



Making the Case for Public Space: Understanding prohibitive public substance use legislation as harm-promoting through the experiences of illicit drinkers

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Background and rationale

The provincial government of British Columbia is considering the creation of enabling legislation to prohibit the public consumption of unregulated substances at the discretion of local municipalities. The Eastside Illicit Drinkers Group for Education (EIDGE) is a group of people who use alcohol in ways that are criminalized, most frequently as a result of our coerced use of public space. EIDGE members are commonly long-term heavy drinkers, over 80% of whom are Indigenous, who experience high rates of alcohol-associated harm intersecting with socioeconomic marginality and intergenerational experience of colonial violence.¹²³⁴⁵⁶ Although alcohol is a legally regulated substance, EIDGE members are criminalized by public use legislation pertaining to alcohol as a result of socioeconomic status, housing precarity, and racialization. Accordingly, the criminalization of illicit drinkers who use alcohol in public spaces has been a priority issue for policy advocacy since the creation of EIDGE in 2011. Illicit drinkers residing in Vancouver's Downtown Eastside conceptualize access to public space as a health promoting form of harm reduction, and policies that deprive people who use any substance of

¹ Crabtree, A. (2015). *It's powerful to gather: a community-driven study of drug users' and illicit drinkers' priorities for harm reduction and health promotion in British Columbia, Canada* (Doctoral dissertation, University of British Columbia).

² Crabtree, A., Latham, N., Bird, L. *et al.* (2016). Results of a participatory needs assessment demonstrate an opportunity to involve people who use alcohol in drug user activism and harm reduction. *Harm Reduct J* 13, 37.. <https://doi.org/10.1186/s12954-016-0126-xv>

³ Eastside Illicit Drinkers Group for Education (2017). Understanding EIDGE: A peer research project exploring illicit alcohol use in the DTES. Conference presentation. <https://phabc.org/wp-content/uploads/2018/11/Graham-Understanding-EIDGE-presentation-PHABC-2018.pdf>

⁴ Crabtree, A., Latham, N., Morgan, R., Pauly, B., Bungay, V., & Buxton, J. A. (2018). Perceived harms and harm reduction strategies among people who drink non-beverage alcohol: community-based qualitative research in Vancouver, Canada. *International Journal of Drug Policy*, 59, 85-93.

⁵ Brown, L., Skulsh, J., Morgan, R., Kuehlke, R., & Graham, B. (2018). Research into action? The eastside illicit drinkers group for education's (EIDGE) experiences as a community-based group in Vancouver, Canada. *Drug and alcohol review*, 37, S156-S158.

⁶ Bailey, A., Graham, B., Harps, M., & Sedore, G. (2023). Vancouver's Alcohol Knowledge Exchange: lessons learned from creating a peer-involved alcohol harm reduction strategy in Vancouver's Downtown Eastside. *Harm Reduction Journal*, 20(1), 1-14.



access to public space in this community as harm-inducing. While EIDGE supports large scale interventions to improve public health that address the conditions of substance use, we urge the PSSG to consider that population-level efforts to regulate substance use in a punitive manner will have regressive impacts of extremely structurally marginalized people who use drugs.⁷ EIDGE and the authors of this brief subsequently oppose any new prohibitions on the public use of unregulated substances as a result of our lived, professional, and academic understandings of the negative health consequences of said policies. This summary brief will proceed to explain:

- 1) EIDGE’s understanding of how and why public substance use occurs in the Downtown Eastside
- 2) How prohibitions on public use create new health harms for acutely structurally marginalized persons, grounded in but not limited to the experiences of illicit drinkers
- 3) Benefits to public health and safety of people who drugs provided by safe public spaces
- 4) Harm reduction informed policy recommendations pertaining to public use drawn from EIDGE’s 2021 Vancouver Alcohol Strategy and Public Space MAP Pilot

Understanding the Upstream Determinants of Public Use

The criminalization of poor, structurally marginalized illicit drinkers is a direct result of the material and social conditions that drive people who use substances outdoors. EIDGE members have reported that their public use of substances occurs as a result of the following factors:

Homelessness

- Illicit drinkers are likely to experience or have experienced repeat, long-term episodes of homelessness. Insufficient shelter allowances in British Columbia, a lack of investment in accessible supportive housing from multiple levels of government, and the accelerating loss of Vancouver’s affordable Single Room Occupancy SRO housing stock, as well as broader rises in market rent without adequate legislative protections, intersect with the complex physical and mental health needs of drinkers and people who use other drugs to create this risk. In the absence of safe, dignified private residences in which to use drugs, low-income persons who use substances are forced to do so elsewhere, often outdoors.

