POLICY BRIEF

Synthesis and Analysis of the Literature and Findings from an Evaluation of Canada's Good Samaritan Drug Overdose Act in British Columbia

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BACKGROUND

Canada is experiencing an overdose crisis, with British Columbia (BC) being one of the provinces with the highest rate of overdoses. This public health emergency persists despite harm reduction programs and policies at the provincial and federal level that aim to increase willingness of bystanders to call 9-1-1 when witnessing an overdose event. The *Good Samaritan Overdose Act (GSDOA)*, enacted in 2017, aims to reduce concerns of calling 9-1-1 by protecting anyone at the scene of an overdose against charges for simple possession of illicit substances. The *GSDOA* is a form of decriminalization as it eliminates legal sanctions for simple possession, in a particular context (i.e. overdose event). While decriminalization models may vary, there are common challenges to address. Limitations and challenges associated with the *GSDOA* identified in the literature and the BC Centre for Disease Control (BCCDC) *GSDOA* evaluation should be considered when developing recommendations and proposals for broader decriminalization policies. This policy brief analyzes the development and effectiveness of the *GSDOA* and provides recommendations to improve and expand harm reduction policy to promote health and reduce overdose deaths.

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METHODS

We performed a literature review which was contextualized and informed by evidence obtained from the BCCDC *GSDOA* evaluation. This evaluation included insights from people in BC at risk of experiencing and/or witnessing an overdose, youth, and police officers. This policy brief was further refined following consultation with policy experts, harm reduction advocates and people with lived and living experience of substance use (PWLLE). The '3i' framework, a theoretical framework that positions interests, ideas and institutions as the main concepts to consider when developing, analyzing, and implementing a policy, was used to evaluate the data and provide recommendations.

FINDINGS

Awareness and accurate knowledge of when and for whom the *GSDOA* applies is lacking among stakeholders. Concern around police attendance and arrests at an overdose event remains a barrier to calling 9-1-1, and current policy may be inadequate in reducing these concerns. The *GSDOA* currently allows substantial room for police discretion, inconsistent approaches, and reduces public trust in the policy. There is a need for increased engagement with PWLLE to amend policies (e.g. *GSDOA*) and develop policies (e.g. *de jure* decriminalization) that represent and meet the needs of people who use drugs (PWUD). Finally, implementing and expanding safe supply programs may reduce overdose deaths by preventing overdoses from occurring in the first place.

RECOMMENDATIONS

1. Increase awareness and understanding of the GSDOA among PWUD, particularly those who do not regularly access harm reduction and anyone who is at risk of witnessing an overdose (e.g. youth).
2. Increase awareness and understanding of the GSDOA among police officers.
3. Address stigmatizing and coercive approaches utilized by some police officers in their interactions with PWUD.
4. Expand and clearly define legal protections of the GSDOA and implement broader decriminalization that considers the limitations of the GSDOA.
5. Encourage the implementation of legislation similar to the BC Emergency Health Services (BCEHS) (i.e. policy to not routinely inform police of overdose events) in other provincial and/or municipal jurisdictions.
6. Implement and expand safe supply programs to reduce reliance on a toxic drug supply and prevent overdoses.
7. Approach all policy change in collaboration with PWLLE.

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Introduction

Overdose Crisis in Canada and British Columbia

Canada is in the midst of a deadly overdose crisis, which has been exacerbated by the COVID-19 pandemic. From January to June 2021, there were 3,512 opioid-related deaths in Canada, with a total of 24,626 opioid-related mortalities from January 2016 to June 2021. In April-June 2021 alone there were 1,720 opioid-related mortalities, an increase of 66% from the same time period in 2019 before the advent of COVID-19[1]. No province has been more severely impacted by the overdose crisis than British Columbia (BC), where a public health emergency was declared in April 2016 due to increasing numbers of opioid-related deaths[2]. During COVID-19, BC has seen the highest number of overdose deaths on record[3]. In 2020, overdose-related deaths were reported as being the most common cause of unnatural death in BC[3,4]. For individuals in BC between the ages of 19 and 39, illicit drug toxicity was the leading cause of death in 2021[5].

Drug-related Good Samaritan Laws and the Good Samaritan Drug Overdose Act

Opioid-related overdoses are reversible medical conditions and unintentional opioid-related deaths are preventable. Harm reduction measures and policies can provide life-saving interventions for people who use drugs (PWUD). In the United States, drug-related Good Samaritan Laws (GSLs), which provide legal protections for simple drug possession at the scene of an overdose, have been implemented in over 46 states[6]. Drug-related GSLs specifically pertain to legal protections for bystanders at overdose events and vary by jurisdiction. In general, they aim to encourage people witnessing a drug overdose to contact emergency services[7,8].

The federal *Good Samaritan Drug Overdose Act (GSDOA)* is a Canadian law that was enacted in May 2017, amending the *Controlled Drugs and Substances Act*, to reduce concerns around police involvement at the scene of an overdose and encourage bystanders at an overdose event to call emergency medical services (9-1-1)[9]. The legal protection it provides extends to both the witness of an overdose and the person experiencing the medical emergency.

Specifically, the *GSDOA* provides legal protection from charges related to:

- Simple possession of a controlled substance[a] for personal use[b]; and
- Violation of pre-trial release, probation order, conditional sentence, or parole related to simple possession of illicit substances.

It does not provide protection for charges beyond that of simple possession of illicit substances, such as:

- Drug trafficking;
- Outstanding warrants; and
- Violation of pre-trial release, probation order, conditional sentence, or parole from an offence other than simple possession of illicit substances.

