns about police attendance, especially in neighbourhoods such as the DTES where first responders’ decisions may be shaped by anti-drug user and anti-homeless stigma.^{xiii} See Recommendation 5 for additional tools to limit police presence at overdoses at OPS.

Policies respecting overdose calls, overdose response, and naloxone administration should be implemented and publicly available in writing. Police departments should further be audited to guarantee compliance with such policies, in order to ensure that policy translates into practice.^{xiv}

RECOMMENDATION SEVEN

INTEGRATE ALCOHOL INTO LOCAL HARM REDUCTION, SAFE SUPPLY, AND DECRIMINALIZATION EFFORTSⁱ

“Don’t forget about us drinkers!”

As drinkers,ⁱⁱ we face much of the same stigmatizing treatment and policy failure as our allies who use drugs. But our experiences aren’t identical. We have knowledge that needs to be shared. That’s why in 2011, the Eastside Illicit Drinkers Group for Education (EIDGE Group) formed as a chapter group of VANDU: so that we could create our own family, teach community about drinkers, and drive policy by and for us! Every drug user group should have a special place for drinkers, and when making decisions, policymakers should recognize the unique knowledge that drinkers have.

Though ethyl alcohol was present in almost a third of BC’s illicit drug toxicity deaths between 2018-2020,ⁱⁱⁱ alcohol and drinkers are routinely excluded from conversations about drug policy and harm reduction. This is mirrored by a gap in health services and supports for drinkers. With law enforcement being over-relied upon to ‘fix’ problems stemming from this gap, marginalized drinkers (particularly those of us who drink in public) end up overpoliced, underserved, and put through a vicious cycle not unlike what drug users experience under drug prohibition.

When law enforcement takes the place of evidence-based supports, drinking is driven underground, and we can’t engage in harm reduction strategies that keep us safe. Cops pour out our alcohol, throw us in the drunk tank, and put us in withdrawal. Moreover, issues that impact drinkers, like discrimination at program sites, a lack of safe outdoor spaces to gather, and access to washrooms usually involve several levels of bureaucracy, making it extremely difficult to create positive change for our community. So what do we do? Organize! By building community power, EIDGE has won a range of drinker-focused policies, including drinker decriminalization, safe indoor spaces for drinkers, managed alcohol programming, and safe supply programs for drinkers.

WHAT WE NEED

LOCAL GOVERNMENT

Decriminalize drinkers

Drinkers are criminalized by a web of local bylaws, provincial liquor control laws, and federal offences. Bylaw enforcement officers, park board staff, and police, among others, are responsible for enforcement.^{iv} Across the board, the targets of government control efforts are the most marginalized drinkers: people who drink non-beverage alcohol (mouthwash, rubbing alcohol, etc.), people who drink in public, and people with alcohol use disorder.^v

Local governments and park boards can systematically decriminalize drinkers by amending alcohol-related bylaws and policies as they apply to drinkers. For instance, a general bylaw prohibiting people from consuming or possessing open alcohol in a park or public place could be amended to exempt “all people who are known to the community as living with Alcohol Use Disorder, using non-beverage alcohol and/or struggling to find or remain in stable housing.”^{vi}

Create safe indoor and outdoor spaces for drinkers

Various conditions force drinkers to use alcohol outdoors and in public, including homelessness, eviction, restrictive guest policies in supportive housing and SROs, and irregular shelter hours. Drinkers are made vulnerable to inclement weather (and associated health effects), assault and robbery while intoxicated, and further criminalization by law enforcement.^{vii} Cities exacerbate these harms by intentionally eliminating outdoor spaces where drinkers rest, socialize, seek shelter, consume alcohol, and access services. For instance, the City of Vancouver routinely removes and does not replace benches, bus stops, and weather coverings throughout the DTES, which “encourages harm for drinkers by worsening social isolation, pushing drinkers into isolated public drinking spots where they are hard to reach, and limiting outdoor, socially distanced, COVID-19 compliant socialization with peers.”^{viii} Similarly, the Vancouver Park Board has removed benches used by drinkers as gathering places in nearby parks. So, what kinds of safe spaces can cities create?

- Local governments can put moratoriums on the removal of public amenities and infrastructure in poor communities. A moratorium could remain in effect until a proper assessment is carried out, in partnership with affected communities, on the consequences of amenity removal.
- Local governments can sanction “parklets” that allow drinking in public, as Vancouver has done, and distribute them equitably. We strongly support the universal decriminalization of drinkers (per the first recommendation of this chapter) but suggest at minimum the sanctioning of certain outdoor locations where drinkers can access their right to occupy public spaces without fear of law enforcement — particularly in poor neighbourhoods.

- Local governments can allocate adequate, consistent, community-directed funds to ensure safe, indoor, peer-led, and non-clinical spaces for drinkers at no cost. For instance, drinker-friendly lounges, community spaces, and resource centres can all provide respite for drinkers who cannot access other indoor locations.

Create and scale up safe supply programs for drinkers, including managed alcohol programs and alcohol exchanges

Much like PWUD, many drinkers cannot access a safe supply of their preferred substance — alcohol. Managed Alcohol Programs (MAPs) provide a safe, consistent supply of beverage alcohol to participants, with tremendous harm reduction benefits for drinkers. Cities can fund these programs, including in supportive housing facilities, shelters, and non-profit agencies. Lower-barrier MAPs such as alcohol exchanges are another form of necessary harm reduction.^x

At minimum, cities can support the issuance of sufficient liquor licenses and liquor store licenses to meet the community's need. Cities should never impose moratoriums on liquor licenses or liquor stores.

COMMUNITY

Start drinkers' chapters in every drug user-led group and build connections between organizations that serve drinkers in the community

Drinkers have their own communities and their own needs with respect to policies, practices, and services. Organizing together is the first step toward achieving these ends. "Get together and start talking!" urges EIDGE Group member Bernice Traverse.

POLICE

Adopt policies of non-enforcement for provincial and federal laws that harm drinkers

Cities and police departments can work together to:

- Adopt policies of non-enforcement with respect to certain provisions of *BC's Liquor Control and Licensing Act* and the *Criminal Code* as they relate to drinkers.
- Set up a protocol for interacting with illicit drinkers that makes clear that holding cells are a last resort, after all other options for ensuring the person's safety have been exhausted.
- Support the creation of civilian-run, low-barrier sobering centres as alternatives to the drunk tank and holding cells.

EIDGE GROUP SOUNDS OFF!

We got together because we kept getting busted by police—first for rice wine, then for cooking sherry and mouthwash. Even though alcohol is legal, prohibition was still going

These meetings help people who are still drinking alcohol. It makes them feel like they have a space to share their experiences

We keep eyes and ears out for each other. Because no one else is looking out for us in a criminalized economy

I come to get updates on what's going on in the war on drugs

I feel like I belong when I come here

With EIDGE, we're creating a community and exposing it to other people

The group trusts each other. That's why we share in the group. VANDU gave us a chance to have a space where we have other people listen



RECOMMENDATION EIGHT

ENSURE PWUD HAVE DECISION-MAKING POWER IN ALL DRUG-RELATED BYLAWS AND POLICIES

"We've got to stigma audit the War on the Poor!"