Shelter capacity, rules and regulations

⁷ Pennay, A., & Room, R. (2012). Prohibiting public drinking in urban public spaces: A review of the evidence. *Drugs: education, prevention and policy*, 19(2), 91-101.



- Demand for shelter beds currently exceeds the number of available spaces in Vancouver.⁸ Further, a select number of temporary and emergency shelters in the DTES enforce rules and regulations that drive drinkers and people who use other drugs to seek shelter in public spaces both during the day and overnight.⁹ For example, restrictive, abstinence-only shelters without on-site harm reduction services do not permit people who use alcohol or other drugs to use while inside. Crowding, theft, understaffing, inadequate staff training, risk of violence, early morning shelter closings, and the lack of safe indoor drop-in spaces open immediately after closings also encourage public substance use in the absence of alternative places.

Single Room Occupancy (SRO) habitability

- SRO housing comprises the majority of the housing stock that is available at or near the shelter rate in the City of Vancouver (approx. 7000 units)¹⁰. SROs are former short stay hotels built approximately 100 years ago to accommodate transient resource workers.
- Buildings typically contain 10 foot by 10 foot rooms, with shared bathroom and kitchen amenities on each floor. Privately owned SROs, which make up approximately 40% of the available stock, have been systematically neglected by property use and public health authorities in Vancouver, resulting in poor habitability across much of the stock.¹¹ Living conditions in the 60% of SRO units administered by non-profit organizations are comparatively poor. Insufficient heating or air conditioning, broken plumbing, neglected maintenance, infestations, mold, and unsafe premises are common to both types of SRO housing¹². Amongst these conditions, residents try to spend as little time inside as possible, including people who use regulated and unregulated drugs in the DTES.

Drug poisoning risk, guest policies, and the SRO housing environment

- The physical layout of the SRO, neglectful management practices, and the absence of adequate supports heighten risk of drug poisoning for SRO tenants.^{13 14 15} The absence of common areas, small personal living spaces, and the existence of guest bans in some

⁸ <https://vancouver.ca/files/cov/pds-housing-policy-housing-needs-report.pdf>

⁹ Eastside Illicit Drinkers Group for Education, Vancouver Alcohol Strategy, 2021. <https://vandu.org/eidge/>

¹⁰ <https://srocollaborative.org/wp-content/uploads/2023/04/sro-hub-evaluation-report.pdf>

¹¹ Shannon, K., Ishida, T., Lai, C., & Tyndall, M. W. (2006). The impact of unregulated single room occupancy hotels on the health status of illicit drug users in Vancouver. *International Journal of Drug Policy*, 17(2), 107-114.

¹² <https://srocollaborative.org/wp-content/uploads/2023/04/lowdown-.pdf>

¹³ Rowe, C. L., Riley, E. D., Eagen, K., Zevin, B., & Coffin, P. O. (2019). Drug overdose mortality among residents of single room occupancy buildings in San Francisco, California, 2010–2017. *Drug and alcohol dependence*, 204, 107571.

¹⁴ Bardwell, G., Fleming, T., Collins, A. B., Boyd, J., & McNeil, R. (2019). Addressing intersecting housing and overdose crises in Vancouver, Canada: opportunities and challenges from a tenant-led overdose response intervention in single room occupancy hotels. *Journal of Urban Health*, 96, 12-20.

¹⁵ Nowell, M., & Masuda, J. R. (2020). “You need to just provide health services:” navigating the politics of harm reduction in the twin housing and overdose crises in Vancouver, BC. *International Journal of Drug Policy*, 82, 102774.



supportive housing settings coerce SRO tenants who use drugs into doing so alone.^{16 17 18}
¹⁹ As a result, the most recent available data from the BC Coroners Service indicates that 44.5% of illicit drug poisoning deaths occurred in residences including SROs and supportive housing facilities.²⁰ The SRO “risk environment”²¹ facilitates public use of substances as a harm reduction measure, as drug poisoning, drug-related harms, or other medical emergencies (namely seizures, falls, and delirium tremens, for drinkers) experienced in public are more likely to be promptly responded to. Public use of substances with a high potential for adulteration (i.e fentanyl or street “down”) is often a direct response to these conditions. EIDGE lost a beloved longtime member in the weeks leading up to this submission - he was found in his SRO room. We create documents such as these recommendations to ensure that his experience, and that of our other lost family, continues to inform policy in their absence. These deaths are preventable.