ABBREVIATIONS

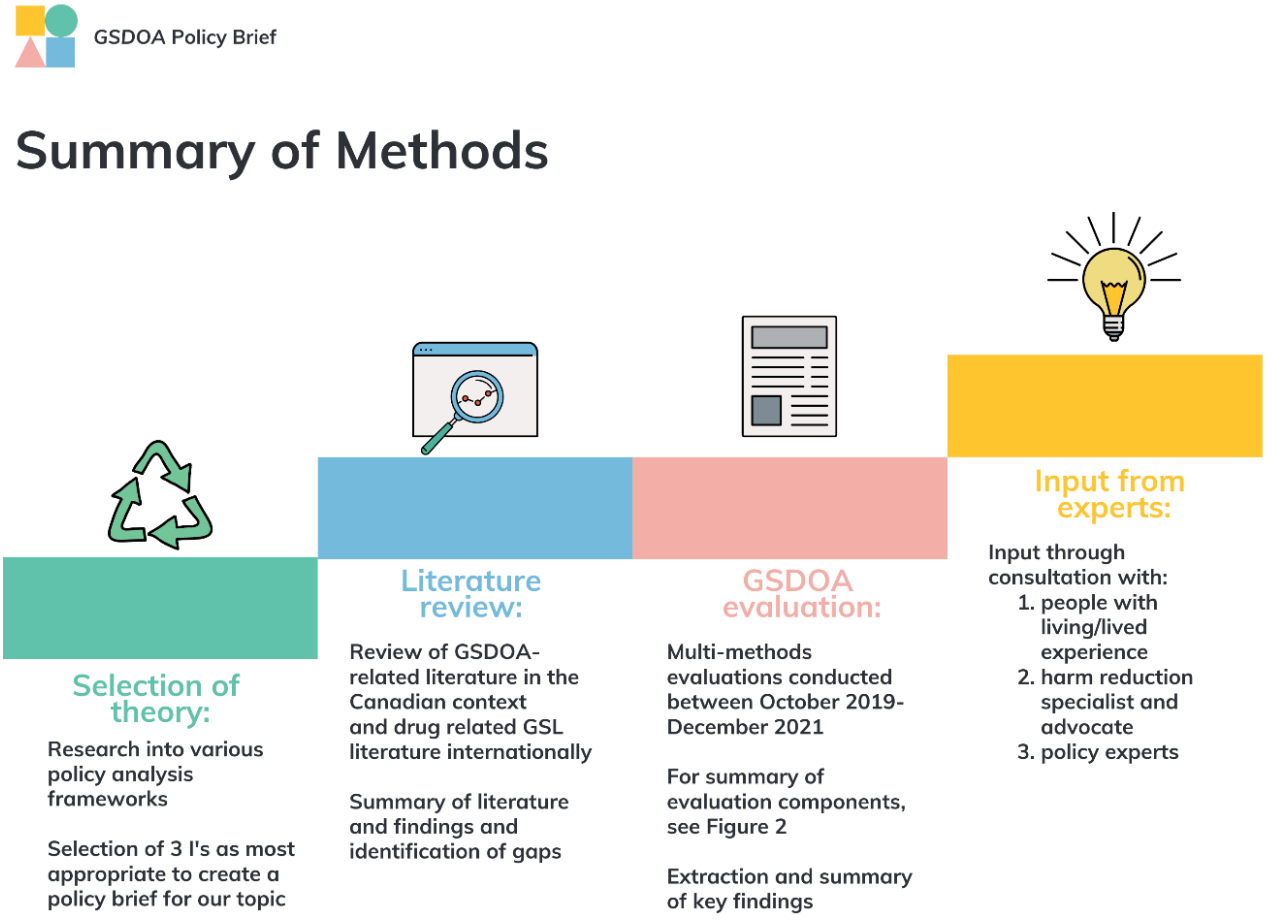
BC	British Columbia
BCCDC	BC Centre for Disease Control
BCEHS	BC Emergency Health Services
COVID-19	Coronavirus Disease of 2019 (the disease caused by SARS-CoV2 virus)
GSDOA	*Good Samaritan Drug Overdose Act*
GSL	Drug-Related Good Samaritan Laws
PWLLE	People with Lived and Living Experience of Substance Use
PWUD	People who Use Drugs
3 I's	Interests, ideas, and institutions

a Substance included in Schedule I, II, III, IV or V of the Controlled Drugs and Substances Act.
b Possession within the meaning of subsection 4(3) of the Criminal Code.

Methods

Figure 1 demonstrates the methods and process used to explore the *GSDOA* policy. A literature review was conducted to explore the perspectives of PWUD and first responders towards the *GSDOA* and similar drug-related GSLs, as well as identify benefits, limitations, and challenges that have been documented to date. This information was further contextualized based on evidence from the BCCDC *GSDOA* evaluation (Figure 2, page 32). This provided BC-specific data on knowledge and attitudes surrounding the *GSDOA* among law enforcement, PWUD, and youth across the province through both qualitative and quantitative methods.

FIGURE 1: SUMMARY OF POLICY BRIEF METHODS



A summary of the BCCDC *GSDOA* evaluations findings can be found in Table 1 (page 29). To ensure the report was relevant and informed by experts, consultation occurred with policy analysists at the BC Ministry of Mental Health and Addictions and three experiential groups. The experiential groups included: the Vancouver Area Network for Drug Users, Professionals for Ethical Engagement of Peers, and Peer-2-Peer (Table 2, page 33). These consultations provided key insights from community facing organizations as well as experts with lived and living experience of substance use.

The '3i' policy framework was used to organize and evaluate all data to identify the challenges and limitations of the Act, and to provide recommendations. Conceptualized by political scientists H. Heclo[10] and P.A. Hall[11], the '3i' framework is intended to guide the analysis of policies that have either been implemented or are being proposed. The framework delineates three building blocks that consistently and considerably influence the development and implementation of policy: ideas, interests and institutions. We will consider each in turn, starting with institutions, followed by ideas and interests. Institutions refer to policies and organizations that contribute to the development of new policy. Ideas constitute values and knowledge surrounding the issue the policy aims to address. Interests have been defined as the agendas and vested interests of stakeholders. Given that drug-related GSLs are relatively new policies, the '3i' framework is a useful tool to organize the forces and actors that contributed to the implementation of the *GSDOA* in Canada and are relevant to other decriminalization policies under consideration.

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Institutions

Institutions refer to policies and organizations that influence the development of policy[12]. In this section, we describe how the development of the *GSDOA* was influenced by, and needed, due to Canada's drug prohibitionist policy. With a focus on the institution of drug prohibition, we will contextualize the issue the *GSDOA* aimed to respond to and provide insights into ongoing issues caused by drug prohibition that are being referenced in discussions about broader decriminalization.

Drug Prohibition & the 'War on Drugs' Campaign

In 1971, President Nixon in the US declared 'a War on Drugs' and 'drugs as public enemy number one' [13]. Policies that criminalize PWUD were adopted internationally, with the majority of countries adopting drug prohibition as their dominant drug policy[14]. Canada is undergoing a shift in its approach to managing illicit substance use, from an enforcement-heavy approach characteristic of the prohibitionist campaign known as 'War on Drugs', to an approach that recognizes substance use and overdose as public health issues requiring a public health response[15]. However, drug prohibition, outlined in the *Controlled Drugs and Substances Act*, continues to be the prominent drug policy that governs drug-related laws in Canada[16]. Healthcare and harm reduction initiatives are generally implemented at the provincial level, but may require amending the *Controlled Drugs and Substances Act* (e.g. supervised consumption sites). In Canada and abroad, drug prohibition has been linked to poor health and social outcomes for PWUD, including increased discrimination and stigma, reduced access to healthcare, housing, and other essential services, and unsafe substance using practices such as using alone, rushed use and increased risk of overdose[17].

Moreover, drug prohibition disproportionately affects certain groups, such as Black, Indigenous, and People of Color[18,19]. Pervasive racial profiling and disproportionate arrests is a significant theme in the War on Drugs with higher incarceration rates of racialized people based on policies and practices influenced by racial bias. Such inequities persist today, including the disproportionate incarceration of Black people[18]. Indigenous people also continue to be disproportionately affected due to the legacy of colonialism and racism in Canada and biased policing. Today, despite harm reduction initiatives, the drug-related mortality rate among Indigenous PWUD in BC is still higher compared to non-Indigenous PWUD[19]. In 2020, despite comprising only 3.3% of BC's population, First Nations people represented 14.7% of all drug-related deaths in BC[20]. First Nations women face some of the greatest risk, with a 9.9x higher drug-related mortality rate compared to other BC residents who identify as women[20]. Data obtained from our *GSDOA* evaluation

reveals that many respondents would not call 9-1-1 upon witnessing an overdose because of concerns regarding ethnicity and/or racial identity and previous interactions with police and paramedics[21,22].

Drug prohibition has contributed to and exacerbated the overdose crisis by encouraging the illicit market and an unregulated drug supply; marginalizing PWUD and reducing access to health care for PWUD due to concerns around police presence and interpersonal and institutional discrimination[23]. The *GSDOA* was implemented in response to limited access to care for overdose events. However, the *GSDOA* is a narrow form of decriminalization. As such, the challenges associated with drug prohibition, outside of overdose contexts, are ongoing prompting Vancouver and BC to consider broader *de jure* decriminalization[24,25].