Photo credit: Hannah Dempsey

“Nothing About Us Without Us” is a phrase drug users have adopted to emphasize that legislators and policymakers cannot make decisions about our lives without our involvement. Like most of our demands, however, this principle has been watered down by the State, misconstrued as a plea for drug users to have a seat at the table without any decision-making power. “You know when you’re at a family dinner and the adults are at one table and the kids are at another? That’s where government seats us drug users. At the kids’ table,” says VANDU member Garth Mullins.

For years, the drug user movement had to fight simply to be in the room where power sits. “We were lucky if we could get a foot in the door,” recalls VANDU Board member Kevin Yake. Now, because of our perseverance, VANDU and other drug user-led groups regularly sit on government tables, committees, and panels. But frequently, we are invited to be seen and not heard, or at best we are nominally “consulted.” In these cases, our presence amounts to little more than tokenization, and at worst is used as cover for the creation of policies that are directly averse to our interests. This is an insult to us and a lost opportunity for policymakers.

PWUD have considerable expertise in assessing the impacts of laws and policies on our people. When BC drafted its decriminalization policy in



Cities need ordinances to hire people with lived experience to audit bylaws.

— *Dave Hamm, VANDU Board member*



Nothing About Us Without Us. So why are they dictating to us? We should have input into all policies that have to do with us...and get the police out of the process!

— *Brian O'Donnell, VANDU member*

2022, VANDU and other drug user-led groups predicted the policy’s shortcomings well in advance. We knew, for instance, that a 2.5 gram threshold was far too low. We knew who would be excluded from protections and how their exclusion would cause individual and public health harms. Though we undoubtedly succeeded in making the policy better than it *might have been*, so often this is what our role is restricted to: making policies “less bad.” Ultimately, we know the final word wasn’t and isn’t ours, because the real power always rests with police and the State.

Meaningful inclusion means decision-making power. It means giving PWUD the ability to decide whether and how laws that impact us should be enacted. Simply asking us what we *think* is not enough. As VANDU’s late Board member Flora Munroe said, “we need to be holding the pen in our hand.”

WHAT WE NEED

LOCAL GOVERNMENT

Hire PWUD to audit all local drug-related laws and policies

A law on paper can be vastly different from its application and effects. One that prohibits a particular activity for *all* may primarily be used to target certain communities. State actors such as police and bylaw enforcement frequently use their “discretion” to selectively enforce laws against PWUD and other marginalized groups. For instance, the City of Campbell River’s recent ban on public drug consumption, while technically applying to everyone, obviously targets unhoused drug users who do not have access to private spaces.ⁱ This could put them at greater risk of fatal overdose as they are forced to use drugs in more secluded places. Whether these consequences are unforeseen or intended by law- and policymakers, it is PWUD who bear the brunt. Unsurprisingly, it is also PWUD who hold the expertise and experience to predict these effects and advise on how to avoid them.

In Pivot’s 2018 report, *Project Inclusion*, we noted the need for a “systematic way for policy-makers and advocates to identify and discuss stigma embedded in existing laws, policies, and decision-making practices. We also need a way to pre-emptively identify situations where stigma is informing policy development and/or driving the legislative agenda.”ⁱⁱ We called for a “stigma audit,” or a tool to identify and weed out “policy outcomes that intensify disadvantage for people with stigmatized characteristics while failing to improve public health or safety.”ⁱⁱⁱ



If you want to know if a law is stigmatizing, the best place to go is the OGs! It’s people, not police who know!

— Flora Munroe, late VANDU Board member

If anyone is situated to assess stigma, it is stigmatized communities, including PWUD. PWUD know how drug-related bylaws and policies can drive harm in a way that city councils may not recognize — namely because they won’t be directly impacted. To nip adverse effects in the bud, cities must be more proactive: rather than expect PWUD to attend late-stage

public hearings (which can be both inaccessible as well as “a venue for people to openly air prejudices against people experiencing homelessness and addiction”),^{iv} **cities should hire PWUD to evaluate drug-related laws and policies in their *drafting stages*.** These evaluations should be given heavy weight, not taken as mere suggestion.

To illustrate the need for a stigma audit, consider the *Zoning Bylaw* amendment contemplated by the City of Dawson Creek in 2021.^v The amendment introduced “supervised consumption site” and “harm reduction services” to the list of allowable land uses in Dawson Creek, meaning, somewhat counter-intuitively, that SCS and harm reduction services would now only be permitted on a limited number of specifically-zoned properties, if any. In a public hearing concerning the amendment, Councillor Jerimy Earl claimed that the bylaw “intended to facilitate or provide more tools for harm reduction in our community.”^{vi}



The reality is that amendments like these have the effect of *closing* existing life-saving sites and preventing new ones from opening entirely (see Recommendation 4). Yet when this information was brought to the City's attention, Council repeatedly claimed ignorance. All cities have a responsibility to bridge the knowledge gap by soliciting drug users' expertise in advance. In Dawson Creek, this might have prevented the bylaw from moving as far as it did through the legislative process. Fortunately, after PWUD in Dawson Creek voiced concerns about the amendment at the public hearing (and succeeded in getting a delegation from Northern Health to make additional submissions), City Council agreed to reconsider and revise the amendments.

There are two possible explanations for this incident, both of which result from anti-PWUD stigma. The first is that City Council was aware of how their bylaw could hurt drug users but simply did not care because they believed the actual safety of PWUD was less important than the comfort, or perceived unsafety, of non-PWUD. In this case stigma is operating at a deep, less visible level that simply dehumanizes PWUD to the point where their concerns are not seen as valid.

The second explanation is that City Council was not aware of the harmful impacts of their planned bylaw. In this case, Council had a responsibility to bridge the knowledge gap by soliciting drug users' expertise at the beginning of the legislative process.

Had any PWUD consultation occurred in the drafting stages, much time, anxiety, and conflict might have been saved and avoided. But as VANDU Board member Dave Hamm insists, the pattern of "too little, too late" continues to characterize lawmakers' relationships with drug users: "they only want to ask for our opinion so that they can say they consulted us. When the Ministry of Mental Health and Addictions was putting out ads about drug user stigma, they didn't ask us for our input until a day before they released the campaign!"

Unfortunately, Dawson Creek is not the only city that contemplated bylaws like the one above. Fort St. John enacted a similar bylaw in 2019, and other cities will undoubtedly follow suit.^{vii} Without proactive movement from either the Province (to challenge the illegal passage of bylaws) or cities (to hire PWUD to audit their bylaws), it is simply a game of whack-a-mole that PWUD can't win.

RECOMMENDATION NINE

FUND DRUG USER GROUPS AND SERVICES

“Put your money where your mouth is!”

