

Hon. Adrian Dix
Minister of Health
Room 337 Parliament Buildings
Victoria, BC V8V 1X4

Hon. Judy Darcy
Minister of Mental Health and Addictions
Room 346 Parliament Buildings
Victoria, BC V8V 1X4

Fraser Health
Suite 400, Central City Tower
13450 – 102nd Avenue
Surrey, BC V3T 0H1
Attention: Ingrid Tyler & Chris Buchner

BC Housing
Suite 1701-4555 Kingsway
Burnaby, BC V5H 4V8
Attention: Dominic Flanagan

City of Maple Ridge
11995 Haney Place
Maple Ridge, BC V2X 6A9
Attention: Mayor Mike Morden

Dept. Comm. Jennifer Stratchen
RCMP “E” Division
14200 Green Timbers Way
Surrey, BC V3T 6P3

Ridge Meadows RCMP
11990 Haney Place
Maple Ridge, BC V2X 9B8
Attention: Superintendent Jennifer Hyland

June 7, 2019

RE: Overdose Prevention Site at Royal Crescent, Maple Ridge

To the Above-Listed Recipients,

We write concerning the forced closure of a life-saving overdose prevention site (OPS) on June 5th, 2019 in Maple Ridge. The OPS was set up on the BC Housing-owned property of 22548 Royal Crescent and within the first hours of its operation, provided harm reduction supplies and peer-witnessed injection to clients facing significant risk of fatal overdose due to the toxic drug supply and lack of essential health services in Maple Ridge.

The site lasted a mere five hours before being shuttered by the collective action and inaction of the recipients of this letter. Moments after it was established, Ridge Meadows RCMP threatened all individuals present with arrest for Mischief under section 430 of the *Criminal Code*. Direction to disband the site came from BC Housing, asserting trespass. None of the recipients of this letter have offered an alternative location or service for people requiring OPS services. BC Housing denied pleas from site organizers that BC Housing allow the resident-only OPS located in the supportive housing facility on the same property to open its doors to the public on an emergency basis for the evening.

Collectively, your actions resulted in the cessation of a publicly-available OPS in Maple Ridge. This is completely inconsistent with the Ministerial order in BC mandating OPS services in order to stem the flow of overdose deaths.¹ The closure of the OPS is contrary to the *Canadian Charter of Rights and Freedoms*. It defies legal decisions and organizational policies that are aligned with a robust body of evidence for supervised consumption site services.² It ignores BC's official harm reduction policy and BC Housing's apparent provision of harm reduction services.³ It is an exemplar of actions that contribute to overdose deaths through stigma and criminalization. It exacerbates the public health emergency declared in BC in 2016.

We can question the precise level of responsibility each of the recipients holds in this situation, but the answer clearly lies within your collective hands. The events that took place on June 5, 2019, and the needless deaths that will inevitably follow, are the direct result of an abdication of your collective responsibility.

Background and The Knowledge of the Parties

Each of you knows the importance of OPS in general and in Maple Ridge specifically. As Pivot advised in letters to representatives of the City, the Province, BC Housing and Fraser Health during April and May of this year, the Anita Place tent city was long operating as the only publicly-available OPS in Maple Ridge. This follows on two years of litigation in which experts and at least a dozen homeless and precariously housed residents of Maple Ridge filed evidence that Anita Place saves lives by affording harm reduction services. Individuals gave overwhelming evidence that Anita Place was used as an OPS by both homeless and housed people who use drugs. One resident gave evidence of successfully reversing over 200 overdoses during the two years the camp has existed. This evidence was not contested.

All parties to this letter knew that the near-closure of Anita Place by the City of Maple Ridge would result in extremely heightened precarity for people who use drugs in the City, but no responsive action was taken. As Pivot advised many of these parties, there has been at least one suspected fatal overdose following the near-closure of Anita Place. The overdose was suffered by a man known to use the encampment as an OPS and who, following the City's restrictive "verification process" in February 2019, could no longer enter the camp or access its overdose prevention services. He died alone in a secluded, forested area, because he did not have access to a safer space for use.

