

Project Inclusion Recommendations

PART 2: SECTION ONE—THE IMPACTS OF POLICE AND POLICING

1. The Ministry of Public Safety and Solicitor General and the Attorney General, working in full partnership with historically marginalized communities and communities with high levels of police interactions, must develop a set of guiding values and principles for policing in British Columbia that are grounded in human rights.
2. The Attorney General must take immediate action to increase access to justice for people who believe they have been the victims of excessive force, discrimination, or harassment by police by:
 - a. dedicating legal aid funding for:
 - i. *a clinic to support people to make police complaints through summary advice, short service, or full representation based on the needs of the individual and the nature of the complaint;*
 - ii. *public legal education workshops and materials to help people navigate the process of bringing a lawsuit against a police officer or police force; and*
 - iii. *legal representation for families and/or victims in instances of police-involved serious injury or death to facilitate full participation in a Coroner's Inquests and civil actions.*
 - b. amending the *Police Act* to expand the mandate of the Office of the Police Complaint Commissioner (OPCC) in order to:
 - i. *ensure that all police officers and forces operating in BC fall under the mandate of the OPCC;*
 - ii. *ensure that civilian investigators and civilian staff members are responsible for the entirety of the complaint resolution process; and*
 - iii. *allow the OPCC to audit police complaints each year, particularly where they involve discrimination based on race, gender, poverty, or health status, and publicly report on areas of concern for further investigation or reform.*
3. The Director of Police Services must develop the following Provincial Policies for all policing agencies in British Columbia:
 - a. a Provincial Policy governing police interactions with intoxicated persons, in partnership with people who use drugs and people living with alcoholism, and fund the implementation of the Policy. This Policy should make it clear that:
 - i. *police interventions with a person who is intoxicated must be minimally impairing on liberty and officers must make the security of the person (health) the paramount consideration in determining whether to apprehend an individual;*
 - ii. *city cells are not the appropriate place to bring an intoxicated person for their own safety or other therapeutic reasons. Alternatives to detention including, but not limited to, sobering centres, hospitals, and other community-based options must be made available; and*
 - iii. *where an intoxicated person must be brought into cells, their health care needs shall be paramount and health care visits will be mandatory*
 - b. a Provincial Policy on harm reduction which should include:

- i. *a directive to deprioritize simple possession of controlled substances and an overview of the harms of confiscating substances (including alcohol) from people with addictions and limited resources;*
 - ii. *a directive to never confiscate new or used syringes, naloxone, and other harm reduction and overdose prevention supplies;*
 - iii. *a statement that harm reduction supplies, whether new or used, are not a basis for search or investigation; and*
 - iv. *a directive that local police forces work with service providers to develop bubble zones around safe consumption sites, overdose prevention sites, and other harm reduction sites, taking into consideration policing practices that may deter access including visible presence, arrests in close proximity, undercover operations in and near, and surveillance of people using the service.*
- c. a Provincial Policy on police attendance at overdoses which includes:
- i. *a directive not to attend at drug overdose calls, except where requested by Emergency Health Services—usually in the event of a fatality or threats to public safety; and*
 - ii. *a clear statement that the role of law enforcement at the scene of a drug overdose is to deliver first aid if they are the only responders available, or to protect the safety of Emergency Health Services and members of the public, not to investigate the individuals or circumstances at the scene unless police determine that there is an urgent public safety concern, for example, if violence is occurring at the scene.*
- d. a Provincial Policy on confiscation of belongings by police which includes:
- i. *a strong statement that explains to all police forces the harm caused by the confiscation of homeless people’s belongings;*
 - ii. *deprioritize confiscating homeless people’s belongings, especially necessities of life such as shelter, clothing, medication, and important personal items; and*
 - iii. *a directive to issue receipts for belongings and cash where they must be taken, with instructions for how to get them back.*
- e. a Provincial Policy detailing people’s right to privacy in tents and informal living structures akin to the right to privacy in private residences.
4. The Director of Police Services must work with the Independent Investigations Office and the Coroners Service to audit deaths and serious injuries in city cells in BC over the past 10 years, including an analysis of race, disability, housing status, and gender, and make the findings and recommendations for reform publicly available.
5. The Ministry of Housing and Municipal Affairs (MHMA) must make a province-wide commitment to supporting homeless people to maintain their belongings and to ensuring that homeless people have access to services without fear of losing their possessions. The MHMA must partner with local governments in collaboration with groups of people with lived experience, to train local bylaw officers:
- a. to recognize and respect the belongings of homeless people; and

- b. to work effectively with people experiencing homelessness to clean up or discard belongings where there is a pressing public safety, access, or environmental need to do so.
6. The Ministry of Public Safety and Solicitor General, in partnership with the MHMA, should issue a directive stating that no public funds may be used for private security patrols on public property, including in public parks.

