

**Bill C-2 An Act to amend the Controlled Drugs and
Substances Act (Respect for Communities Act)**

Canadian Medical Association Submission to the Senate
Standing Committee on Legal and Constitutional Affairs

May 14, 2015



The Canadian Medical Association (CMA) is the national voice of Canadian physicians. Founded in 1867, CMA's mission is to help physicians care for patients.

On behalf of its more than 82,000 members and the Canadian public, CMA performs a wide variety of functions. Key functions include advocating for health promotion and disease prevention policies and strategies, advocating for access to quality health care, facilitating change within the medical profession, and providing leadership and guidance to physicians to help them influence, manage and adapt to changes in health care delivery.

The CMA is a voluntary professional organization representing the majority of Canada's physicians and comprising 12 provincial and territorial divisions and 51 national medical organizations.



The Canadian Medical Association (CMA) provides this brief for consideration as part of the Senate Standing Committee on Legal and Constitutional Affairs study of Bill C-2, *An Act to amend the Controlled Drugs and Substances Act (Respect for Communities Act)*.¹

Bill C-2 (formerly Bill C-65) is subsequent to the 2011 unanimous ruling of the Supreme Court of Canada² that recognized the significant evidence on the benefits of Insite, Vancouver's supervised injection site. The Supreme Court ordered that the federal government grant the exemption for medical and scientific purposes to Insite.

The ruling left decisions regarding future applications for exemptions to the Controlled Drugs and Substances Act (CDSA) for Insite and other potential supervised injection sites up to the discretion of the Minister of Health, with the provision that the Minister seek to strike the appropriate balance between the public health and public safety goals, and suggests the decision be based on five elements: "evidence, if any, on the impact of such a facility on crime rates, the local conditions indicating a need for such a supervised injection site, the regulatory structure in place to support the facility, the resources available to support its maintenance and expressions of community support or opposition."³

In response, the Minister of Health proposed Bill C-2, which amends the CDSA to include section 56.1, and provides a federal regulatory framework for supervised consumption sites.*

CMA is deeply concerned with the proposed legislation, as it has the potential to create unnecessary obstacles and burdens that would ultimately deter the creation of new supervised consumption sites, even in municipalities where the need and cost-effectiveness has been well researched and the health and safety benefits clearly established. Moreover, it does not strike the appropriate balance between public health and public safety, as is the spirit and intent of the Supreme Court of Canada ruling on Insite. This will make the renewal of exemptions for Insite, the very facility which the Supreme Court ruled "saves lives", very difficult.

Public health approach to addiction

Addiction should be recognized and treated as a serious, chronic and relapsing medical condition for which there are effective treatments. The CMA has long called for a comprehensive national drug strategy that addresses addiction, and includes prevention, treatment, harm reduction and enforcement components.

Public health objectives in addressing addictions will vary depending upon the circumstances: preventing drug use in those who have not initiated use (e.g. pre-teens); avoiding use in circumstances associated with a risk of adverse outcomes (e.g. drug use and driving motor vehicle); assisting those who wish to stop using drugs (e.g. treatment, rehabilitation); and assisting those who continue to use drugs to do so in such a manner as to reduce the risk of adverse effects (e.g. needle distribution program).

* "Supervised consumption site" is the term used in Bill C-2, section 56.1, and defined as "a location specified in the terms and conditions of an exemption, granted by the Minister under subsection (2) for a medical purpose, that allows any person or class of persons described in the exemption to engage in certain activities in relation to an illicit substance within a supervised and controlled environment." The Supreme Court of Canada and other documents use terms such as "supervised injection site" "supervised injection services", "drug consumption rooms" or "safer injection site". In the literature, supervised consumption sites could also include supervised inhalation services.

Despite drug use being primarily a health and social issue, the focus of the federal National Anti-Drug Strategy is heavily skewed towards a criminal justice approach, as evidenced by a recent evaluation.⁴ This approach does not address the determinants of drug use, treat addictions, or reduce the harms associated with drug use. Other models are more effective in achieving the desired objectives and more investments need to be made in prevention, harm reduction and treatment, keeping individuals out of the criminal justice system.⁵

Drug use is a complex issue, and collaboration among health and public safety professionals, and society at large, is essential.