Now, government actors have responded to the heroic acts of community members saving each other's lives by threatening criminalization whilst completely failing to move forward with

¹ <https://www.islandhealth.ca/sites/default/files/2018-04/overdose-prevention-services-health-ministry-order.pdf>

² MC Kennedy, M Karamouzian, & T Kerr, "Public Health and Public Order Outcomes Associated with Supervised Drug Consumption Facilities: a Systematic Review" (2007) 14(5) *Current HIV/AIDS Reports* 161–183; C Potier et al, "Supervised injection services: What has been demonstrated? A systematic literature review" (2014) 145 *Drug and Alcohol Dependence* 48–68.

³ <https://www.health.gov.bc.ca/library/publications/year/2005/hrcommunityguide.pdf> ; See also: BC Housing Shelter Design Guidelines: <https://www.bchousing.org/publications/Shelter-Design-Guidelines.pdf>

any publicly-funded site. Instead, they require homeless people to shoulder the trauma of constant crisis intervention absent even nominal support. While various of the recipients have protested the exact location selected, none of you have provided a *single accessible location* in all of Maple Ridge where individuals could set up an OPS and not face risk of police enforcement.

Failure to Support the OPS at Royal Crescent

On June 5th, Pivot informed RCMP officers and legal counsel for BC Housing that shutting down an OPS and/or arresting individuals using or providing overdose prevention services posed a threat to the *Charter* rights of life, liberty, and security of the person. OPS save lives. They are a critical health service recognized by federal, provincial, and municipal governments. Even so, RCMP and BC Housing parties collectively forced the closure of the site by end of day through persistent threats of arrest. Numerous RCMP officers stated that their hands were tied given the direction of BC Housing and that the *Charter* “did not apply” in these particular circumstances.

In fact, state-imposed risks to physical health or increased risk of death have been found to infringe upon the *Charter*-protected rights to life and security of the person⁴, as have circumstances in which individuals were forced to choose between inadequate medical treatment and committing a crime in order to obtain adequate medical treatment.⁵ In *Canada (AG) v PHS Community Services Society (“PHS”)*, the Supreme Court of Canada also ruled that the government’s decision to deny operating permission to the Insite safe injection site amounted to a violation of staff and clients’ section 7 rights.⁶

Here, the action and inaction of the recipients have shuttered the only available OPS in Maple Ridge such that people who rely on a toxic drug supply have no choice but to use drugs without the certainty of supervision and overdose response as necessary. Individuals were forced to choose between criminal sanction and the forfeiture of desperately-needed health services. The recipients’ actions also risk the right to equality guaranteed by section 15 of the *Charter* by denying critical health services to people who use drugs; addiction has been recognized as an illness by the Supreme Court of Canada⁷ and a protected ground under the *B.C. Human Rights Code*.⁸

Conclusion

Your actions send a dangerous message to communities across the country: that efforts to save lives are criminal, even in the context of an opioid crisis during which approximately 100 people

⁴ *Carter v Canada (AG)*, 2015 SCC 5; *Chaoulli v Quebec (AG)*, 2005 SCC 35; *R v Morgentaler*, [1988] 1 SCR 30.

⁵ *R v Parker*, [2000] 49 OR (3d) 481.

⁶ *PHS* 2011 SCC 44 at para 136.

⁷ *PHS* at para 27.

⁸ *McDonald v Interfor*, 2016 BCHRT 8.

die of fatal overdose each month across the Province.⁹ Likely, the OPS' closure will have a chilling effect on the establishment and operation of overdose prevention services across Canada at a time when they are desperately needed.

Your actions also set a staggering precedent. OPS have been established across the country and since public recognition of the opioid crisis, we are not aware of any police or government entity having actively shut down an OPS. In some cases, police have been vocally supportive of OPS and have avoided interfering with their important service delivery. In fact, research in Victoria, BC found that OPS could be established effectively and with little community opposition when they are designed and led by the community.¹⁰

We urge you to refrain from impeding these pop-up services should they arise in future and to immediately identify a location in Maple Ridge in which these pop-up services may operate.

We eagerly await your response and the immediate implementation of an OPS in Maple Ridge.

Sincerely,

Pivot Legal Society

⁹ For more information on the legal ramifications of shutting down OPS, see the following 2017 document issued by Pivot Legal Society and the Canadian HIV/AIDS Legal Network:
<https://overdosepreventionottawa.files.wordpress.com/2017/10/360271378-brief-ottawaops-29sep2016-final-en.pdf>

¹⁰ B Wallace, F Pagan & B Pauly, "The implementation of overdose prevention sites as a novel and nimble response during an illegal drug overdose public health emergency" (2019) 66 International Journal of Drug Policy 64-72.