It’s one thing for local governments to say they support PWUD, but another to *materially* support us and our services. “Without funding, it’s just talk. Talk is cheap,” said Flora Munroe, our late Board member. Like any resource or service, we need money and space to run effectively — otherwise we’re just being set up to fail. In his last report-writing session with VANDU and Pivot, our late member Myles Harps urged government to think of this investment as reparations for a racist Drug War: “This government keeps taking and taking. To really give back to people, we’ve got to give back their dignity. They haven’t done that for Native people; they haven’t done that for anyone. Reconcile this shit!”



Drug user-run OPS are accessible, non-judgmental, run by and for us.

— *Brian O’Donnell, VANDU member*

Drug user groups are incredibly resourceful. Just look at the many groups around the country running on shoestring volunteer budgets, often in the face of government and public opposition. VANDU shares this history: “For our first 15 years, VANDU’s annual operating budget was under \$300,000,” says VANDU’s Executive Director, Brittany Graham. Our meeting spaces were

precarious and constantly under threat: “in 2014, the health authority even threatened to cut our core funding if we didn’t close our OPS,” recalls Brittany. “When they eventually asked us to re-open it, we had it up and running within 24 hours!” recalls Board member Hugh Lampkin.

Through constant perseverance, VANDU now has consistent funding from the health authority to pay for a rental property, staff, and member supports. But we are absolutely the exception and not the rule: the financial situation of other drug user-led groups around Canada is dire, with many having to close their doors. “Depending on the region and living wages, the average cost of a sustainable drug user group in BC is about \$250–300,000 per year,” says Brittany. “But BC’s Overdose Emergency Response Centre has only dedicated 1 million annually for 16–30 ‘peer groups.’”ⁱ Split equally, that’s just \$33,000 per group per year. This is nowhere near enough; the fact that some groups manage to still save lives and provide services on this budget is incredible.

Local governments have numerous tools to generate capital, and broad discretion in terms of how they spend it. Concretely funding health, social, and community supports run by and for PWUD would make a huge difference in our lives. Words of support mean little: “Show us the money!” says Board member Jon Braithwaite.



WHAT WE NEED

LOCAL GOVERNMENT

Invest in drug user-led groups and community services

Local governments make money in various ways, which are set out at the start of this report in a chapter entitled “Contextualizing Local Government Powers”. Chief among cities’ income-generating tools are taxes (property and sales); development financing; fees and charges (for services, use of property, etc.); and transfers from the provincial and federal government. Though cities have a wide margin to decide how money is spent, drug users are lucky if they see even a tiny fraction of it. Typically, city money fuels the very systems that oppress, displace, and criminalize us, such as policing and development. This must change. Funding drug user groups pays in dividends, as PWUD provide exceptional OPS, harm reduction distribution, indoor community space, connection to community services, and cutting-edge leadership in drug policy reform.” As one of VANDU’s founders, Ann Livingston, always says: “User groups are nimble and quick.” We get things running quickly, effectively, and in a way that many PWUD prefer over government- or non-profit-run services.



Defund the police and reallocate to community

Police receive a massive share of local government budgets. In Vancouver, VPD's budget typically hovers around one fifth of the overall city budget. In 2022, the force received an annual operating budget of \$367 million.

In a 2020 report, VPD claimed that they sought to "divert substance users from the criminal justice system to healthcare supports wherever possible."^v VPD further claimed that in 2019 they spent only \$4,032 policing drug users, based on police investigations that led to 16 simple possession charges.^{vi} PWUD know that these facts and figures are laughable – they see police officers constantly parked outside of OPS, they see the constant presence of the Beat Enforcement Team in the DTES, and they can cite countless examples of police brutality and fatalities, recognized as endemic violence.

While police departments and lobbyist groups may claim to recognize drug use as a public health issue,^{vii} their actions and enforcement illustrate a different reality. Vancouver-based data indicates that Black and Indigenous people continue to be targeted for drug possession – through arrests and charge recommendations.^{viii} Police officers have also joined forces with local and national campaigns and lobbyists who seek to undermine and discredit PWUD.^{ix} Policing inequality has proven lucrative – often justified by blaming the symptoms of inequality, rather than addressing the root causes.

Calls to defund the police relate directly to the health, safety, and autonomy of drug user groups. Defunding local police and investing in infrastructure that directly supports and meets the needs of PWUD is a concrete action that local governments can undertake. Some municipalities in BC have direct control over



Photo credit: Caitlin Shane

their police budget,^x meaning city council can oppose budget increases and vote to reduce police funding. Funds recouped by cutting police budgets can be repurposed for community-based responses.

Organizations such as the Defund 604 Network have called for a 50% cut to the VPD budget. In 2021, Defund 604 undertook a People's Budget survey to better understand the needs of communities left out of the city budgeting process, and determined that there were many alternatives that the city could invest in, including peer-led non-violent mental health services, supports and wellness checks, as well as peer-led access to safe supply.^{xi}

Local governments must implement the organized and sustained call to defund the police, in recognition that the current regimes of policing and criminalization are driving harms

against PWUD. Furthermore, government has the tools to directly increase funding to drug user-run groups through the provision of office and programming space, ending stigmatizing licensure practices, and implementing funding streams tailored to the needs of PWUD and drug user-led organizations.

Often, law and policymakers balk at the call to defund the police, worrying that the absence of officers will create or enable harm. The reality is that police actually drive harms against PWUD, not only through arrests but through a range of policing practices that destabilize communities and deter PWUD from accessing health and harm reduction supports.

Defunding policing, divesting from harm, and investing in drug-user led community initiatives are all important responses to the needs of PWUD.

Tax the rich

In BC, property taxes are the single greatest source of income for local governments. And yet a city like Vancouver has the lowest property tax rate in all of Canada.ⁱⁱⁱ The result is that Vancouver's wealthiest residents pay some of the lowest taxes, starving public services while amassing some of the highest rates of unearned wealth among private individuals. Local governments can and should ensure that wealthy property-owners and developers pay their fair share of taxes. Municipalities could unlock the current crisis by ending the widespread use of tax exemptions, along with subsidy-like "incentives" and developer give-aways in the form of free upzoning. As outlined in the "Contextualizing Local Government Powers" chapter at the start of this report, tools available to local governments include development cost levies and negotiated amenity contributions. Other potential solutions include a mansion tax, as proposed in recent municipal election cycles in Vancouver and elsewhere.^{iv} Yet city councils are often reluctant to implement these changes because they do not serve the interests of elite and property-owning political backers.

Buy property and lease it to PWUD

Lack of secure space is a bellwether for the demise of drug user-run groups across Canada. We hear every month about another group losing its space, whether due to lack of funding, oppositional governments or landlords, or business licence denials (see Recommendation 4). "We shouldn't be worried about losing our space when we're trying to save lives!" says VANDU member Ryan Maddeaux. Most cities have an important property stock. Despite the systematic sell-off and giveaway of city-owned land to private developers since roughly the 1980s, local governments across BC still own a significant amount of public land. Minimally, they can lease city-owned property directly to PWUD or help fund leases from private landlords to PWUD. The ever-growing financial resources given to police departments is a clear indication that municipalities control significant public resources. In addition to this pressing question of office and drop-in space for PWUD, wider solutions to the housing crisis would also benefit drug users because PWUD are disproportionately represented in the number of people experiencing homelessness and housing precarity.



