

Commentary

Drug decriminalization: The importance of policy change for the health and wellbeing of children and youth in Canada

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ABSTRACT

The criminalization of drug use and possession has demonstrable harms on the health of children and youth, with disproportionate effects on Black people, Indigenous people, people from other racially oppressed communities, and people living in poverty. Drug decriminalization, by separating personal possession and use of drugs from the criminal justice system, allows for a health-based approach to drug policy. Paediatricians are well-positioned to advocate for policies within a decriminalization framework to prioritize the physical and mental health of children and youth.

Keywords: Advocacy; Decriminalization; Drug; Paediatrics; Policy.

INTRODUCTION: DRUG POLICY IN HISTORICAL CONTEXT

Since the infancy of modern drug policy, from anti-opium laws in the 1870s to the escalation of the 'War on Drugs' in the 1980s, recreational drug use has been seen as a moral failing and has been addressed with criminalization policies that disproportionately target racially oppressed people and those living in poverty (1,2). Stereotypes and racism fuel these policies, despite evidence that non-White people do not use recreational drugs at a higher rate than White people (1,3). Many substances now categorized as illegal have been used for centuries in cultural and medicinal practices; that some drugs are now criminalized and some not reflects societal values rather than pharmacologic properties that determine the risk of harm (2). For example, except for a brief period of prohibition, alcohol has not been subject to criminalization in North America. We argue that the criminalization of personal drug use has negative impacts on the health and wellbeing of children and youth, and that drug decriminalization for personal use and a health-based approach to drug policy is essential to improving health outcomes for those using drugs, those experiencing substance use disorder (SUD), their families, and communities.

DEFINING DRUG DECRIMINALIZATION

Decriminalizing drug possession for personal use means to stop treating the personal possession of illegal drugs, listed in schedules I-IV of Canada's Controlled Drugs and Substances Act (1996), as a criminal offence (4). Decriminalization allows for a range of responses to the personal use of these substances, from fines, to referral to treatment, to no intervention.

By separating the personal possession of schedule I-IV drugs from the criminal justice system, decriminalization allows for a health-based approach that prioritizes harm reduction and support for people who use drugs and those with SUD, rather than criminal justice involvement. Decriminalization eliminates prison sentences for personal use and possession, thus reducing the downstream harms that come from incarceration, including the disruption of families, unemployment, insecure housing and poverty, which disproportionately affect Black people, Indigenous people, and people from other racially oppressed communities.

There are many approaches to decriminalization worldwide, implemented in different societal contexts, making it challenging to draw generalizable conclusions regarding the impact of these policies (5). Certainly, drug decriminalization cannot solve all

the problems associated with drug use. Challenges following decriminalization in Oregon include inadequate funding of necessary supportive health infrastructure and lack of incentives for people with SUD to engage in voluntary treatment, suggesting decriminalization in isolation is insufficient (6). However, rates of drug use have not been demonstrated to be lower in countries with strict criminalization policies than in those with decriminalization policies (5). Moreover, drug use has not been demonstrated to increase significantly in countries that adopt decriminalization policies (5,7). Indeed, decriminalization may reduce the stigma of substance use and reduce the barriers to accessing services and treatment for SUD; in Portugal, funding has been redirected from policing drug possession and use to harm reduction initiatives, and the country has seen a significant increase in the number of people accessing treatment (5).

THE IMPACT OF DRUG CRIMINALIZATION ON CHILDREN AND YOUTH

In caring for children and adolescents, paediatricians can appreciate the direct impacts of drug criminalization on youth who use drugs, as well as the children of those who use drugs.

When substance use is criminalized, stigma leads to inadequate resource allocation and difficulty accessing screening and treatment for SUD, which is often concurrent with or resultant from other mental health concerns, including past trauma. People who use drugs, including youth, face significant barriers in accessing care and support services; resources for caregivers and families seeking support for their loved ones are also limited. People who use drugs and are afraid of encounters with law enforcement may fail to seek assistance for themselves or peers who are experiencing drug toxicity (8). They may be subject to police violence, as a result of drug law enforcement (1). In 2018, 1009 youth (ages 12 to 17 years) in Canada were charged or recommended to be charged for non-cannabis drug offenses (9). Individuals involved in the criminal justice system are at higher risk for future involvement and incarceration which creates barriers to secure housing and employment. This contributes to a cycle of poverty and incarceration that is difficult to break.