Adoption of Harm Reduction Approaches to Substance Use & Amendments to Existing Drug Policies

Despite setbacks in drug-related federal policy over time, BC has long been precedent-setting in terms of Canada's harm reduction initiatives. Interests in harm reduction have historically influenced policy development in the province as well as nationally. In 1988, Vancouver became one of the first cities in Canada to develop syringe distribution programs. Today, such programs exist across Canada[26]. While the *Controlled Drugs and Substances Act* prohibits the distribution of an 'instrument for illicit drug use', the criminal code excludes 'devices that are used to prevent disease'. As such, according to these laws, subject matter experts concluded that it would not be an offence to distribute syringes to prevent HIV[27]. Arguably, this contributed to an understanding that caveats, such as decriminalization policies, are needed to reduce harms and prevent disease.

In 2012, the BCCDC implemented the Take Home Naloxone Kit program, which provides injectable naloxone at no cost for those who are at risk of an overdose or likely to witness an overdose[28]. This is the longest running provincial naloxone program. To date, over one million kits have been shipped to distribution sites across BC for the purpose of reversing an overdose[28]. However, increasing accessibility to naloxone, historically a prescription medicine used in clinical settings, could only be achieved through policy change, including changes to prescribing policies and changes to who is permitted to administer naloxone[29]. In 2016, the BC Minister of Health created overdose prevention services to provide safe spaces for PWUD to be monitored by trained staff who can rapidly respond to prevent overdose-related harms. This move came amid increasing rates of drug-related mortality and delays in obtaining federal exemptions under section 56(1) for supervised consumption sites[30]. In recent years, exemptions have been granted to sites that applied to operate as supervised consumption sites[31]. Both overdose prevention services and supervised consumption services are examples of harm reduction initiatives requiring provincial or federal level exemptions that preceded the implementation of the *GSDOA* and resulting amendment of the *Controlled Drugs and Substances Act*.

These incremental shifts towards harm reduction policy and programming cannot be isolated from the implementation of the *GSDOA* as they paved the way in terms of perceived acceptability and feasibility of amending existing policies under the over-arching policy of drug prohibition. Moreover, in light of Vancouver and BC's recent applications to the federal government for an exemption decriminalizing simple possession of illicit substances, the *GSDOA* serves as an important first example of a decriminalization policy in practice.

Police Attendance at Overdose Events & the Implementation of the BCEHS Policy

When the overdose crisis was declared in BC police officers were routinely attending overdose events and being dispatched alongside fire services and paramedics, with the exception of Vancouver due to a Vancouver Police Department policy implemented in 2006 to reduce police attendance at overdose events[32]. Police attendance caused considerable concern among people at the scene of an overdose who were in possession of illicit substances as the *GSDOA* had not yet been enacted [33-35]. Overdose response and Take Home Naloxone training emphasizes calling 9-1-1 as the first step of responding to an overdose. However, it became evident that the presence and role of police officers at overdose events was preventing people from contacting 9-1-1[34].

To address these concerns and increase seeking medical assistance in the event of an overdose, the BC Emergency Health Services (BCEHS) introduced a provincial policy in 2016, which ascertained police would not be routinely informed of an overdose event, in order to reduce police attendance. Police are still informed in cases of death, attempted suicide or where there are safety concerns for the public or for first responders. Prior to implementation of the BCEHS policy, police attended approximately 56% of overdoses; this declined to 38% after implementation[36]. *GSDOA* evaluation survey data indicates police attendance at 30% of overdoses[21]. Data from the Take Home Naloxone program and BCEHS indicates that concerns involving police presence at overdose events amongst PWUD are being reduced. Concerns of police involvement as the reason not to call 9-1-1 fell from 35%, between January-June 2016, to 15%, between January-June 2017[36]. Nearly one year after the BCEHS policy was implemented, the *GSDOA* was enacted with the similar aim of encouraging bystanders to call 9-1-1 in the event of an overdose. Following the implementation of the *GSDOA*, concerns involving police involvement as a reason not to call 9-1-1 decreased further to 10%[36]. Although this suggests that the BCEHS policy and *GSDOA* have worked in tandem to encourage bystanders to call 9-1-1, it is unclear whether the decrease in concerns around police attendance is a direct result of the *GSDOA* and/or BCEHS policy.

As the research indicates, both policies allow for police officer, paramedic, fire services and dispatch call centre discretion — leading to variable implementation. This may continue to impact willingness to call 9-1-1. In a BC study, conducted after the implementation of the BCEHS and *GSDOA*, only 55.7% of people who responded to an overdose and completed a Take Home Naloxone administration form reported

calling emergency services[37]. Although the BCEHS non-informing policy aims to reduce police attendance, dispatch operations inform police in cases of suicide attempts or death, if there are safety concerns for the paramedics or the public or are requested to attend by paramedics[36]. It is unclear what may constitute a safety concern and determination may vary depending on who is making the decisions. Findings from the *GSDOA* evaluation interviews suggest that low-income housing sites and encampments may commonly be classified as sites with safety concerns[22]. Implementation of the *GSDOA* is also influenced by discretion as police officers and PWUD described discretionary approaches at the scene of an overdose leading to inconsistent practices. For example, some officers collected identifying information and confiscated drugs at the event, while others reported arresting people after the overdose incident[38].

TAKEAWAYS

- The development of the *GSDOA* is a direct response to the barriers to seeking care imposed by drug prohibition and deterrence-based approaches to substance use.
- Harm reduction initiatives and policies that were introduced before the *GSDOA* were instrumental in the perceived feasibility and acceptability of the *GSDOA* and resulting amendment of the *Controlled Drugs and Substances Act*.
- The *GSDOA* and BCEHS policy work in tandem as both respond to an identified concern surrounding police presence and police officers' role at overdose events.
- The *GSDOA* is an important first example of a decriminalization policy in practice. The BCCDC *GSDOA* evaluation provides insights into challenges associated with the implementation of decriminalization, such as discretionary power resulting in inconsistent practices. These findings can serve as an important guidepost for broader decriminalization policies.

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Ideas

According to the '3i framework', ideas are comprised of both values (beliefs of what 'ought to be'), and knowledge (what is known)[12]. Below we discuss the influence of values and knowledge held by law enforcement, provincial and federal government and the general population, on the development of the *GSDOA*.

Values

Value shifts are evident among stakeholders in BC. Although resistance to the pillar of harm reduction still exists among some police officers, a paradigm shift from viewing substance use as a criminal issue to viewing it as a medical issue that requires additional supports for PWUD has been noted among officers[38]. The implementation of the *GSDOA* and support for broader decriminalization also represents a shift in values held by law enforcement officers[39]. In a statement released in 2020, the Canadian Association of Chiefs of Police recognized substance use as a public health (rather than criminal) issue, stating support for alternatives to criminal sanctions for simple possession of illicit substances and endorsing *de jure* decriminalization as an effective tool to address public health and harms stemming from substance use[40]. A further push for decriminalization was seen in 2020 in the context of the COVID-19 pandemic, when the Public Prosecution Service of Canada revised their approach to simple possession charges such that only the 'most serious' cases of simple possession offences be pursued[41]. Instead, the Public Prosecution Service of Canada recommended a focus on restorative justice approaches and alternative measures to simple possession charges in order to reduce stigma and contact with the criminal justice system[41]. In addition, the BC Solicitor General sent a letter to police forces to focus on harm reduction rather than criminal charges related to substance use[42]. More recently, BC applied to the federal government to seek an exemption under Section 56(1) of the *Controlled Drugs and Substances Act* to remove legal sanctions against individuals possessing small amounts of illegal substances for personal use[25].