Harm reduction is part of health practice

Harm reduction is not restricted to services for people who use drugs; it is an approach that is adopted routinely in every health and social program. For example, seat belts, air bags and helmets are encouraged and even mandated to reduce some of the possible harmful consequences of driving or cycling – regardless of who is at fault. Many medications do not cure diseases, and are essential to prevent complications. An example is the use of insulin by people with diabetes.⁶ There are many programs created to reduce the harms created by alcohol, a legal substance that contributes to a significant burden of disease, disability and deaths. Examples include low risk drinking guidelines, designated driver or alternate driver programs for drinkers, graduated licenses and changes in the hours of liquor stores to reduce the use of non-beverage alcohol.⁷ While the risk is still present, this approach reduces harms.

Harm reduction related to psychoactive substances, “refers to policies, programmes and practices that aim primarily to reduce the adverse health, social and economic consequences of the use of legal and illegal psychoactive drugs without necessarily reducing drug consumption. Harm reduction benefits people who use drugs, their families and the community”.⁸ They are part of a comprehensive approach which also includes abstinence-based programs.

The CMA fully supports harm reduction strategies as they aim to reduce mortality and morbidity even in the face of continued exposure to a potentially harmful substance. Addiction is an illness, and harm reduction is a clinically mandated and ethical method of care and treatment. Physicians must treat patients as a matter of good medical practice and ethical obligation, whether the patient is believed to contribute to his or her injury or not. Section 31 of CMA's *Code of Ethics* provides that all physicians must “recognize the responsibility of physicians to promote fair access to health care resources”.⁹

Harm reduction information, services and interventions are respectful and non-judgmental, and have the purpose of promoting health and safety. These strategies were developed in response to critical situations and high costs to the health, social and criminal justice systems. Harm reduction approaches are evidence-based, cost effective and have a high impact on individual and community health. Such programs for injection drug users are now well established within every province and territory in Canada, in the form of needle and syringe distribution programs, methadone maintenance and the provision of sterilized equipment.¹⁰

Supervised Consumption Sites are evidence-based

Supervised consumption sites, within a comprehensive drug strategy, are another example of a harm reduction program. They were developed to reduce the harms of Injection drug use, which are an increased incidence and prevalence of infectious diseases including HIV/AIDS, Hepatitis C, and skin- and blood-borne infections; frequent drug overdoses resulting in significant morbidity and mortality; and increased hospital and emergency service utilization. Many of these health problems are not due to the drugs themselves, but to the injection method and equipment.

Supervised consumption sites are “specialized facilities that provide injection drug users with a clean, safe, unhurried environment. Sterile injection equipment is provided and health care and social service professionals are available to deal with health issues, provide counselling, and facilitate access to detoxification and treatment programs. Supervision is provided by health professionals trained in low-risk injection techniques and overdose intervention.”¹¹ The drugs are acquired elsewhere, and they are located in areas of concentrated and highly visible drug scenes. Such services have existed for many years in many countries, and there are over 90 sites operating in countries such as Australia, Germany, Luxembourg, the Netherlands, Norway, Spain and Switzerland.¹²

Clients of these sites have complex histories of trauma, mental illness and drug use, and live at the margins of society, unreached by traditional health and social services. Supervised consumption sites are developed as low threshold services for hard-to-reach populations which are experiencing unacceptable levels of deaths and diseases. Existing outreach and treatment programs are insufficient to meet the needs of this population, and these sites are a point of entry into health and social services.