PART 2: SECTION TWO—EVERYTHING BECOMES ILLEGAL: HOW COURT-IMPOSED CONDITIONS SET PEOPLE UP TO FAIL

7. The Government of Canada must amend the *Criminal Code* to prevent the use and prosecution of discriminatory or destructive behavioural conditions of interim release and sentencing, specifically:
 - a. *legislate that conditions imposed on interim release be reasonable and proportionate to the nature and seriousness of the alleged offence and the circumstances of the accused;*
 - b. *define “drug paraphernalia” as harm reduction medical equipment and prohibit the imposition of conditions that would interfere with the ability to access or possess harm reduction equipment;*
 - c. *prior to imposing an abstinence condition, require that courts consider a person’s dependence on drugs or alcohol. Abstinence conditions shall not be imposed on people living with addictions, except where doing so is necessary to protect the safety of a victim, witness, or the public, and harm-reduction measures shall be preferred over abstinence;*
 - d. *limit “red zone” conditions to situations where there is a substantial likelihood that, if released without a red zone, the accused will commit an offence involving violence or serious harm within the red zone and ensure that any red zone is tailored to the alleged offence, the principles of judicial interim release or probation, and circumstances of the individual;*
 - e. *remove paragraph 504(2.1) (g), the power for police to impose “abstinence” conditions; and*
 - f. *eliminate criminal sanctions for non-violent breaches of behavioural conditions.*
8. The Governments of BC and Canada must amend their prosecutorial policy, specifically:
 - a. amend the BC Crown Counsel Policy Manual to include a policy on “Conditions of Release” that:
 - i. *aligns with the Criminal Code requirement that an accused be released unconditionally unless their detention or the imposition of conditions is justified;*
 - ii. *reflects Supreme Court of Canada jurisprudence requiring that conditions of release be minimally onerous and that every imposition of more restrictive conditions must be individually justified; and*
 - iii. *takes into consideration the potential harms of imposing certain conditions on some individuals based on their social condition, race, ability status, housing status, and substance use.*
 - b. amend the BC Prosecution Service Information Sheet “Bail (Conditional Release)” to reflect the presumption of unconditional release; and
 - c. amend the Public Prosecution Service of Canada Deskbook Part 3.18 sections 2 and 5 to:

- i. more clearly reflect the *Criminal Code* requirement that an accused be released unconditionally unless their detention or the imposition of conditions is justified; and
 - ii. take into consideration the potential harms of imposing certain conditions on certain individuals based on their social condition, race, ability status, housing status, and substance use.
9. The Provincial Court of British Columbia should:
- a. establish a Practice Direction re-affirming the presumption of unconditional release and the requirement that Crown individually justify the imposition of every restriction on release;
 - b. amend the Provincial Court of British Columbia, “Bail Orders Picklist”, May 1, 2017 and Provincial Court of British Columbia, “Probation Orders Picklist” May 1, 2017 to:
 - i. remove “Drug Paraphernalia” conditions;
 - ii. restrict the use of “No Alcohol or Drugs” conditions in relation to people with addictions;
 - iii. remove “banishment” conditions entirely;
 - iv. ensure that all “red zone” conditions are imposed only where doing so is required to protect the safety of a victim, witness, or the public from violence or serious harm. In doing so, red zones must be tailored to the alleged offence and the circumstances of the individual. Under no circumstances are standardized red zones appropriate; and
 - v. prohibit the imposition of behavioural or geographic conditions that would interfere with the ability to access health or social services, including harm reduction health services.
 - c. Create a Provincial Court resource outlining “harm reduction services,” including a definition of:
 - i. “drug paraphernalia” as harm reduction equipment;
 - ii. “Safe Consumption Sites” and “Overdose Prevention Sites”;
 - iii. needle exchange;
 - iv. opioid substitution treatment; and
 - v. low-barrier health services.
10. Police Services must create a provincial practice direction for police officers upon release of an accused, adopting the following recommendations of the Canadian Civil Liberties Association:¹
- a. police should make increased use of their power to release and ensure that any conditions imposed are constitutional and legally permissible under the *Criminal Code*;
 - b. individuals released from police custody should be proactively informed of the procedures that can be used to vary police-imposed conditions under the *Criminal Code*; and
 - c. police should release individuals under the most minimally restricting conditions available in the circumstance, taking into consideration an individual’s need to access shelter, social

¹ See Dushman & Myers at 83.

services, health care, and community, as well as the possible disability status of the individual, including addiction.