Values held by stakeholders tend to be slow to change and contribute to dictating what policies and programs are enacted[12]. Canada's drug prohibition laws demonstrate the value placed on enforcement. A harm reduction approach has not historically been seen as favorable by political parties and residents in BC. Aversion to harm reduction programming can further be seen through the 'not in my backyard' (NIMBY) attitude towards overdose prevention and supervised consumption sites, methadone maintenance treatment, and other services. Zoning restrictions, which create additional barriers to implementation

of harm reduction services by prohibiting certain land uses through bylaws, may be implemented as a response to 'NIMBY' attitudes held by local residents[43]. Perceived negative opinions of the public also results in policymakers pausing or stopping harm reduction initiatives. In BC, this has led to needle distribution sites and other harm reduction services being halted in certain jurisdictions, despite a survey in BC indicating that 76% of respondents approved of harm reduction, and over half (65%) supported needle distribution within their own community[44].

Value shifts among stakeholders are incremental. Accordingly, *GSDOA* implementation necessitated a level of support for harm reduction approaches that had been building in BC as a result of services such as needle distribution programs and overdose prevention sites. Similarly, support for broader decriminalization policies proposed recently constitutes another shift in values among law enforcement, policy makers and the general public. While BC appears to be shifting away from law enforcement and deterrence-based approaches to substance use, there continues to be resistance on a provincial and federal level to life-saving initiatives, such as safe supply and *de jure* decriminalization.

Knowledge

Key to the effectiveness of a policy is awareness and knowledge among relevant stakeholders to ensure effective implementation and uptake. Below we present findings from the *GSDOA* evaluation. The importance of correct knowledge of the *GSDOA* and targeted knowledge translation is applicable to and should be considered in light of broader decriminalization policies.

KNOWLEDGE AMONG PEOPLE AT RISK OF EXPERIENCING OR WITNESSING AN OVERDOSE

We derived data from: 1) the 2019 Harm Reduction Client Survey, administered at harm reduction supply distribution sites 2) the *GSDOA* survey, administered at THN sites in 2021 and 3) one-on-one interviews with people at risk of experiencing and/or witnessing an overdose. All three data sources identified that only about half of participants were aware of the *GSDOA*[21,22,45]. Findings from the Harm Reduction Client Survey suggest that those who more frequently accessed harm reduction services were more likely to be aware of the *GSDOA*. Findings from the *GSDOA* survey suggest that being between the ages of 25-34 years compared to 16-24 years, owning a cellphone and having witnessed an opioid overdose in the last 6 months was associated with a higher likelihood of being aware of the *GSDOA*. Qualitative interviews revealed that many participants who were aware of the *GSDOA* had heard about it through their interactions with harm reduction and low-barrier services. No participants reported being educated about the *GSDOA* at overdose events, through first responders.

Of those that were aware of the Act, even fewer fully understood when and to whom the *GSDOA* provided legal protection. Many participants incorrectly believed they could not be arrested for an outstanding warrant, possession of a large amount of drugs or drug trafficking paraphernalia, or being in a 'red zone' in which they received a prior charge unrelated to simple possession of illicit substances[21]. This was mirrored in qualitative findings. Overestimation of the protections offered by the *GSDOA*, was the most common misconception[22]. This is problematic as it can destabilize trust in the policy if a person calls believing they are protected, and receives a charge. Of those who are aware of the Act, knowledge about for whom the GSDOA applies was also low, with only approximately half of respondents correctly identifying that the Act protects the person who overdoses, as well as anyone else at the scene[21]. Those living in supportive housing tended to have a more complete understanding of to whom the Act applies, but this was not the case with regards to when it applies[21].

In the *GSDOA* evaluation focusing on people on release from correctional facilities, awareness of the *GSDOA* was found to be higher. Awareness was associated with an increased likelihood of calling 9-1-1 when witnessing an overdose event[46]. This is important, as individuals recently released from correctional facilities are at an elevated risk of experiencing an overdose, with estimates as high as 129x the risk compared to the general population[47]. This increased risk is often associated with a decreased tolerance to substances and economic and social support stressors[48]. In addition, those recently released from correctional facilities may have more pronounced concerns of police involvement, and, as such, be less likely to call 9-1-1 in the event of an overdose[47].

Findings surrounding *GSDOA* awareness and knowledge among youth were mixed[21,22]. Concerns regarding police involvement and criminalization can lead youth to try to reverse overdoses themselves and avoid calling 9-1-1[49]. This can be risky as naloxone is short-acting and follow-up care may be required. Barriers to calling 9-1-1 among youth included concerns around parents or guardians becoming aware of their substance use. Additionally, concerns of being caught using substances with a minor were identified among adults[22].

KNOWLEDGE AND IMPLEMENTATION AMONG POLICE OFFICERS

The *GSDOA* evaluation revealed that many officers had limited knowledge of when, and for whom the *GSDOA* applies, with some confusing it with the *Good Samaritan Act*, which is not drug-related but applies to liability stemming from injury or death when a person tries to help someone[38]. With a lack of awareness and understanding of the *GSDOA* among police in BC, inconsistency in its application can occur. For example, our interviews with police officers revealed that some police officers would consider pursuing arrests for breaches of conditions related to simple possession of illicit substances and some described having the ability to find a person and arrest them at a later date.

TAKEAWAYS

- Incremental shifts in values held by police, policy makers and the general public towards a harm reduction approach towards substance use have occurred. However, there continues to be resistance towards necessary policies and services, such as safe supply programs and appropriate decriminalization policies, demonstrating the need for reducing stigma and increasing knowledge surrounding the harms of drug prohibition and accessing an unregulated supply.
- Awareness and knowledge of a policy are key to effective implementation and uptake. However, awareness and knowledge of the *GSDOA* is lacking amongst key stakeholders, including police and PWUD. Initiatives should be created to improve awareness and accurate understanding of when and to whom the *GSDOA* is applied. There is a need to address the awareness-knowledge gap for all stakeholders, especially those that do not typically interact with harm reduction services. Youth have been identified as at risk of witnessing an overdose and as having limited knowledge about the GSDOA. Youth-appropriate awareness and education campaigns are needed to effectively reach this group.
- Awareness and knowledge of the *GSDOA* is not a proxy for policy effectiveness or willingness to call 9-1-1. Limited and insufficient legal protections as well as inconsistent application due to discretion, must be addressed.

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Interests

Interests refers to the agendas of stakeholders, including groups and individuals[12]. In the context of the *GSDOA*, the most important stakeholders are those who are intended to benefit from its implementation; people with lived and living experience of substance use (PWLLE). Police officers are important stakeholders to consider as their role is directly impacted and informed by decriminalization policies.