Insite, the first supervised injection site in North America, operates in Vancouver’s downtown east side as part of the ‘four pillars’ drug strategy: prevention, treatment, harm reduction, and enforcement.^{13 14} In 2012, Insite had an average of 1028 visits per day. There were 497 overdose incidents with no fatalities and 3418 clinical treatment interventions. Insite staff made 4564 referrals for further health care, housing and social supports, and the vast majority was for detox and addiction treatment.¹⁵

Insite has been one of the most researched public health interventions to date.¹⁶ Research was conducted by the BC Centre for Excellence on HIV/AIDS, funded partially by Health Canada, and there are over 30 publications in leading peer-reviewed scientific and medical journals.^{17 18} The evidence shows that there has been:

- A reduction in the overall rate of needle sharing in the area;¹⁹
- A reduction in deaths due to overdose in the area, with no overdose deaths in the facility;^{20 21}
- Increased access to addiction counseling and increased enrolment in detox programs;^{22 23}
- Opportunities for HIV prevention through education, and increased links between patients and HIV treatment and services;²⁴

- Improvements in measures of public order including reduced public drug injections and publicly discarded syringes;²⁵ and
- No increase in levels of drug dealing or other drug related crime in the area in which the facility is located.²⁶
- Cost savings to health and social systems, reducing risks of infectious diseases, intervening early when there are issues, and reducing the need for emergency care.²⁷

Reports from other countries show similar results.^{29 30} However, “research evidence, even if it meets rigorous academic standards, might be insufficient to sway opinions among those who hold a firm view of addiction as a moral failure.”³¹ Assertions that supervised consumption sites will not reduce disease transmission, exacerbate crime, encourage drug use, have destructive effects on local businesses and residents are not based on evidence.

Physicians believe that medical decisions must be based on evidence, not ideology or public opinion, and the evidence shows that supervised injection reduces the spread of infectious diseases, decreases the incidence of overdose and death and increases access to much needed services, without increasing problems with public safety.

Significantly, the Court accepted the evidence that “Insite has saved lives and improved health without increasing the incidence of drug use and crime in the surrounding area.”³² It also stated that Insite is supported by the Vancouver police, the city and provincial governments. Supervised consumption rooms aim to address problems of specific, high-risk populations of people who use drugs, particularly those who consume in public and other high risk situations. They seek to meet the needs of those who use drugs, but also of the communities that are struggling with a crisis situation.

The CMA has the following concerns with Bill C-2:

1. **Bill C-2 does not strike a balance between the public health and public safety goals of the CDSA.** As written, Bill C-2 disregards the strong evidence of important positive impacts on public health and public safety and giving undue emphasis on public opinion, which might not be fully informed or experienced. Although public opinion might initially be against the introduction of such facilities, public acceptance of supervised consumption sites is considerably high in most of the locations where they have been established, in both Vancouver sites (Insite and the Dr Peter Centre) and in European countries. “Health problems have been reduced, and law and order have been improved. Communities, neighbourhoods and local authorities are usually involved in the good functioning of the facilities through cooperation and communication.”³³ The Supreme Court states that there has been “no discernible negative impact on the public safety and health objectives of Canada during its [Insite’s] eight years of operation.”

2. **Bill C-2 contradicts the spirit and intent of the unanimous decision of the 2011 Supreme Court of Canada regarding Insite** which states that “the potential denial of health services and the correlative increase in the risk of death and disease to injection drug users outweigh any benefit that might be derived from maintaining an absolute prohibition on possession of illegal drugs”.³⁴ Bill C-2 does not acknowledge the extensive evidence that exists regarding supervised consumption sites both internationally and in Canada, as discussed previously. Passing Bill C-2 in its current form could potentially prevent the renewal of the exemption to Section 56 of the CDSA for Insite. A likely consequence will be further costly litigation.

3. **Bill C-2 would impose multiple and significant barriers that providers of health services** to obtain an exemption to section 56 of the CDSA. From five criteria in the Supreme Court decision concerning Insite, Bill C-2 lists 27 requirements (Section 56(1)(3)), which include demographic and scientific data, letters of opinions from representatives of local police and local and provincial governments, information about proposed staff, descriptions of planned procedures and reports from community consultations. Such evidence could require extensive resources and funding by local public health units and community agencies. Some of the data required may only be available in the context of a research project. The data is not only influenced by the existence or not of a supervised consumption site, but by many other factors, such as poverty, enforcement resources and others. Community opinion of supervised consumption sites can also change to be significantly positive after experiencing months of its operation. Finally, Bill C-2 does not address how the Minister is to weigh the information submitted, to guarantee impartiality, or even if he or she must consider an application. Even after meeting all those requirements, the Minister has the sole discretion to decide whether a site can open, and the preamble states that exemptions will only be granted in “exceptional circumstances”.