Photo credit: Aaron Bailey

COMMUNITY

Engage in participatory budgeting

By design, City budgeting and spending is difficult for everyday citizens to navigate. Yet these economic processes are key to our day-to-day experiences with police and a lacking social safety net. To have our needs met as a community, we must demand participation in government spending decisions. If that opportunity is not given to us, we must do it ourselves.

Participatory budgeting is a process that has been adopted by cities around the world to include citizens in government spending decisions that impact them. A departure from technocratic budgeting processes — a top-down, apolitical approach grounded in academic “expertise” — participatory budgeting can empower communities to have a say on how City money is spent based on their lived experiences. Communities know first-hand that budgets prioritizing policing and low wealth taxes necessarily mean underfunding the services and supports we need.

Typically, participatory budgeting begins with community outreach and engagement, includes a democratic vote by community, and ends with the implementation of a project or spending-related decision.^{xii}



The City budget is a moral document and must reflect our values as a city rather than the values of capitalism and state violence.

— Defund 604, *The People’s Budget*

Historically, communities have pushed for participatory budgeting processes as a way to create economic justice. For instance, Black organizers in the United States have used it as a tool to ensure “resources are raised equitably and follow the needs and fulfill the full human rights of Black communities.”^{xiii}

The City of Vancouver already undertakes some form of participatory budgeting, though its process has been hierarchical and lacking in accountability. Further, it has been limited to issues of sidewalk improvements and fitness amenities which, while important, do not engage with the pressing need to divest from policing and prioritize community programs, social services, housing programs, and peer-led resources.^{xiv} As Vancouver-based group Defund 604 emphasizes, “[p]articipatory budgeting for community safety must be a meaningful departure from shallow attempts at democratizing budgeting processes.”^{xv}

In light of Vancouver’s flawed process, Defund 604 successfully launched its own. They conducted a community survey which found that 86% of participants (of a total 761 responses) supported defunding the VPD by 50%.^{xvi} They also used the results of the survey to develop a People’s Budget, which set out demands for peer-led mental health services, peer-led access to safe drug supply, “Land Back” and building a traditional health centre, and meaningful participatory budgeting.^{xvii}

In the absence of government support, community-led participatory budget processes can serve as powerful advocacy tools, as well as spaces for community learning. But if government actors hold the ultimate decision-making authority over budget allocations, it’s important to continue to push for direct involvement.

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ⁱ Government of BC, News Release, “Provincial health officer declares public health emergency” (14 April 2016), online: <<https://news.gov.bc.ca/releases/2016HLTH0026-000568>>

ⁱⁱ Karen Howlett, “Jane Philpott promises use of ‘all tools’ in opioid crisis”, *Globe and Mail* (18 November 2016), online: <<https://www.theglobeandmail.com/news/national/medical-experts-urge-ottawa-to-declare-public-emergency-over-oid-crisis/article32926287/>>

ⁱⁱⁱ “Toxic drug deaths in B.C. surpass 1,600 in 2022 as Ottawa commits \$5M to helping people with chronic pain”, *CBC News* (7 November 2022), online: <<https://www.cbc.ca/news/canada/british-columbia/bc-overdose-deaths-september-2022-fatalities-toxic-drugs-1.6643238>>

CONTEXTUALIZING LOCAL GOVERNMENT POWERS

ⁱ Municipalities are created by the *Community Charter*, SBC 2003, c 26, with the exception of the City of Vancouver, which is created by the *Vancouver Charter*, SBC 1953, c 55. Regional districts are created by the *Local Government Act*, RSBC 2015, c 1. Within regional districts, there may be several municipalities. For example, within the Fraser-Fort George Regional District is the municipality of Prince George. The Regional District has land-use power over all the areas outside of municipal boundaries.

ⁱⁱ *Community Charter*, SBC 2003, c 26, s 9(3); *Public Health Bylaws Regulation*, BC Reg 42/2004.

ⁱⁱⁱ There are several common law (or court-authored) principles constraining governments’ use of power: bylaws cannot be vague, overbroad, *ultra vires*, or made in bad faith.

^{iv} The *Charter* guarantees various rights for people in Canada, including the right to life, liberty, and security of the person (section 7) and the right to equal protection and benefit under the law (section 15).

^v The ACSWF policy is meant to support the right of all people to access services “without fear that the City of Vancouver will ask for and provide information about their immigration status to other institutions or orders of government unless required by law.” See City of Vancouver, “Access to city services without fear (ACSWF) policy: for residents with uncertain or no immigration status”, Corporate Policy (2016), online: <<https://policy.vancouver.ca/COUN003.pdf>>

^{vi} When a new land use bylaw is adopted and the existing use of land/building does not conform to the bylaw (but was legally conforming under the previous bylaw), it may be continued as a “legal non-conforming use”, meaning that it is not required to be rezoned, except in certain circumstances (i.e., if the use expands). See: Province of BC, “Zoning bylaws: Non-Conforming uses”, online: <<https://www2.gov.bc.ca/gov/content/governments/local-governments/planning-land-use/land-use-regulation/zoning-bylaws>>

^{vii} A local bylaw prohibiting an activity outright is typically invalid unless it is (a) consistent with both the purpose of the power delegated to the city (i.e., from the province); (b) not in conflict with provincial laws; and (c) not in conflict with federal jurisdiction. A court can quash a bylaw because it is discriminatory, unreasonable, or made in bad faith, for an improper purpose, or with bias.

^{viii} Regional districts have no role in roads. Roads are the responsibility of the municipality or the province.

^{ix} Vancouver’s current (2023) Mayor, Ken Sim, has even floated the idea of privatizing and downloading the financing of public libraries: City of Vancouver, “Special Council (2023 Budget)” (29 November 2022) at 04h:08m:22s, online (video): *YouTube* <<https://www.youtube.com/watch?v=pPFb06smdF8&t=14901s>>

^x Regional districts have no role in policing. Policing is the responsibility of the municipality or the province.

^{xi} City of Vancouver, “Budget Document”, Draft Current State Budget for Consideration (2023) at B-33, online: <<https://vancouver.ca/files/cov/2023-draft-current-state-building-the-budget.PDF>>

^{xii} Regional districts cannot directly tax properties. Instead, they requisition their member municipalities to tax on their behalf.

^{xiii} Conservative local governments, like Vancouver’s 2023 City Council, are contemplating further tax cuts to appease developers and landowners, placing even more austerity pressure on municipal services.

RECOMMENDATION 1

ⁱ For a detailed history of the racist origins of Canada’s drug laws and drug prohibition, see: Susan Boyd, *Busted*, (Nova Scotia: Fernwood Publishing, 2017).