People with Lived and Living Experience as Stakeholders

PWLLE are at the frontlines of the overdose crisis and have been the leaders and primary advocates for shifts in policy, institutional practices and values. More work is needed to recognize this and to ensure that peer input is not tokenistic. Involvement of PWLLE should be included in every step of policy change, including development, implementation, and evaluation[50]. Engagement with PWLLE should be an iterative process that fosters a supportive environment conducive to meaningful engagement; equitable participation and decision-making power for PWLLE; and capacity building opportunities for all stakeholders[51]. Reflexivity must be employed by all policy makers and stakeholders to remain mindful of power dynamics and the role that each persons' positionality has on the creation and implementation of policy[51,52]. The principles of equity, diversity, transparency, accountability, shared decision-making power, increasing capacity, and recognition of experiential expertise is imperative in enacting relevant policies that can bring about meaningful, informed, and sustained change[53]. In the context of decriminalization policies, trauma-informed policy and collaboration with PWLLE is needed as many PWLLE have had distressing and/or traumatic experiences with the criminal justice system. Similar to the benefits of involving end-users in the development, implementation and evaluation of services, policy change is more effective when those impacted are meaningfully involved. Many PWLLE have and continue to emphasize the importance of broader decriminalization and safe supply programs. Below, we discuss the need to recognize PWLLE and their calls to action with the urgency the overdose crisis demands.

Evidence shows that drug-related GSLs that exist today, including the *GSDOA*, are considered insufficient by PWUD. This is evidenced by continued concern of contacting emergency medical services during an overdose due to repercussions not legally protected by the *GSDOA*[53,54,55,56]. With outstanding warrants and non-drug related breaches of parole, pre-trial release, and conditional sentences being common among marginalized communities who use drugs[57], people are still fearful of arrest should they call 9-1-1. A study in BC prior to enactment of the *GSDOA* indicated that the main barrier to calling for emergency help was

concern of arrest for an outstanding warrant or other illegal activity[58]. Today, while survey results from the Take Home Naloxone Program indicate that 82% of respondents would call 9-1-1 in the future, concerns surrounding interactions with law enforcement was still the most-cited barrier to calling[21]. Certain groups in particular may find the *GSDOA* to be inadequate. Parents may hesitate to or avoid calling 9-1-1 due to concerns about losing custody of their children[35], and racism and discrimination by first responders may also act as a barrier. Moreover, women may encounter threats of violence from other PWUD if they attempt to call 9-1-1[22]. More research is needed to investigate if and how violence, or threats of violence, impact trans and gender expansive bystanders' willingness to call 9-1-1 in the event of an overdose.

The *GSDOA* may have limited efficacy because of ongoing systemic issues of stigma and discrimination[57]. Negative interactions with police officers at the scene of an overdose may continue to be a disincentive for people to call 9-1-1. In addition, stigma held by officers towards PWUD has been shown to influence their beliefs about the amount of care they provide to a person experiencing an overdose. Blaming attitudes towards PWUD as well as adopting a perspective of substance use that is fatalistic are particularly problematic and should be addressed to reduce potentially harmful behaviors[57]. The *GSDOA* is limited by the insufficient legal protections it offers as well as the context in which it operates, a context that continues to penalize PWUD. Here lies the need to consider *GSDOA* expansions or broader decriminalization. In addition, advocates suggest that the *GSDOA* and decriminalization does not address the toxic drug supply, and safe supply programs are needed.

Police as Stakeholders

Police have considerable discretion in how they interpret and apply the *GSDOA*. For example, as seen in the *GSDOA* evaluation, if a person who experienced an overdose is revived but becomes aggressive, police may no longer interpret the situation as an overdose event[38]. Punitive values as well as discriminatory attitudes may lead to officers 'working around' legislation intended to protect marginalized populations. Police presence is often viewed negatively, as a result of many PWUDs past experiences with police being disrespectful or lacking compassion[49,22,23]. However, at times paramedics request the presence of police, or may wait for police arrival prior to providing aid[38]. While police in BC may be beginning to view overdoses as medical events, because of their role in enforcement and continued laws criminalizing substances, the *GSDOA* does not relieve them of their vested interest in applying drug-related laws[49,38].

Police have a duty to enforce the law, and novel drug-related legislation may be changing what charges police pursue. In recent years, drug-related offences have decreased in BC. In 2015, 22,131 drug-related offences were recorded, which dropped to 21,507 in 2016[58]. This dramatically decreased to 18,979 in 2018, and to 16,120 in 2019[59]. Given the vested interest police inherently hold because of their position within the enforcement system, it is important to document if charges for other offences have disproportionately increased in response to restrictions on charging for certain drug-related offences. A study in Vancouver found police disproportionately pursuing charges for jaywalking in the DTES (with 76% of Vancouver's

jaywalking tickets being issued here), despite the DTES having a lower rate of jaywalking occurrences compared to other areas included in the study[60]. Proactive policing practices including street checks may also disproportionately be conducted on racialized individuals. In 2019, 23% of Vancouver's proactive street checks included Indigenous people (despite comprising 2.2% of the population)[61]. As evident by reduced substance-related arrests but a continued interest in enforcing drug laws, police may feel pulled in diametrically opposed directions. Decriminalization may therefore benefit police by reducing this contradiction, while simultaneously preserving life.

Contact based education (i.e. interacting with and learning from members of an affected group) has been shown to be effective at changing attitudes[62,63]. Therefore, creating opportunities to learn from PWLLE may be beneficial. However, beyond education and training, reforms to BC's Police Act are needed to reduce harmful discretionary practices and ensure accountability[64].

TAKEAWAYS

- Many PWUD find that the *GSDOA* is not far-reaching enough to adequately meet their needs.
- Current legislation and shifts in values within a context that continues to criminalize substance use may create confusion for law enforcement officers regarding their role related to controlled substances.
- Systemic issues such as stigma and discrimination continue to contribute to overdoses and access to care for PWUD. In addition to improved knowledge and awareness surrounding the *GSDOA*, initiatives to address problematic and harmful attitudes towards PWUD should be considered.
- In addition to policies that encourage help seeking, the implementation and expansion of decriminalization and safe supply policies are needed and should include equitable input from PWLLE.

Implications

Policy Limitations

Qualitative interviews conducted as part of the *GSDOA* evaluation, suggest many participants did not perceive the *GSDOA* as having the intended impact. Those who were reticent to call 9-1-1 prior to *GSDOA* enactment may still hesitate, and those who were comfortable calling 9-1-1 before enactment continue to call[22]. Lack of knowledge of the Act among stakeholders is a barrier to increasing calls. Negative past experiences with first responders or perceived delays in arrival of first responders may also lead people to choose not to call 9-1-1, especially if peers who are equipped with naloxone and knowledgeable about overdose reversal are present. In the *GSDOA* evaluation survey, the most commonly cited reason for choosing not to call 9-1-1 at an overdose was feeling able to handle the situation without the need for first responders[21]. The qualitative data contextualized this: people may be concerned about putting additional strain on finite medical resources, and therefore choose to treat an overdose event themselves[23]. PWUD often perceived police as unhelpful at the scene of an overdose and poorly equipped to provide medical support, and highlighted ongoing concerns (e.g. the *GSDOA* does not provide legal protection for outstanding warrants). Some participants suggested that police focus solely on the medical emergency and not the pursuit of non-violent criminal charges whereas other participants advocated for the complete elimination of police presence at overdose events[22].