Black, Indigenous and people from other racially oppressed communities experience criminal sanctions for drug use and possession at a higher rate than white people, despite similar rates of use (1). Not only are they arrested more frequently, but they are also more frequently convicted and receive more severe sentences. Racist criminalization policies thus disproportionately affect not only racially oppressed youth who use drugs, but also the children of racially oppressed youth and adults who use drugs.

The Adverse Childhood Experiences study identified traumatic experiences in early childhood that contribute to poor health outcomes in adulthood (10). Trauma, including the incarceration of a caregiver, affects health outcomes for adults and the health and wellness of children in their childhood and youth. Incarceration of people for personal drug use leads to more children being exposed to this traumatic event. As incarceration is a risk factor for future incarceration, unemployment, insecure housing, mental health disorders, and poverty, children who have caregivers who have been incarcerated are also at risk for all of these. Furthermore, they are at risk of being apprehended into

the child welfare system; children and youth in foster care are at risk of developmental delay, behavioural and learning problems, chronic disease, and mental health concerns including SUD (11,12).

Opioid-related deaths in Canada are increasing, with nearly 25,000 Canadians having died in the past 6 years from opioid toxicity, largely due to a drug supply poisoned by high-potency opioids, specifically fentanyl; up to 2% of these deaths each year have been in youth under 19 years old (8). This epidemic affects youth who use drugs, and also leaves the children of parents who die from opioid toxicity without primary caregivers.

Rates of HIV and hepatitis C, infectious diseases associated with unsafe drug injection practices, have decreased in countries like Portugal with decriminalization policies (5). The high rates of hepatitis C among incarcerated women is, in part, a result of drug criminalization (13). Both of these diseases may be vertically transmitted during pregnancy, resulting in a disease burden among children that could be reduced through early detection and treatment. This would be more accessible if drug use were not criminalized and stigmatized under current legislation and enforcement policies.

CONCLUSION: THE FUTURE OF DRUG POLICY AND ADVOCACY BY PAEDIATRICIANS

Experiences in other jurisdictions, including Oregon and Portugal (5,6), demonstrate that decriminalization must be accompanied by health infrastructure resources for screening and treating SUD. This should include support for caregivers and families of those with SUD. Incentives to engage in treatment should also be considered. Knowledge of health care providers who work with children and youth on screening for and treating SUD should be enhanced; for example, the American Academy of Pediatrics recommends paediatricians be aware of and implement a substance use screening, brief intervention, and referral to treatment (SBIRT) approach in caring for youth (14).

Policies must consider the need for education and public health measures to reduce the risk of exploratory exposures for young children and access for children and youth. Unlike for legal substances, such as alcohol and cannabis, decriminalization does not create the space for a regulatory framework (i.e., age limitations, controls on concentration of substances, advertising regulations, etc.). The potential for harmful outcomes on children and youth must be considered in a decriminalization policy to mitigate harms that may arise. Research into the effects of substance use on children and youth, as well as the impact of decriminalization on their physical and mental health and wellbeing must be prioritized.

Supporting decriminalization policy for personal possession of drugs does not imply approval of their use by youth, given our awareness of the negative long-term sequelae of adolescent substance use. However, decriminalization has not been demonstrated to increase drug use, and has been shown to result in more people accessing treatment for substance use (5,7).

Paediatricians have a strong collective voice to advocate for future federal legislation that implements decriminalization as part of a national strategy of health-based, harm-reduction drug policy. The Canadian Medical Association recently endorsed the Canadian Society for Addiction Medicine (CSAM) policy,

'CSAM in Support of the Decriminalization of Drug Use and Possession for Personal Use' (7). The Canadian Association of Police Chiefs also endorsed decriminalization in 2020 (15). Paediatricians can advocate for the Canadian Paediatric Society, as well as their respective provincial and territorial medical associations, to adopt this policy. Such a policy helps put the needs of children and youth first, recognizing that the health of their families and communities is integral to their well-being.

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POTENTIAL CONFLICTS OF INTEREST

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