Protection from social isolation

- Without alternative spaces to gather and socialize, EIDGE members report that their public substance use is often a way to avoid social isolation, mental health decline, and address feelings of loneliness and depression. Gathering outdoors in consistent places is a way to be located by friends or family, and to locate others who have not been seen for some period of time. Not finding a peer in their regular place could and has warranted a room check or other check on their wellbeing. The creation of punitive measures to discourage people who use drugs to use public space would disrupt these informal safety networks.

Climate change and heat injury

- Climate change poses an escalating harm to people residing in the DTES, many of whom live in overcrowded conditions, including shelters and poorly ventilated SRO units (as above). During the 2021 heat dome, 10% of the 619 people who died in BC lived in social housing, SROs, or supportive housing.²² Low-income residents of the DTES often have multiple chronic health conditions and thus are vulnerable to heat-related injury.

¹⁶ Fleming, T., Damon, W., Collins, A. B., Czechaczek, S., Boyd, J., & McNeil, R. (2019). Housing in crisis: A qualitative study of the socio-legal contexts of residential evictions in Vancouver’s Downtown Eastside. *International Journal of Drug Policy*, 71, 169-177.

¹⁷ Bardwell, et al., 2019

¹⁸ Nowell & Masuda, 2020

¹⁹ Boyd, J., Cunningham, D., Anderson, S., & Kerr, T. (2016). Supportive housing and surveillance. *International Journal of Drug Policy*, 34, 72-79.

²⁰<https://app.powerbi.com/view?r=eyJrIjoiOGFhMTkwOTktYWQ1My00MzQ4LTlhNzItMzVhOWY3NGFmOWQ4IiwidCI6IjZmZGI1MjAwLTNkMGQtNGE4YS1iMDM2LWQzNjg1ZTM1OWFkYyJ9>

²¹ Knight, K. R., Lopez, A. M., Comfort, M., Shumway, M., Cohen, J., & Riley, E. D. (2014). Single room occupancy (SRO) hotels as mental health risk environments among impoverished women: the intersection of policy, drug use, trauma, and urban space. *International Journal of Drug Policy*, 25(3), 556-561.

²²<https://bc.ctvnews.ca/100k-to-support-sro-residents-during-extreme-heat-proposed-by-city-of-vancouver-1.5953907>



- The majority of SRO tenants are over 50 years of age and, a recent research project led by the SRO-C, found that 40% of respondents attributed high temperatures as a reason to spend time and sleep elsewhere, including in parks.²³ Further, the DTES neighborhood disproportionately lacks access to covered green public space, contributing to a heat island effect in the area and an increased the risk of heat injury when in public space²⁴. Drinkers and PWUD will continue to be pushed into public space as the climate heats further, with predictions suggesting that there will be twice as many days above 25°C in the 2050s as there are today.²⁵

Anticipated harms of public use enforcement

EIDGE members have reported several negative health impacts of criminalized substance use in public spaces. These harms are directly related to the enforcement of legislated prohibitions on substance use in specific places, and not the physiological effects of alcohol. While these mechanisms of harm are directly related to alcohol use, EIDGE feels that many are applicable to people who use other substances. The following modes of enforcement exacerbate alcohol-associated harms for EIDGE members:

Ticketing

- Section 73 of BC’s Liquor Control and Licensing Act prohibits the consumption of alcohol in a public place, except for those designated by a municipality (for example, Vancouver’s Alcohol in Parks Pilot) and section 74 enables officers to arrest and charge people for being drunk in a public place. These offenses result in tickets and fines. Drinkers who are reliant on public space face recurring instances of ticketing and a significant financial and practical burden, particularly for persons living on extremely low-incomes. If the individual facing a charge under section 73(1) of the Act does not show up to their hearing, they are automatically assumed to be guilty and the judge is free to set a penalty in their absence. Following a guilty ruling, the arresting officer can also inform the court of a prior record which can be used to “support a higher penalty”, suggesting that drinkers may face substantial and recurring financial burden. If this occurs, illicit drinkers and people who use other drugs are at risk of facing serious legal penalties for a relatively minor offense. New public use legislation relying on any form of ticketing or fines would tacitly expand this positive feedback loop of criminalization to illicit substance users by creating intolerable financial burden that results in further criminalization and advanced sanctions.