Expansion of Policy

While the *GSDOA*, non-informing BCEHS policy, overdose prevention services, and naloxone are important interventions for responding to and reversing overdoses, there remains a need for new policies and programs that go beyond these in order to prevent overdoses in the first place. In BC, progress towards decriminalization is being made, with a recent application to the federal government to remove legal penalties associated with possession for personal use[25]. As BC aims to enact *de jure* decriminalization, it is possible that other provinces will follow. It is imperative that BC approaches decriminalization in a manner that is inclusive and informed by those whom the policy will impact most: PWUD. Should BC move ahead with a policy that is more harmful than beneficial, there is potential that these harms will be disseminated throughout Canada as other provinces potentially adopt a similar policy. Too much police involvement, too little engagement with those with lived and living experience, and possession thresholds deemed as being unreasonably low have led to concerns that the proposed decriminalization models

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could lead to greater harm than good[3,65]. If decriminalization comes into effect, it is important to remain mindful of jurisdictions that may already be practicing *de facto* decriminalization. If such jurisdictions have thresholds higher than those enacted in provincial decriminalization legislation, PWUD may face additional criminalization and distrust in the policy due to mismatched expectations based on past experiences.

A safe supply can reduce overdose deaths in the first place by reducing peoples' dependence on a toxic supply of drugs. *De jure* decriminalization combined with safe supply programs, could have a powerful effect by reducing stigma and addressing reliance on toxic substances[66]. Furthermore, providing a consistent supply of pharmaceutical grade substances could reduce people' involvement in criminalized or high-risk activities required for some to acquire purchasing power for substances. Evidence from safe supply programs in Canada demonstrate economic improvements due to obviating the need to engage in criminal activity to afford substances, and having finances left to spend on necessities, as well as increased engagement in primary care and HIV and hepatitis testing and treatment[67].

Recommendations

Based on these findings, several recommendations are proposed:

1. Increase awareness and understanding of the GSDOA for PWUD in BC, with an emphasis on PWUD that do not routinely access harm reduction services. This could include a media campaign, posters and other knowledge translation materials with the input of PWLLE, and educational sessions for relevant stakeholders using jargon-free language that is accessible to this audience.

2. Address stigmatizing and discriminatory practices among police officers through reform to BC's Police Act.

3. Include additional training on harm reduction, trauma-informed practices and de-escalation for police officers and prioritize these trainings through BC's Police Act.

4. Expand legal protections offered by the GSODA federally and clearly define them. For example, consider extending legal protection for warrants and/or non-violent offenses for bystanders at the scene of an overdose.

5. Expand legislation similar to the BCEHS federally to reduce concerns around calling for medical aid during an overdose event across Canada.

6. Implement decriminalization federally, and expand safe supply programs, to further reduce overdose deaths by reducing stigma and providing an alternative to the toxic drug supply. In the absence of federal decriminalization, seek provincial exemptions.

7. Approach all policy change in collaboration with PWLLE, including PWUD who experience intersecting forms of marginalization (e.g. Indigenous, Black, People of Color, PWUD experiencing poverty and/or homelessness, LGBTQ2S+ PWUD). PWLLE should be given equitable opportunities for input and shared decision-making power.

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APPENDICES

TABLE 1: SUMMARY OF BCCDC GSDOA EVALUATION FINDINGS FROM VARIOUS COMPONENTS

GSDOA Evaluation Component	Key Findings
INTERVIEWS WITH LAW ENFORCEMENT	
GSDOA awareness & knowledge	Lack of awareness of the *GSDOA* among officers Lack of knowledge of the Act among officers • Conflating the *GSDOA* with general *Good Samaritan Laws* • Believing it only protects the person experiencing the overdose
GSDOA implementation	Discretion afforded to officers leads to variation in behaviours at the scene of an overdose and may cause concerns among bystanders • Confiscating drugs, running names, checking for weapons • Power to interpret the limits of the Act (e.g. tracking down people after an overdose) First responders may continue to wait for police to arrive prior to providing aid, or specifically request police presence Training of officers of the *GSDOA* may be insufficient (e.g. learning of it over email)
Other	Police officers understood the aim of the *GSDOA* and many conceptually understood overdose events to be medical rather than criminal issues Police officers suggested that some used their discretion prior to the enactment of the *GSDOA* to not pursue arrests for simple possession at overdose events
HARM REDUCTION CLIENT SURVEY WITH PWUD	
GSDOA awareness & knowledge	Lack of awareness of the *GSDOA* among adults (54.2% were aware) Of those aware, 45.2% and 61.3% fully understood when and to whom the Act applies Many respondents overestimated the protections of the act, believing they could not be charged for having large amounts of drugs at an overdose (40.8%) Many respondents incorrectly underestimated the protections of the *GSDOA*, believing it does not provide protection for simple possession of illicit substances to anyone at the scene of an overdose (20.4%)
Factors associated with awareness	Frequently accessing harm reduction in the past six months ($p<0.01$) Identifying as male ($p<0.05$) Preference for injecting opioids ($p<0.05$) Had witnessed an opioid overdose in the past six months ($p<0.05$)

GSDOA Evaluation Component	Key Findings
GSDOA SURVEY WITH PEOPLE AT RISK OF EXPERIENCING OR WITNESSING AN OVERDOSE	
GSDOA awareness & knowledge	Few respondents were aware of the *GSDOA* (48.4%) Many respondents incorrectly believed they could not be arrested for an outstanding warrant unrelated to simple possession of illicit substances (27%) Many respondents incorrectly believed they could not be arrested for possession of a large amount of drugs or drug trafficking paraphernalia (23.8%) Many respondents incorrectly believed they could not be arrested for being in a 'red zone' in which they had previously received charges unrelated to simple possession of illicit substances (32.6%) Only half of respondents correctly identified to whom the Act applies
Factors associated with awareness	Adults (25-34) were more likely to be aware of the *GSDOA* compared to youth (16-24) ($p<0.05$) Those who reported owning a cell phone were more likely to be aware ($p<0.05$) than those without a cellphone; not owning a cell phone was reported as a barrier to calling 9-1-1 for 12% of respondents Those who witnessed an opioid overdose in the past six months were more likely to be aware ($p<0.05$) than those who had not witnessed an opioid overdose in the past six months
Attitudes towards the GSDOA	Of those who would not call 9-1-1 if witnessing an overdose in the future, 15% cited concerns of ethnicity and interactions with first responders as a primary concern Ability to manage an overdose event without the aid of first responders was the primary reason cited for not having called 9-1-1 at the last overdose respondents witnessed (67.65%), followed by concerns regarding interaction with law enforcement (17.65%)
Other	When asked if police attended the last overdose witnessed, 30% of respondents indicated that police attended Many respondents had witnessed police officers checking for warrants, ID's, and red zone restrictions (25.9%) Many respondents had witnessed police officers search people at the scene of an overdose (22%) Most respondents indicated willingness to call 9-1-1 in the future (82%)