ⁱⁱ BC Ministry of Mental Health and Addictions, News Release, “B.C. receives exemption to decriminalize possession of some illegal drugs for personal use” (31 May 2022), online: <<https://news.gov.bc.ca/releases/2022MMHA0029-000850>>

ⁱⁱⁱ *Controlled Drugs and Substances Act*, SC 1996, c 19, s 56(1).

^{iv} For more information about decriminalization via exemption, see: Caitlin Shane, *Act Now! Decriminalizing Drugs in Vancouver*, (Vancouver: Pivot Legal Society, 2020), online: <https://www.pivotlegal.org/act_now_decriminalizing_drugs_in_vancouver>
See also: HIV Legal Network, *Decriminalizing People Who Use Drugs: Making the ask, minimizing the harms*, (Toronto: HIV Legal Network, 2020), online: <<https://www.hivlegalnetwork.ca/site/decriminalizing-people-who-use-drugs-a-primer-for-municipal-and-provincial-governments/?lang=en>>

^v Letter from Pivot Legal Society and VANDU to Mayor Kennedy Stewart, Mary Clare Zak, and Chief Constable Adam Palmer (15 March 2021) online: <https://www.pivotlegal.org/vandu_and_pivot_on_threshold_amounts>

^{vi} *Decriminalization Done Right: A Rights-Based Path for Drug Policy*, Civil Society Platform, (December 2021) at 3, online: <<https://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/pages/3615/attachments/original/1639062331/EN-PTL-Decrim.pdf>>

^{vii} City of Campbell River, by-law No 3884, *Public Nuisance Amendment Bylaw* (2023).

RECOMMENDATION 2

ⁱ City of Penticton, consolidated by-law No 2012-5030, *Good Neighbour Bylaw* (amended 4 June 2019), s 5.2 and Schedule B definition of "Obstruction" subsection (o).

ⁱⁱ City of Salmon Arm, Bylaw No 4273, *A bylaw to regulate street solicitation in the City of Salmon Arm* (May 2019); City of Penticton, consolidated by-law No 2012-5030, *Good Neighbour Bylaw* (amended 4 June 2019), s 5.2; City of Maple Ridge, Bylaw No 7581-2019, *Safer Streets Bylaw: A bylaw to Regulate and Control Aggressive Solicitation* (12 November 2019).

ⁱⁱⁱ City of Surrey, consolidated Bylaw No. 13007, *A bylaw to regulate traffic, parking and the use of highways, boulevards, sidewalks and public land in the City of Surrey*, s 88.1.

^{iv} Frances Bula, "B.C. municipalities pass bylaws targeting homeless", *Globe and Mail* (14 November 2019), online: <<https://www.theglobeandmail.com/canada/british-columbia/article-bc-municipalities-pass-bylaws-targeting-homeless/>>

^v Vancouver Area Network of Drug Users, "*We're All Pedestrians*" *Final Report of the Downtown Eastside Pedestrian Safety Project* (Vancouver, VANDU: 2010), online: <https://www.vandu.org/documents/WereAllPedestrians_EXECUTIVE_SUMMARY.pdf>
See also: City of Vancouver, News Release, "Pedestrian Safety in the Downtown Eastside (DTES)" (2011), online: <<https://vancouver.ca/people-programs/pedestrian-safety-in-the-dtes.aspx>>

^{vi} Nadine Schuurman et al, "Pedestrian Injury and the Built Environment: an environmental scan of hot spots" (2009) 9 BMC Public Health 233, online: <<https://link.springer.com/article/10.1186/1471-2458-9-233>>

^{vii} Douglas King, "Pivot and VANDU slam VPD over city bylaw enforcement" (6 June 2013), online (blog): *Pivot Legal Society* <https://www.pivotlegal.org/pivot_and_vandu_slam_vpd_over_city_bylaw_enforcement>

^{viii} See endnote i, s 6.25 and Schedule B.

^{ix} On numerous occasions, courts have found certain bylaws to be unconstitutional and therefore ordered them inoperative as they apply to certain populations, including unhoused people in cities with inadequate sheltering options: *Victoria (City) v Adams*, 2009 BCCA 563 at para 166; *Abbotsford (City) v Shantz*, 2015 BCSC 1909 at para 285.

^x *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 15(2). Pivot continues to advocate for explicit human rights protection for poor people through the addition of "social condition" to human rights laws.

APPENDIX A

ⁱ See: BC Freedom of Information and Privacy Commission Resource Page: <<https://fipa.bc.ca/research-resources/education-materials/>>
See also: FactCheckToronto's "How to File a FOI": <<https://factchecktoronto.ca/how-to-file-a-foi/>>

RECOMMENDATION 3

ⁱ Via unpublished data from the Vancouver Injection Drug Users Study (VIDUS), the AIDS Care Cohort to Evaluate Exposure to Survival Services (ACCESS), and the At-Risk Youth Study (ARYS). That data revealed that between 2019-2021, over 6% of participants who used drugs on a daily basis reported having their drugs seized by police without arrest at least once in the last 6 months between 2019-21, while nearly 68% of those who had their drugs seized by police reported immediately obtaining new drugs post-seizure. Moreover, the prevalence of experiencing non-fatal overdose was significantly higher among those who reported having their drugs seized compared to those who did not. The data also confirmed: "While anecdotal reports suggest that the police practice of drug seizure is commonplace and a driver of harm among people who use drugs (PWUD), such discretionary practice is not fully captured in the VPD's published data..."

ⁱⁱ Caitlin Shane, *Act Now! Decriminalizing Drugs in Vancouver*, (Vancouver: Pivot Legal Society, 2020) at 6, online: <https://www.pivotlegal.org/act_now_decriminalizing_drugs_in_vancouver>

ⁱⁱⁱ See endnote i.

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^{iv} Public Prosecution Service of Canada, *Public Prosecution Service of Canada Deskbook*, “3.19 Bail Conditions to Address Opioid Overdoses” (updated March 3, 2020): “The conditions that should generally not be imposed include: a. not to be in possession of controlled substances; b. not to be in possession of drug use paraphernalia...”

^v City of Penticton, consolidated by-law No 2012-5030, *Good Neighbour Bylaw* (amended 4 June 2019), s 5.4: “No person shall possess drug paraphernalia used for the purposes of storing, transporting or using illegal drugs in any park or public place.”
City of Langley, consolidated by-law No 3048, *Parks and Public Facilities Regulation Bylaw*, ss 2, 11(b)(vii): classifies drug paraphernalia as controlled substances and effectively prohibits the use of them in parks and public facilities.

^{vi} *Community Charter*, SBC 2003, c 26, s 9(3).