4. **Bill C-2 did not involve consultation with provincial and territorial ministries of health, community agencies and professional associations, such as the CMA.** Public health authorities and particularly health professionals, who work with people with addictions on a daily basis, recognize the dire need for complementary approaches to substance use that address different needs. The exemption to section 56 is for medical purposes, and public health agencies have the competency to determine when there is a need.

It is the CMA's ultimate position that Bill C-2, the Respect for Communities Act must be withdrawn, and that it be replaced with legislation that recognizes the unequivocal evidence of benefits of supervised consumption sites, that was accepted by the Supreme Court. Legislation would enhance access to health services, which include prevention, harm reduction and treatment services in communities where the evidence has shown they would benefit from such health services.

-
- ¹ Bill C-2: An Act to amend the Controlled Drugs and Substances Act. 2nd Session, 41st Parliament. Retrieved from: <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6256959&File=4>
- ² Supreme Court of Canada (2011) Canada (A.G.) v. PHS Comm. Serv. Soc. Retrieved from: <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7960/index.do>
- ³ Supreme Court of Canada (2011) Canada (A.G.) v. PHS Comm. Serv. Soc. *supra.* p.192-3
- ⁴ Department of Justice (2013) National Anti-Drug Strategy Evaluation. Retrieved from: <http://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/12/nas-sna/p1.html#sec23>
- ⁵ Day, Brian (2008) "Ottawa's bad prescription on addiction." *Toronto Star*, Sunday June 8, 2008. Retrieved from: <http://www.thestar.com/comment/article/438967>
- ⁶ Canadian Centre on Substance Abuse (2008) Harm reduction: what's in a name? Retrieved from: <http://www.ccsa.ca/Resource%20Library/ccsa0115302008e.pdf>
- ⁷ National Alcohol Strategy Working Group (2007) Reducing Alcohol-Related Harm in Canada: toward a culture of moderation. Recommendations for a National Alcohol Strategy. Retrieved from: <http://ccsa.ca/Resource%20Library/ccsa-023876-2007.pdf>
- ⁸ International Harm Reduction Association (2010) *Harm Reduction: A position statement from the International Harm Reduction Association*. IHRA Briefing. Retrieved from: http://www.ihra.net/files/2010/08/10/Briefing_What_is_HR_English.pdf
- ⁹ Canadian Medical Association (2010) *Factum of the Intervener*. Supreme Court of Canada (Appeal from the British Columbia Court of Appeal) between the Attorney General of Canada and Minister of Health for Canada and PHS Community Services Society, Dean Edward Wilson and Shelly Tomic, Vancouver Area Network of Drug Users. Retrieved from: https://www.cma.ca/Assets/assets-library/document/en/advocacy/CMA-Factum_filed14April2011.pdf
- ¹⁰ Canadian Centre on Substance Abuse (2008) Harm reduction: what's in a name? Retrieved from: <http://www.ccsa.ca/Resource%20Library/ccsa0115302008e.pdf>
- ¹¹ Canadian Centre on Substance Abuse (2008) Harm reduction: what's in a name? Retrieved from: <http://www.ccsa.ca/Resource%20Library/ccsa0115302008e.pdf>
- ¹² Schatz, E. & Nougier, M. (2012) Drug consumption rooms: evidence and practice. International Drug Policy Consortium Briefing Paper. Retrieved from: http://www.drugsandalcohol.ie/17898/1/IDPC-Briefing-Paper_Drug-consumption-rooms.pdf
- ¹³ City of Vancouver Four Pillars Drug Strategy (2008) *Limiting the harms of drug use*. Retrieved from: <http://vancouver.ca/fourpillars/harmReduction/limitHarmDrugUse.htm>
- ¹⁴ Vancouver Coastal Health. Supervised Injection Site (N.D.) Services. Accessed September 19, 2014 at: <http://supervisedinjection.vch.ca/services/services>
- ¹⁵ Vancouver Coastal Health. Supervised Injection Site (N.D.). Accessed September 19, 2014 at: http://supervisedinjection.vch.ca/research/supporting_research/user_statistics
- ¹⁶ Urban Health Research Initiative (2010). *Insight into Insite*. Retrieved from: http://www.cfenet.ubc.ca/sites/default/files/uploads/publications/insight_into_insite.pdf
- ¹⁷ Health Canada. Vancouver's Insite service and other supervised injection sites: what has been learned from Research? Final Report of the Expert Advisory Committee. Ottawa: Health Canada, 2008. Prepared for the Hon. Tony Clement, Minister of Health, Government of Canada. Retrieved from: http://www.hc-sc.gc.ca/ahc-asc/pubs/_sites-lieux/insite/index-eng.php
- ¹⁸ Wood, E. et al. (2006) Summary of findings from the evaluation of a pilot medically supervised safer injecting facility. *Canadian Medical Association J*, 175(11): 1399-1404.
- ¹⁹ Kerr, T. et al. (2005) Safer injection facility use and syringe sharing in injection drug users. *The Lancet* 366: 316-18.
- ²⁰ Milloy M.J., Kerr, T., Tyndall, M., Montaner, J., & Wood E. (2008) Estimated drug overdose deaths averted by North America's first medically-supervised safer injection facility. *PLoS ONE* 3(10):e3351.
- ²¹ Marshall B. D. L., Milloy, M.-J., Wood, E., Montaner, J. S. G., & Kerr, T. (2011). Reduction in overdose mortality after the opening of North America's first medically supervised safer injecting facility: A retrospective population-based study. *Lancet*. Published online April 18, 2011. doi: 10.1016/S0140-6736(10)62353-7.