GSDOA Evaluation Component	Key Findings
QUALITATIVE INTERVIEWS WITH PEOPLE AT RISK OF EXPERIENCING OR WITNESSING AN OVERDOSE	
GSDOA awareness & knowledge	Lack of awareness of the *GSDOA* in approximately half of respondents; lack of knowledge particularly when and to whom it applies Adults and youth commonly heard of the *GSDOA* via harm reduction workers Overestimation of the *GSDOA* was common, believing it protected against charges for outstanding warrants and trafficking
Attitudes towards the GSDOA	• Hesitation to call due to not wanting to put strain on finite medical resources • Officers tend to call for paramedic assistance when attending to overdoses occurring in low-income housing and encampments; leads to additional hesitancy to call • Discretion by police leads to varied behaviour in terms of pursuing charges for trafficking or warrants, leading to concerns for calling 9-1-1 • Charges for warrants is a large concern • Concerns for youth included parents or guardian becoming aware of substance use behaviours • Concerns for adults included being 'caught' using with a minor • Concerns of anti-Indigenous racism are a barrier to calling 9-1-1 • Perceptions of and experiences with police and first responders acting in uncaring, uncompassionate, stigmatizing, and discriminatory ways impeded calling behaviour • Bystanders identifying as women may encounter threats of violence in attempting to call 9-1-1
Other	Those calling 9-1-1 prior to enactment may still calling; those who hesitated before may still hesitate (i.e., lack of behavioural change) Respondents indicate a preference for police attendance to be completely eliminated at overdose events and recommend that police presence be focused on the medical emergency and not on arrests for non-violent offences (e.g. warrants for theft, etc.)
SURVEYS WITH PEOPLE ON RELEASE FROM CORRECTIONAL FACILITIES	
GSDOA awareness & knowledge	Those aware of the *GSDOA* were willing to call 9-1-1 (99%) 71% aware of respondents were aware of the *GSDOA*
Factors associated with awareness	Compared to people who had not heard of the GSDOA, a higher proportion of those who had heard of the GSDOA had received naloxone training, perceived that they were at risk of overdose, were offered a THN kit, and had a THN kit in their possession.