^{vii} BC Ministry of Mental Health and Addictions, News Release, “B.C. receives exemption to decriminalize possession of some illegal drugs for personal use” (31 May 2022), online: <<https://news.gov.bc.ca/releases/2022MMHA0029-000850>>
See also: Caitlin Shane, “Drug Decriminalization in BC: Know Your Rights” (9 January 2023), online (blog and rights card): *Pivot Legal Society* <https://www.pivotlegal.org/drug_decriminalization_in_british_columbia_-_know_your_rights>

^{viii} Government of Canada, Health Canada, *Exemption from Controlled Drugs and Substances Act: Personal possession of small amounts of certain illegal drugs in British Columbia (January 31 2023 to January 31 2026)*, (modified 1 February 2023): “[A]dults...in BC who possess the illegal drugs listed in the exemption, in an amount up to 2.5 grams for personal use will not be subject to criminal charges and the drugs will not be seized” [emphasis added].

RECOMMENDATION 4

ⁱ Province of British Columbia, Order of the Minister of Health, Ministerial Order No M488 (2016), online: <https://www.bclaws.gov.bc.ca/civix/document/id/mo/hmo/m0488_2016>

ⁱⁱ City of Fort St. John, by-law No 2524, *Zoning Amendment Bylaw* (2020), (amends s 3.0 of *Zoning Bylaw No 2470-2019*).

ⁱⁱⁱ *Local Government Act*, RSBC 2015 c 1, part 14 div 14, s 528.

^{iv} *Community Charter*, SBC 2003 c 26, ss 8(3)(g), 9(1)(a), 9(3)-(5).

See also: Province of BC, “Local government & provincial concurrent authority”, online: *Official website of the Province of British Columbia* <<https://www2.gov.bc.ca/gov/content/governments/local-governments/facts-framework/legislative-framework/authority>>

^v *Canadian Plastic Bag Association v Victoria (City)*, 2019 BCCA 254 at para 55: “It would be absurd if, by simply attaching a different label to a bylaw, a municipality could avoid an express requirement of the *Community Charter*. Indeed, the broad interpretation of municipal powers mandated by s. 4 of the *Community Charter* confirms that substance is to prevail over form in the characterization of bylaws.”

^{vi} *Public Health Act*, SBC 2008 c 28, s 73(3).

^{vii} See endnote vi, s 83(1)(c).

^{viii} The land-use powers to plan and zone authorize local governments to regulate *uses* of land – not the *users* of land. A bylaw could be discriminatory if it differentiates between two groups who would use the land for the same basic purpose.

^{ix} Under the law, addiction is considered a disability, which is a protected ground under both the *Charter* and BC’s *Human Rights Code*.

^x Pivot Legal Society, Backgrounder, “Discriminatory Municipal Bylaws and Zoning” (October 2017), online: <https://www.pivotlegal.org/discriminatory_zoning#:~:text=Municipalities%20across%20BC%20have%20authority,to%20marginalized%20and%20vulnerable%20groups>

^{xi} The Province has used paramountcy to establish shelters and supportive housing despite local government pushback in the cities of Penticton and Maple Ridge. See: Winston Szeto, “Penticton shelter will remain open despite city’s objection, says B.C.’s Housing Minister David Eby”, *CBC News* (18 March 2021), online: <<https://www.cbc.ca/news/canada/british-columbia/penticton-winter-shelter-open-paramountcy-province-1.5955618>>

^{xii} The doctrine of paramountcy holds that the Province is not bound by “an enactment that would bind or affect the government in the use or development of land...”: *Interpretation Act*, RSBC 1996, c 238, s 14(2) [emphasis added].

^{xiii} City of Vancouver, “Density Bonusing”, online: <<https://vancouver.ca/home-property-development/density-bonus-zoning.aspx>> City of Surrey, “Community Amenity Contributions (CACs)”, online: <[https://www.surrey.ca/renovating-building-development/land-planning-development/community-amenity-contributions#:~:text=Community%20Amenity%20Contributions%20\(CACs\)%20are,form%20of%20a%20Density%20Bonus](https://www.surrey.ca/renovating-building-development/land-planning-development/community-amenity-contributions#:~:text=Community%20Amenity%20Contributions%20(CACs)%20are,form%20of%20a%20Density%20Bonus)>

^{xiv} Though some view inclusionary zoning as a sort of tax being levied against developers, make no mistake: developers still benefit, usually in the form of financing and permits to build additional floor area and density. For instance in Vancouver, financing for the construction of affordable housing units is provided by the Province, significantly relieving developers of financial burden.

^{xv} This recommendation is borrowed from: Tom Angotti and Sylvia Morse, eds, *Zoned Out! Race, Displacement and City Planning in New York City*, (New York: UR Urban Research, 2016) at 162. Angotti et al add that this evaluation “should engage diverse residents and businesses. The results should be subject to extensive public scrutiny and discussion and not simply tucked away in environmental impact studies.”

^{xvi} For instance, the City of Surrey’s *Business License Bylaw No. 13680* (1999) at s 29(1)(a).

^{xvii} British Columbia, Legislative Assembly, Select Standing Committee on Health, “Closing Gaps, Reducing Barriers: Expanding the response to the

toxic drug and overdose crisis”, 42-3, No 1 (November 2022) at pages 32-3: “[T]he Minister of Health’s 2016 order that required overdose prevention services to be provided throughout the province is not currently being fulfilled.”

^{xviii} The Order requires regional health boards to establish overdose prevention services wherever there is need. Per s 7.1 of the *Health Authorities Act*, RSBC 1996, c 180: “A [health authority] must comply with any general or specific direction made by order of the minister with respect to the exercise of powers and the performance of the duties of the [health authority].”

^{xix} Caitlin Shane and Pivot Legal Society, Background, “The Duty to Provide Overdose Prevention Services” (August 2022), online: <https://www.pivotlegal.org/the_duty_to_provide_overdose_prevention_services>

RECOMMENDATION 5

ⁱ Harm reduction services include sanctioned and unsanctioned overdose prevention services and emergency overdose prevention services (EOPS), supervised consumption sites, and drug user-run spaces, among others.

ⁱⁱ Alexandra B. Collins et al, “Policing space in the overdose crisis: A rapid ethnographic study of the impact of law enforcement practices on the effectiveness of Overdose Prevention Sites” (2019) 73 *Int J Drug Policy* 199-207, online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7147938/>> See also: Darcie Bennett and DJ Larkin, *Project Inclusion: Confronting anti-homeless & anti-substance user stigma in British Columbia* (2018) at 47-9, online: <https://www.pivotlegal.org/project_inclusion_full>

The Supreme Court of Canada has also recognized that “we have arrived at a place where the research now shows disproportionate policing of racialized and low-income communities” and that this history of over-policing significantly impacts when a person experiences psychological detention, which can be immediately upon interacting with police: *R v Le*, 2019 SCC 34 at paras 97, 109-110. Police communicating with PWUD outside of harm reduction services then, is arguably tantamount to detention.

ⁱⁱⁱ In BC, OPS (which include EOPS) are required to be established “in any place there is a need”: Province of British Columbia, Order of the Minister of Health, Ministerial Order No M488 (2016), online: <https://www.bclaws.gov.bc.ca/civix/document/id/mo/hmo/m0488_2016>

^{iv} *Access to Abortion Services Act*, RSBC 1996, c 1.