-
- ²² Wood, E. et al. (2007) Rate of detoxification service use and its impact among a cohort of supervised injecting facility users. *Addiction* 102: 916-919.
- ²³ Tyndall, M.W. et al. (2005) Attendance, drug use patterns, and referrals made from North America's first supervised injection facility. *Drug and Alcohol Dependence*.
- ²⁴ Tyndall, M.W. et al. (2006) HIV seroprevalence among participants at a medically supervised injection facility in Vancouver Canada: Implications for prevention, care and treatment. *Harm Reduction J* 3:36.
- ²⁵ Wood, E. et al. (2004) "Changes in public order after the opening of a medically supervised safer injecting facility for illicit injection drug users." *Canadian Medical Association J* 171(7): 731-34.
- ²⁶ Health Canada. Vancouver's Insite service and other supervised injection sites: what has been learned from Research? Final Report of the Expert Advisory Committee. Ottawa: Health Canada, 2008. Prepared for the Hon. Tony Clement, Minister of Health, Government of Canada. Retrieved from: http://www.hc-sc.gc.ca/ahc-asc/pubs/_sites-lieux/insite/index-eng.php
- ²⁷ Andresen, M.A. & Boyd, N. (2010) A cost-benefit and cost-effectiveness analysis of Vancouver's supervised injection facility. *Int.J Drug Policy* 21(1): 70-76.
- ²⁸ Pinkerton, S.D. (2010) Is Vancouver Canada's supervised injection facility cost-saving? *Addiction* 105(8): 1429-36.
- ²⁹ Schatz, E. & Nougier, M. (2012) Drug consumption rooms: evidence and practice. International Drug Policy Consortium Briefing Paper.
- ³⁰ Hedrich, D. (2004) European report on drug consumption rooms. Report prepared for the European Monitoring Centre on Drugs and Drug Addiction.
- ³¹ Watson, T.M. et al. (2012) Police Perceptions of Supervised Consumption Sites (SCSs): A Qualitative Study. *Substance Use & Misuse*, 47:364-374.
- ³² Supreme Court of Canada (2011) Canada (A.G.) v. PHS Comm. Serv. Soc. supra. p. 136
- ³³ Schatz, E. & Nougier, M. (2012) Drug consumption rooms: evidence and practice. International Drug Policy Consortium Briefing Paper. (p.20)
- ³⁴ Supreme Court of Canada (2011) Canada (A.G.) v. PHS Comm. Serv. Soc. supra (p.188).