²³ <https://srocollaborative.org/wp-content/uploads/2023/05/HeatEvaluationReport.pdf>

²⁴ <https://vancouver.ca/parks-recreation-culture/equity-in-parks-and-recreation.aspx>

²⁵ <https://vancouver.ca/green-vancouver/temperature-climate.aspx#:~:text=Regional%20climate%20predictions%20expect%20twice,%C2%B0C%20compared%20to%20today>



Confiscation, seizure, and “pour-outs”

- In B.C., Liquor and Cannabis Regulation Branch Inspectors and law enforcement officials enforcing the Liquor Control and Licensing Act are empowered to seize or “pour-out” alcohol consumed in a public place or while intoxicated in a public place. Illicit drinkers’ whose substance use is forced into public space, highly visible, stigmatized, and subject to police discretion are vulnerable to confiscation and resulting harm. For drinkers living with severe alcohol dependency and on extremely low incomes, confiscation encourages high-risk survival drinking (acquiring and consuming higher strength alcohol very quickly) or non-beverage alcohol use (including mouthwash, rubbing alcohol, and hand sanitizer) to avoid withdrawal symptoms. Alcohol “pour-outs” place physiologically dependent drinkers at greater risk of acute withdrawal, and therefore at greater risk of high-risk behaviors to prevent withdrawal. EIDGE’s experience demonstrates that similar effects are likely to occur during the seizure of other drugs, resulting in compounded drug poisoning risk for the impacted person. Drawing on EIDGEs first-hand experience with the harms of confiscation, we predict that any form of drug seizure permitted by new public use legislation would drive the affected person to replace said substances, likely from a new and unreliable source, or engage in illicit activity to replace the confiscated substances.

Additional Interaction with law enforcement

- EIDGE supports minimizing opportunities for interaction between illicit drinkers and people who use other drugs with law enforcement, as such interactions place illicit drinkers at risk of harm. EIDGE considers the 1998 death of Frank Paul, an Indigenous man who used alcohol in Vancouver, after being released from custody by the Vancouver Police Department, to be emblematic of this point.²⁶ Anecdotally, EIDGE members also report that police holding cells for people who are intoxicated in public are dangerous and health compromising spaces that are made so by the criminalization of public substance use. In addition to the recommendation of a civilian-run sobering center for Vancouver included in the 2011 Davies Commission Inquiry²⁷ into Frank Paul’s death, EIDGE believes that interactions between people who use substances in public should be kept to an absolute minimum, and be strictly limited to the provision of non-punitive referral to civilian-run health and social services providers when they occur.

²⁶ <https://www.cbc.ca/news/canada/british-columbia/frank-paul-s-death-no-accident-crown-agrees-1.975662>

²⁷ Davies Commission Inquiry into the Death of Frank Paul (BC), & Davies, W. H. (2011). *Alone and Cold: Criminal Justice Branch Response: the Davies Commission Inquiry Into the Response of the Criminal Justice Branch*. Davies Commission.



Documented benefits to public health and safety of people who drugs provided by safe public spaces

Though there are few academic studies explicitly looking at the role of generic public space in reducing drug-related harms, research on safe injection sites highlights the importance of formal and informal networks of support and supervision which come with being amongst others. In Vancouver, studies suggest that SIS are associated with reduced harms, including overdose mortality (88 fewer overdose deaths per 100,000 person-years), 67% fewer ambulance calls for overdoses, and a decrease in HIV infections.²⁸ Public consumption supervised by peers, volunteers, and community support workers is likely to have a similar effect. A review of evidence highlights that such sites are successful when coupled with community support for the SIS, employment of peer-workers, and relaxed regulations within SIS. Further, these sites have benefits beyond harm reduction, including the reduction of internalized stigma, increased peer knowledge of how to support others in emergency situations outside of the SIS, increased social connection, and sharing of information about other support services.²⁹

Policy recommendations from EIDGE:

- 1) *Cease development of new provincial policy prohibiting or enabling the prohibition of the public use of unregulated substances, as such policies are extremely likely to harm the health and wellbeing of people who use drugs and do not address the structural determinants of public use.*
 - 2) *Ensure that people who use regulated and unregulated substances are provided with sufficient access to safe, peer-governed alternative spaces to gather*
- Illicit drinkers have already taken measures to create safer public spaces for people who use drugs in addition to the entire community in a non-punitive way. In March 2021, a Managed Alcohol Program, the ‘Drinkers Lounge’ Parklet was opened to run in conjunction with an existing project led by PHS. The outdoor public space, negotiated under a ‘stewardship’ contract with the City of Vancouver and furnished with picnic tables and barbeque, provides participants with a safe and consistent supply of beverage alcohol and food, as well as contact with housing and social support providers. Initial findings highlight the importance of this designated public space for combatting stigmatization. User “V”, noted that the patio makes members “feel good” and take pride

²⁸Ng, J., Sutherland, C. and Kolber, M. R. (2017) ‘Does evidence support supervised injection sites?’, *Canadian Family Physician*, 63(11), p. 866. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5685449/> (Accessed: 31 July 2023).