^v See, for example: City of Toronto, *Access to City Services for Undocumented Torontonians*, online: <<https://secure.toronto.ca/council/agenda-item.do?item=2014.CD29.11>>

See also: City of Vancouver, “Access to city services without fear (ACSWF) policy: for residents with uncertain or no immigration status”, Corporate Policy (2016), online: <<https://policy.vancouver.ca/COUN003.pdf>>

^{vi} Vancouver Police Department, *Vancouver Police Department Drug Policy* (adopted September 2006) at 5, online: <<https://vpd.ca/wp-content/uploads/2021/06/vpd-policy-drug.pdf>>

APPENDIX B

ⁱ Weapons also include imitation firearms, a prohibited device, ammunition, any prohibited ammunition or explosive substance.

ⁱⁱ *Criminal Code*, RSC 1985 c C-46, s 117.02.

ⁱⁱⁱ *Controlled Drugs and Substances Act*, SC 1996 c 19, s 11(7).

^{iv} *R v Paterson*, 2017 SCC 15.

^v *R v Godoy*, [1999] 1 SCR 311.

^{vi} *R v Puyenbroek*, 2007 ONCA 824 at para 19.

RECOMMENDATION 6

ⁱ Alexandra B. Collins et al, “Policing space in the overdose crisis: A rapid ethnographic study of the impact of law enforcement practices on the effectiveness of Overdose Prevention Sites” (2019) 73 *Int J Drug Policy* 199-207, online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7147938/>>

ⁱⁱ Rachel Feuerstein-Simon et al, “Substance Use and Overdose in Public Libraries: Results from a Five-State Survey in the US” (2022) 47:2 *J Community Health* 344-350, online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8753323/>>

ⁱⁱⁱ Andrea Woo, “As libraries grapple with overdose crisis, Vancouver tells staff not to intervene”, *Globe and Mail* (16 March 2018), online: <<https://www.theglobeandmail.com/canada/british-columbia/article-vancouver-public-library-forbids-staff-from-administering-naloxone/>>

^{iv} Sean Boynton, “Vancouver Public Library reverses staff policy on responding to overdoses”, *Global News* (23 March 2018), online: <<https://globalnews.ca/news/4102745/vancouver-public-library-reverses-staff-policy-on-responding-to-overdoses/>>

^v Ontario Library Association, Information Brief, “Opioids, Naloxone and your Local Public Library” (October 2018), online: <<https://accessola.com/wp-content/uploads/2020/08/2018-Opioid-InfoBrief.pdf>>

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^{vi} Government of Canada, Fact Sheet, “Naloxone: Save a Life” (modified 11 April 2019), online: <<https://www.canada.ca/en/health-canada/services/publications/healthy-living/naloxone-save-a-life-fact-sheet.html>>

^{vii} For example, *BC’s Good Samaritan Act*, RSBC 1996, c 172 states at s 1: “A person who renders emergency medical services or aid to an ill, injured or unconscious person, at the immediate scene of an accident or emergency that has caused the illness, injury or unconsciousness, is not liable for damages for injury or death of that person caused by the person’s act or omission in rendering the medical services or aid unless that person is grossly negligent.”

^{viii} For instance, school boards, library boards, and in the case of Vancouver, the Vancouver Board of Parks and Recreation.

^{ix} Atira Women’s Resource Society, Program Description, “SisterSpace: The first and only women-only, community-accessible overdose prevention site”, online: <<https://atira.bc.ca/what-we-do/program/sisterspace/>>

^x Government of Canada, Infopage, “About the Good Samaritan Drug Overdose Act” (modified 23 November 2021), online: <<https://www.canada.ca/en/health-canada/services/opioids/about-good-samaritan-drug-overdose-act.html>>

^{xi} Amiti Mehta et al, “Change in Police Attendance at Overdose Events following Implementation of a Police Non-Notification Policy in British Columbia” (2022) 2022: Article ID 8778430, *Advances in Public Health* 1-5.

^{xii} From Vancouver Police Department, *Regulations & Procedures Manual*, 1.6.28 Guidelines for Police Attending Illicit Drug Overdoses (effective 29 June 2006) at 170, online: <<https://vpd.ca/wp-content/uploads/2022/03/vpd-regulations-and-procedures-manual.pdf>>: “There is little value in police attendance at a routine, non-fatal overdose. It would be a rare circumstance for criminal charges to arise from attendance at a routine overdose call. In order to encourage a witness to a drug overdose to access emergency medical aid without delay, it is necessary to establish policy with respect to police attendance at overdose calls. Policy should tend to restrict police attendance to drug overdose calls only in the event there is a specific need for public safety.”

^{xiii} Darcie Bennett and DJ Larkin, *Project Inclusion: Confronting anti-homeless & anti-substance user stigma in British Columbia* (2018) at 50-1, online: <https://www.pivotlegal.org/project_inclusion_full>

^{xiv} See endnote xi, page 2.

RECOMMENDATION 7

ⁱ This chapter was co-written with the Eastside Illicit Drinkers Group for Education (EIDGE), a chapter group of VANDU. The recommendations in this chapter derive in large part from a municipal alcohol strategy report co-authored by EIDGE: VANDU, EIDGE, et al, *The Vancouver Alcohol Strategy: Designing Harm Reduction-focused Alcohol Policy from the Grassroots in Vancouver’s Downtown Eastside* (January 2022, presented to Vancouver Coastal health), online (read-only): <<https://docs.google.com/document/d/1Q09A-C9V6tLkpMzo7XLZw3Kxr27m1UOToYtvYrYro0w/edit?usp=sharing>>

ⁱⁱ This report uses the term “drinker(s)” to refer to people who drink both beverage and non-beverage alcohol, as this is how people in that community identify themselves. As authors of the Vancouver Alcohol Strategy report state, “the term ‘drinker’ is associated with membership in a resourceful, close-knit, well-organized, and resilient community of peers who have always taken care of one another and intervened to improve the health and wellbeing of their friends in the absence of client-centered alcohol harm reduction programs in Vancouver.” See endnote i for link to report.

ⁱⁱⁱ BC Coroners Service, Coroners Report, *Illicit Drug Toxicity Deaths in BC January 1, 2012 – December 31, 2022*, online: <<https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf>>

^{iv} Provincial liquor laws are also enforced by Liquor Control and Licensing Board inspectors, but enforcement against drinkers and individuals who consume alcohol in illicit ways is typically the role of local police departments.

^v Not all drinkers identify with the term “alcohol use disorder”, just as not all drug users identify as having an addiction.

^{vi} This language is suggested by the Vancouver Alcohol Strategy (endnote i) at page 15. “Drinkers” could also be defined at the outset of the legislation, for ease of exemption in other provisions.

^{vii} See endnote i, page 15.

^{viii} See endnote i, page 18.

