

Decriminalization: How police drug seizure, even without arrest, can create harm

August 31 2023, by Kanna Hayashi



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[International Overdose Awareness Day](#), an annual campaign to end overdose and drug poisonings while also remembering those who have died, is Aug. 31. Events are being held in [communities across Canada](#), a

sign of a worsening crisis that has taken more than [36,000 lives since 2016](#).

The day also represents an opportunity to discuss much-needed policy changes. The [decriminalization of people who use drugs](#) has long been one of the proposed solutions, an approach that is currently being piloted in British Columbia.

On Jan. 31, 2023, B.C. began a first-in-Canada [pilot "decriminalization" policy](#), in which criminal sanctions for the possession of small amounts of certain illegal drugs for personal use were removed for adults aged 18 or above.

Seven months into this experiment, the impact of this policy remains unclear. Because [a dashboard](#) of policy impact indicator data has not yet been published at the time of writing, it is difficult to weigh [the initial effects of the policy](#).

However, in the city of Vancouver, a policy of [depenalization](#) (also referred to as de facto decriminalization) has been in place since 2006, providing an opportunity to understand how the provincial pilot may be working—or even improved.

Depenalization in Vancouver

Seventeen years ago, the Vancouver Police Department (VPD) launched [its drug policy](#) to promote [the depenalization](#) of simple possession offenses. Under this policy, VPD officers were encouraged to not arrest or charge people for simple drug possession for personal use except for certain circumstances.

The VPD's policy differed from B.C.'s pilot decriminalization in several important ways. For example, the VPD's policy did not specify the class

or threshold quantity of drugs to define simple possession. VPD officers were given broad enforcement discretion with respect to drug possession.

Although publicly available VPD data are limited, [available data](#) indeed indicated low and declining numbers of simple possession charges recommended by the VPD to Crown counsel from 2016 to 2019. These numbers have often [been cited](#) as the indicator of success of the VPD's depenalization policy: fewer people are sent to the criminal justice system for the sake of personal drug use.

However, [anecdotal reports](#) and [previous qualitative research](#) suggested that police officers might not arrest people for simple possession, but they would still seize drugs. Local communities of people who use drugs and public health advocates in Vancouver expressed concern about the harm created by this policing behavior.

We undertook [surveys involving more than 1,800 people](#) who used drugs on a daily basis in Vancouver to investigate this often undocumented discretionary policing practice.

Police drug seizures without arrest

During a 16-month study period in 2019-2021, we found that six percent of 995 people who used drugs daily in Vancouver (60 percent residing in the Downtown Eastside neighborhood that is known for high rates of marginalization and drug use) had had their drugs seized by police without arrest at least once in the past six months. Of those, more than one in four experienced it more than once during the same six-month period.

Of particular concern, 68 percent of our study participants who had their drugs taken by police without arrest reported having obtained new drugs

immediately after the seizure. This portion of the data was collected from the same study population between 2009 and 2012.

[Previous qualitative research](#) documented that acquiring drugs this way could put health and safety at risk in multiple ways. For example, it can put people at a higher risk of drug market violence by creating drug debts.

Some users may also be compelled to acquire new drugs in a rush from an unknown supplier, especially when experiencing painful withdrawal. [Amid the ongoing drug toxicity crisis](#), increasing the frequency of buying drugs in the unregulated drug market, especially through an unknown source, increases risk of drug poisoning.

This is contrary to [a belief held among some police officers](#) that seizing drugs would prevent harms, including drug poisoning.

The role of police in the toxic drug crisis

A broader question is: Are there any circumstances where police drug seizures are beneficial in preventing drug poisoning? [A recent study from the United States](#) highlighted that police efforts to reduce the unregulated drug supply may worsen the drug toxicity crisis by showing a consistent pattern. As police seizures of drugs increased, drug poisoning cases also increased.

Several scholars noted that [police drug seizures would not address the toxic drug supply](#), that [the narrow mission of police may exacerbate drug-related harms](#) and that [more harm reduction interventions to address the toxic drug supply are needed](#).

[Findings from our study](#) indicate that the VPD's depenalization policy essentially "[mimics the health and safety harms associated with](#)

[criminalization](#)" and likely undermines overdose prevention efforts.

Under B.C.'s pilot decriminalization policy, [police officers](#) can no longer seize drugs from an adult who possesses up to 2.5 grams of certain illegal drugs. However, the threshold quantity of drugs that defined simple possession has been shown to be [too low](#) to fulfill the policy objectives. Some people who use drugs, particularly those more marginalized and engaging in high-intensity drug use, may carry more than 2.5 grams of drugs. They may get arrested or experience police drug seizures without arrest.

The annual International Overdose Awareness Day compels us to reckon with ongoing toxic drug deaths and what we can do to reverse this worsening crisis. If decriminalization is going to contribute to positive change, [police](#) need to stop seizing drugs from people who use them.

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