FIGURE 2: OVERVIEW OF THE GOOD SAMARITAN DRUG OVERDOSE ACT EVALUATION

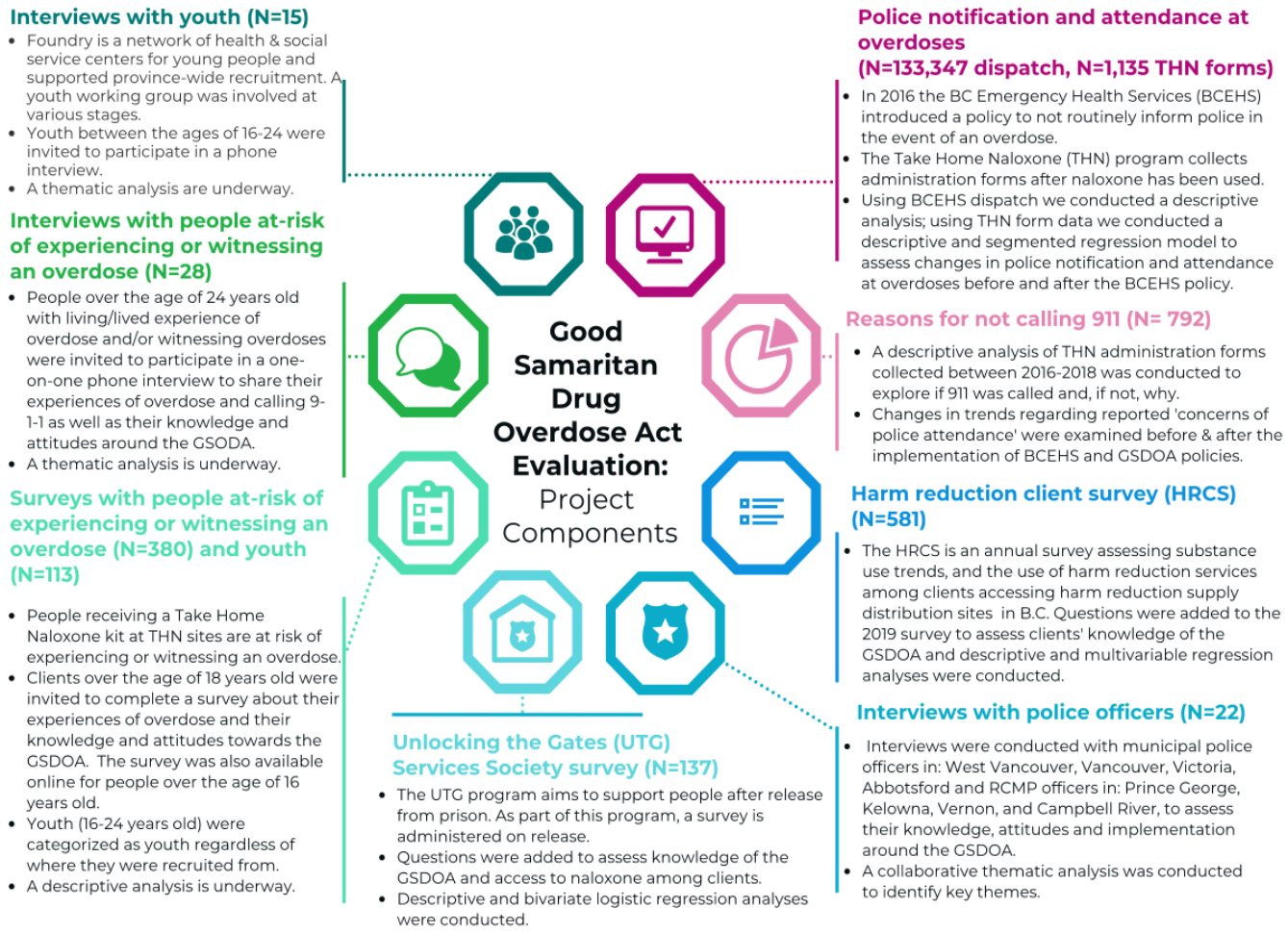


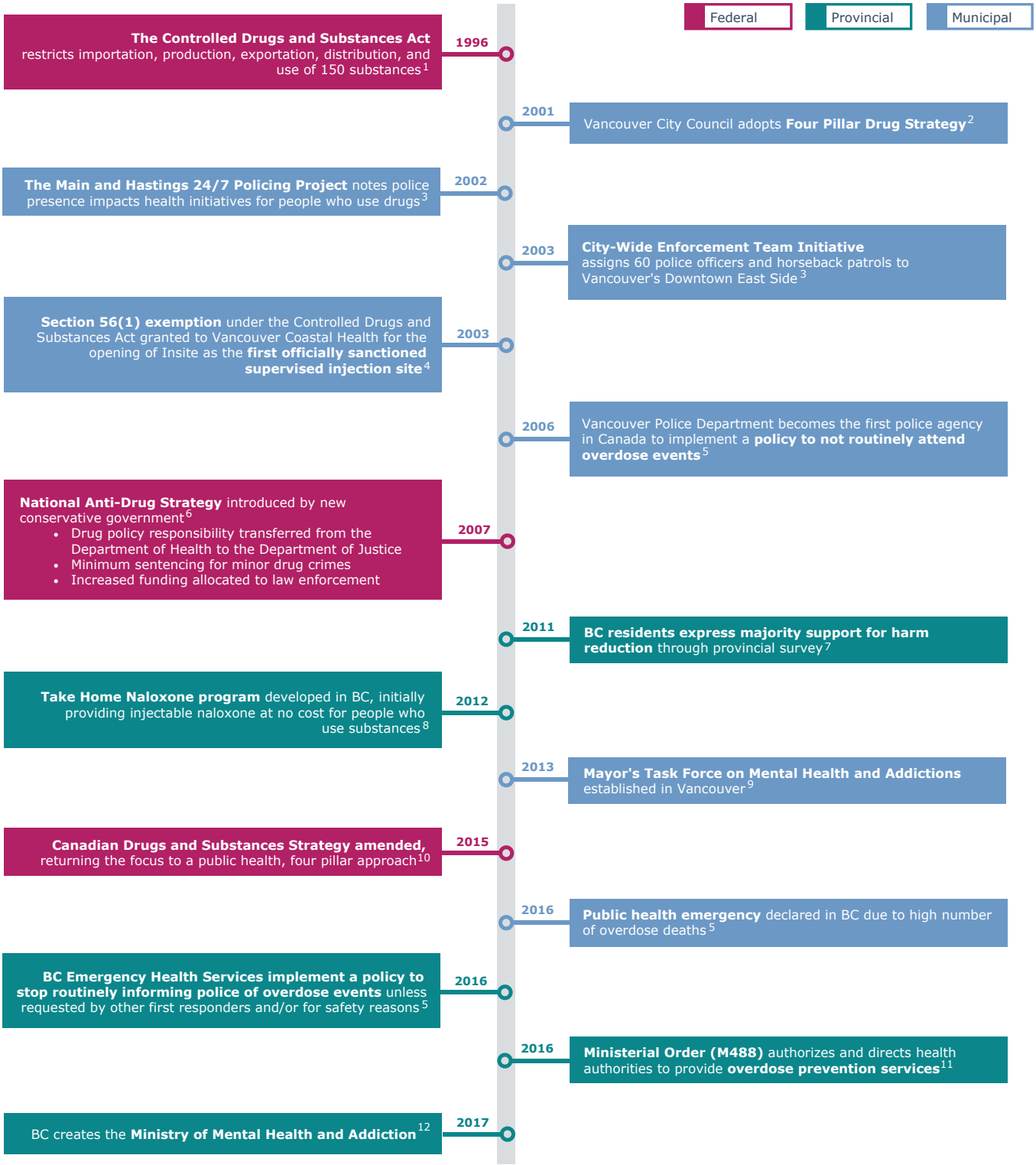
TABLE 2: MEETINGS WITH STAKEHOLDERS

Group	Process	Input
BCCDC policy experts	*Meeting 1*: Review of project outline and feedback session with two policy experts *Meeting 2:* Presentation of final policy brief and feedback session with one policy expert	*Meeting 1*: Expand to include discussion of safe supply and decriminalization and a greater focus on Canada versus BC. *Meeting 2:* There is a need for an 'even playing field' that equitably includes input from PWLLE in policy development. There is a need to think of ways to improve collaboration and relationship between key stakeholders (police and PWLLE) that includes a trauma-informed approach. Threshold amounts for possession versus trafficking established in BC's decriminalization policy may continue to be problematic if these thresholds are lower than those implemented in other jurisdictions, and can lead to further distrust and confusion of PWUD towards policy and police.
Vancouver Area Network for Drug Users	Presentation of the policy brief and feedback session with executive director	Include a greater focus on systemic and structural inequities as well as law enforcement as an institution. There is a need to increase the equitable involvement of PWLLE in policy development.
Professionals for Ethical Engagement of Peers	Presentation of the policy brief and feedback session	Include a greater emphasis on the roles that police attitudes and perceptions play, as well as opportunities for police education. This should include involvement of PWLLE.
Peer-2-Peer		Ensure language used in knowledge translation is accessible and not jargon-heavy. It is important to highlight that trans and gender expansive bystanders may face threats of violence related to calling for medical care and that this requires further research.

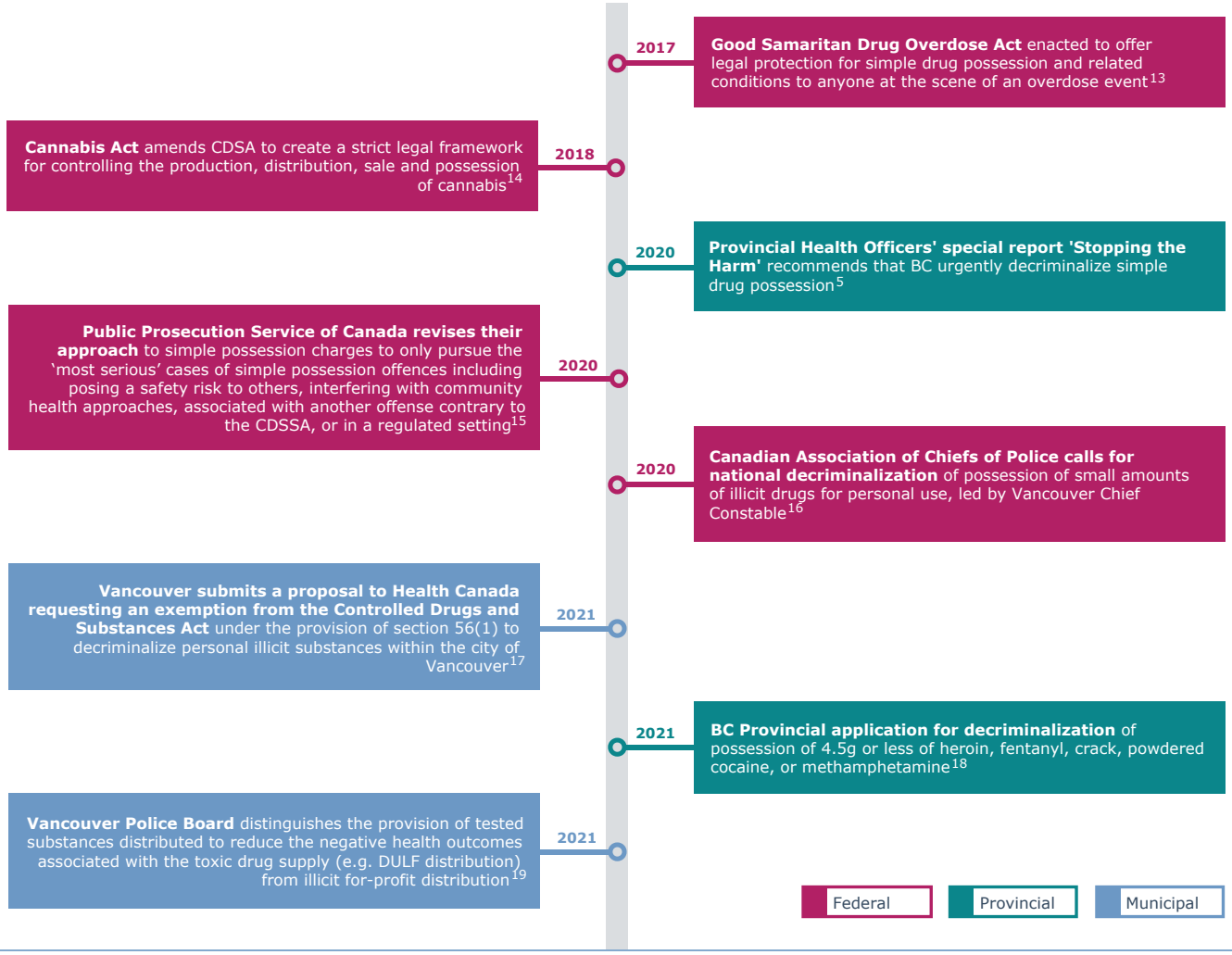
TIMELINE: POLICY AND EVENTS IN BC

BC Centre for Disease Control
Provincial Health Services Authority

A **policy and event timeline** of British Columbia's progress towards the GSDOA and *dejure* decriminalization



Timeline continued



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