^{ix} University of Victoria, Canadian Institute for Substance Use Research, Research Bulletin, “Scale up of Managed Alcohol Programs”, online: <<https://www.uvic.ca/research/centres/cisur/assets/docs/bulletin-20-scale-up-of-maps.pdf>>

^x See endnote ix.

RECOMMENDATION 8

ⁱ Skye Ryan, “People battling addiction say new Campbell River bylaw targeting drug use won’t help deadly crisis”, *Chek News* (1 February 2023), online: <<https://www.cheknews.ca/harsh-reality-for-campbell-rivers-drug-users-1139073/>>

ⁱⁱ Darcie Bennett and DJ Larkin, *Project Inclusion: Confronting anti-homeless & anti-substance user stigma in British Columbia* (2018) at 125, online: <https://www.pivotlegal.org/project_inclusion_full>

ⁱⁱⁱ See endnote ii, page 125.

- ^{iv} Pivot Legal Society, Backgrounder, "Discriminatory Municipal Bylaws and Zoning" (October 2017), online: <https://www.pivotlegal.org/discriminatory_zoning#:~:text=Municipalities%20across%20BC%20have%20authority,to%20marginalized%20and%20vulnerable%20groups>
- ^v Pivot Legal Society, "Pivot writes to City of Dawson Creek to oppose bylaw amendments that threaten harm reduction services" (19 November 2021), online (blog): *Pivot Legal Society*: <https://www.pivotlegal.org/dawson_creek_bylaw_amendments_that_threaten_harm_reduction>
- ^{vi} City of Dawson Creek, Dawson Creek City Council, *Public Hearing, Regular Meeting of City Council and Committee of the Whole* (22 November 2021) at 1h:57min:40s, online (video): <<https://dawsoncreek.ca/video/20211122.php>>
- ^{vii} City of Fort St. John, by-law No 2524, *Zoning Amendment Bylaw* (2020), (amends s 3.0 of *Zoning Bylaw No 2470-2019*).

RECOMMENDATION 9

- ⁱ Legislative Assembly of British Columbia, Select Standing Committee on Health, *Draft Report of Proceedings*, 42-3 (7 September 2022) (Witness: Tanis Oldenburger), online: <<https://www.govtmonitor.com/page.php?type=document&id=4231384>>
- ⁱⁱ Thomas Kerr et al, "Harm reduction by a 'user-run' organization: A case study of the Vancouver Area Network of Drug Users (VANDU)" (2006) 17:2 *IJDP* 61-69, online: <<https://www.sciencedirect.com/science/article/abs/pii/S0955395906000065>>
- ⁱⁱⁱ Thomas Davidoff et al, "Policy Forum: The Prevalence of Low Income Tax Payments Among Owners of Expensive Homes in Vancouver and Toronto" (2022) 70:4 *Canadian Tax Journal* 843-59, online: <https://www.ctf.ca/CTFWEB/Documents/CTJ%202022/Issue%204/Public/843_Public-2022CTJ4-PF-4-Davidoff-et-al.pdf>
- ^{iv} Jean Swanson, "Mansion tax for top one-per-cent property owners would be fairer for the rest of us", *Vancouver Sun* (18 March 2022), online: <<https://vancouversun.com/opinion/jean-swanson-mansion-tax-for-top-one-per-cent-property-owners-fairer-for-the-rest-of-us>>
- ^v Vancouver Police Department, *Our Community in Need: The VPD's Community-Focused Safety Strategies* (November 2020) at 19, online: <<https://vpd.ca/wp-content/uploads/2021/06/our-community-in-need.pdf>>
- ^{vi} See endnote v, page 19.
- ^{vii} Canadian Association of Chiefs of Police, Special Purpose Committee on the Decriminalization of Illicit Drugs, "Decriminalization for Simple Possession of Illicit Drugs: Exploring Impacts on Public Safety & Policing", *Findings and Recommendations Report* (July 2020), online: <https://www.cacp.ca/index.html?asst_id=2189>
- ^{viii} Rachel Browne, "Exclusive Data Shows Canadian Cops Target More Black and Indigenous Folks for Drug Arrests", *Vice* (19 April 2022), online: <<https://www.vice.com/en/article/akvpe4/race-drug-arrests-canada>>
- ^{ix} Rumneek Johal, "Police and Politics: How Police in Vancouver became British Columbia's Top Newsmaker in 2022", *Police and Politics* (21 December 2022), online: <<https://pressprogress.ca/police-and-politics-how-police-in-vancouver-became-british-columbias-top-newsmaker-in-2022/>>
- One such example occurred in the leadup to the 2022 municipal election, when the Vancouver Police Union president joined city council candidates and right-wing activists for a screening of "Vancouver is Dying," a widely discredited documentary that blames harm reduction for the compounding colonial, social, and economic inequalities that have come to characterize the DTES. See: Rumneek Johal, "Right-Wing Group Funded by Lululemon Founder Helped Promote Film Demonizing Vancouver's Homeless", *Press Progress* (14 October 2022), online: <<https://pressprogress.ca/right-wing-group-funded-by-lululemon-founder-helped-promote-film-demonizing-vancouvers-homeless/>>
- ^x Government of British Columbia, "B.C. Police Forces" (retrieved 11 February 2023), online: *Official Website of British Columbia*: <<https://www2.gov.bc.ca/gov/content/justice/criminal-justice/policing-in-bc/bc-police-forces#independentmunicipal>>
- ^{xi} Defund 604 Project, "The People's Budget: Reimagining How We Support One Another in Our Communities" (2022), online: <<https://drive.google.com/file/d/1F3sNiInn6f9fOubjSZDR2oy7WPlnBbAG/view>>
- ^{xii} City of Vancouver, "Fostering community through participatory budgeting" (2022), online: *Official Website of City of Vancouver*: <<https://vancouver.ca/your-government/participatory-budgeting.aspx#:~:text=Participatory%20budgeting%20is%20a%20process,Community%20outreach%20and%20engagement>>
- ^{xiii} The Movement for Black Lives (M4BL), One Pager, "A Vision for Black Lives: Policy Demands for Black Power, Freedom, & Justice - Participatory Budgeting at the Local, State, and Federal Level", online: <<https://m4bl.org/wp-content/uploads/2020/05/ParticipatoryBudgeting-OnePager.pdf>>
- ^{xiv} Democratic Socialists of Vancouver, "The People's Budget" (19 November 2021), online: <<https://www.democratic-socialistsyvr.ca/dsv-news/peoples-budget-604>>
- ^{xv} Defund 604, "People's Budget 604 Demands (LONG version)" (November 2021), online: <<https://docs.google.com/document/d/1LohBuVH7S0dGyxKz6qTXdqXvoR0X5GXNRQbgaq9sl4/edit#heading=h.ukg3r380swhw>>
- ^{xvi} See endnote xi.
- ^{xvii} See endnote xvi. See also: Pivot Legal Society, Press Release, "We must defund the police to build safe, healthy, and sustainable communities" (22 November 2021), online: <https://www.pivotlegal.org/defund_the_police_to_build_safe_health_and_sustainable_communities>

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