²⁹Yoon, G. H. *et al.* (2022) ‘Implementation and sustainability of safe consumption sites: a qualitative systematic review and thematic synthesis’, *Harm Reduction Journal*, 19(1), p. 73. doi: 10.1186/s12954-022-00655-z.



in their space and neighborhood, saying “I can try to bring more flowers for the patio.”³⁰ Another user suggested that the space may help to reduce the risk of alcohol related accident injuries, saying, “the parklet looks legit for members, and it appears to be safer for drinkers that may fall”. These responses indicate the importance of public space for the welfare and dignity of those who consume or use criminalized substances, and for the implementation of harm reduction measures such as MAPs.

- Ongoing discussions amongst the EIDGE research committee have also revealed the importance of the designated space and of non-punitive peer-regulation in the parklet, suggesting that these components make them feel safe and encourage others to use the space and join the managed alcohol program. Sanctioned public spaces could include the following features:
 1. *Harm-reduction programs for drinkers and/or PWUD, led by peers*
 2. *An area distinct and distanced from children’s amenities (such as designated ‘playgrounds’ in parks). Consultation with members suggested that this would provide safety and dignity to them as well as others.*
 3. *Non punitive peer-regulation*
 4. *Other amenities to encourage use - for example, the provision of a misting shower at the parklet has been a highlight for the space, sanitation infrastructure, food donations and celebration events*
- EIDGE members also highlight the overblown and misguided perception of danger attached to PWUD or alcohol occupying public space, which masks a reality where individuals are strongly connected to a wider community and generally respectful to each other and the wider population. Anecdotally, one member spoke of the code “kids on the block” used often on Hastings Street to indicate that children were passing by. Upon hearing this, people who use drugs know to stop and hide what they are doing. Generally speaking, people who use alcohol and other substances in public spaces in and around the DTES desire to do so in ways that are discrete, away from children or families, and non-disruptive to the wider community. When these things are not attainable in specific instances, policy and planning practices in the wider neighborhood are likely to have played a significant role. For example, illicit drinkers in Strathcona’s MacLean Park are now forced to gather near a children’s play area against their wishes after a number of benches across the park were removed because they were used by drinkers.

³⁰ <https://themainlander.com/2023/04/13/dtes-drinkers-parklet-challenges-decades-of-displacement/>



3) PSSG and MMHA are advised to review and consider harm reduction informed policy recommendations pertaining to public substance use included in EIDGE's 2021 Vancouver Alcohol Strategy, many of which address the structural determinants of public use.

- EIDGE's 2021 [Vancouver Alcohol Strategy](#) (VAS) supports and has informed many of the recommendations of this brief.³¹ In 2019, EIDGE began convening a community of practice, engaging peers who used beverage and non-beverage alcohol, shelter and harm reduction service providers, public health professionals, clinicians, and policymakers to improve system-level capacity to reduce alcohol-related harm. These discussions produced the VAS, a harm-reduction oriented policy framework for alcohol in the DTES including over 47 unique policy recommendations.³² The recommendations of the VAS include the following, which are also applicable to people who use drugs other than alcohol:

1.1 Suspend the enforcement of all provincial statutes, local bylaws and park regulations related to the use of alcohol in public spaces throughout the Downtown Eastside that criminalize illicit drinkers and further marginalized precariously housed residents who use alcohol

1.3 Establishing alternative pathways to the criminal justice system for illicit drinkers in Vancouver

2.1 Long term funding for new community spaces for drinkers

2.2 Financial and logistical support for existing community spaces to accommodate drinkers needs

2.3 Continued Support for Drinker-Friendly Parks and Parklets

2.4 Improved Access to Outdoor Amenities

2.5 Improved Access to Water, Hygiene and Sanitation Infrastructure

2.6 Creating a Network of Peer-Led, Safe Warming Sites and Sobering Centers in Downtown Vancouver

³¹ Bailey, A. *et al.* (2023)

³² <https://vandu.org/eidge/>



Conclusion

We would like to thank PSSG staff for considering EIDGE's comments and experiences throughout this process alongside a large coalition of drug user organizations in B.C. We hope that ministry staff will acknowledge the negative health impacts public use legislation will have on extremely marginalized people. EIDGE would like to urge the readers of this document to seriously consider their ability as public servants to pursue policy change that is aligned with public health best practices, particularly when they contradict the stated positions of cabinet.

Rest in power,

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