11. The Ministry of Justice and/or Court Services Branch must update any Ministry of Justice databases (e.g. JUSTIN) and related practices, policies, and technology platforms, to ensure that the imposition of bail and sentencing conditions can be tracked in correlation with housing status and race, and that breaches of bail or sentencing can be properly recorded and searched based on the type of condition breached.
12. Relevant policing stakeholders must update database systems, e.g. PRIME-BC, to:
 - a. require that all police-imposed conditions are electronically registered, including:
 - i. *the date of imposition;*
 - ii. *the date or causal mechanism by which the condition will expire;*
 - iii. *the specific content of the condition; and*
 - iv. *the underlying reason for imposing the condition.*
 - b. ensure that PRIME-BC can be searched to track all police-imposed conditions in the aggregate, rather than only being tied to an individual's file

PART 2: SECTION THREE—NO ACCESS, NO SUPPORT: SERVICE GAPS AND BARRIERS

13. The Province of British Columbia must amend the *Human Rights Code*, RSBC 1996, c 210 to prohibit discrimination and harassment based on social condition.
14. The Ministry of Mental Health and Addictions and the Ministry of Health must improve the ability of BC hospitals to meet the needs of people living with the effects of substance use, mental illness, and/or homelessness by:
 - a. *auditing experiences in hospitals, beginning with an analysis of people's experiences where they have been turned away from emergency rooms or discharged and where there have been negative health consequences;*
 - b. *working with people with lived experience to audit provincial standards for effectively managing substance withdrawal in hospital settings;*
 - c. *ensuring that all hospitals offer supervised consumption services to patients; and*
 - d. *working with the Ministry of Municipal Affairs and Housing to create transitional housing options to ensuring that sick and injured people are not released from the hospital to the streets or to emergency shelter.*
15. The Ministry of Social Development and Poverty Reduction must make immediate changes to BC's Income Assistance and Disability Assistance programs including:
 - a. increasing income assistance rates to the Market Basket Measure² and indexing them to inflation;

² Statistics Canada, Market Basket Measure (MBM) thresholds for economic families and persons not in economic families, 2015 (Statistics Canada: Census Division: 2017), online: https://www12.statcan.gc.ca/census-recensement/2016/ref/dict/tab/t4_5-eng.cfm.

- b. reviewing the processes that are currently in place for reporting “welfare fraud” to provide greater accountability and ensure that people receiving income assistance are not denied survival income without due process;
 - c. increasing access to in-person services for income assistance and disability applicants; and
 - d. ensuring that people living with disabilities can access disability support by:
 - i. *simplifying the application process to reduce wait times and lessen reliance on advocates;*
 - ii. *providing provincial guidelines for doctors/service providers on how and when to fill out disability forms; and*
 - iii. *ensuring that hospital social workers are resourced and directed to work with patients in need to apply for disability benefits.*
16. The Legal Services Society of BC must provide legal support for appeals where a person has been denied income assistance or disability assistance.
17. The Ministry of Housing and Municipal Affairs must immediately improve the number and accessibility of shelter options to ensure that everyone in BC always has access to a physical location where they can sleep, store belongings, and attend to personal care and hygiene in safety and without threat of displacement or sanctions. To do so they must:
- a. work in partnership with BC Housing to reinstate nightly turn-away counts at shelters and use data to ensure that there are adequate shelter beds to address the level of need in each municipality;
 - b. with the exception of temporary Extreme Weather Response shelters, recognize that overnight-only shelters are untenable for residents and provide funding to expand shelter hours; and
 - c. provide shelter residents an accessible and independent complaint process.
18. All government actors and health care providers must recognize the specific and indispensable expertise of people with lived experience. Increase peer-run and peer-delivered services and peer-support positions within government services by:
- a. developing a provincial advisory board of people with lived experience of homelessness for BC Housing;
 - b. establishing provincial best practices for engaging people with lived experience of poverty, homelessness, and substance use in service delivery modelled on GIPA (Greater Involvement of People living with HIV/AIDS), MIPA (Meaningful Involvement of People Living with HIV), and NAUWU (Nothing About Us Without Us) principles;

- c. collaborating with peer-led organizations to audit all provincial services (hospital, health, income assistance, shelter, housing) to identify and fund opportunities for peer engagement in service provision and planning; and
- d. developing a model for peer-involvement in the design and execution of homeless counts

PART 3: WHY A STIGMA-AUDITING PROCESS MATTERS FOR BC

Broader implementation of a stigma-auditing program would require consultation and refinement, as well as the creation of a training program and a tool for policymakers and advocates. To that end, we make the following recommendations:

- 19. The Province of British Columbia must amend the *Human Rights Code*, RSBC 1996, c 210 to prohibit discrimination and harassment based on social condition.
- 20. In consultation with experts, including human rights law organizations, trauma specialists, and people with lived experience, the Province of British Columbia should adopt a standardized tool and training protocol for conducting “stigma audits” of current laws, policies, and regulations in BC, and to inform the development of new laws, policies, and regulations.
- 21. The relevant provincial ministries should engage in extensive education and outreach to legislators and staff across the provincial government, and local governments to introduce the stigma-auditing tool to law and policymakers, and to train stigma auditors.
- 22. In its first year in operation, the BC Human Rights Commission should prioritize stigma-auditing areas of law and policy that most directly impact highly stigmatized populations, including, but not limited to:
 - i. public space governance;
 - ii. income assistance and disability policy;
 - iii. housing policy and residential tenancy law;
 - iv. child welfare law and policy;
 - v. policing law and policy;
 - vi. health policy related to mental health and substance use; and
 - vii. privacy law as it relates to people who live in public space and people who are criminalized as a result of substance use.