

Canadian HIV/AIDS Legal Network

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Canada's 2003 renewed drug strategy — an evidence-based review

About three-quarters of the resources of Canada's Drug Strategy are directed towards enforcement-related efforts, despite a lack of scientific evidence to support this approach and little, if any, evaluation of the impacts of this investment. In this feature article, Kora DeBeck, Evan Wood, Julio Montaner and Thomas Kerr report on a study that examined expenditures and activities related to the Drug Strategy as renewed in 2003. The article reviews the effectiveness of the Strategy in light of current scientific evidence pertaining to the reduction of drug-related harm. The authors find that although the Drug Strategy promised to remain accountable and regularly report its progress, information pertaining to the evaluation of the Strategy remains limited. Further, Canada's Drug Strategy has not seized the opportunity to promote a national standard of care that reduces the most deadly harms associated with illicit drug use. The authors conclude that from a scientific perspective, Canada's Drug Strategy should make it a priority to ensure that federal funds are directed towards cost-effective, evidence-based prevention, treatment and harm reduction services, and that these services should be available to all Canadians.

Introduction

Illicit drug use is associated with an array of health and social harms. In particular, the risk of transmitting HIV and other blood-borne infections through the sharing of needles remains a prominent area of concern.^{1,2} In Canada, as of 2004, 269 000 people reported using needles

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AIDS 2006 Supplement

At the XVI International AIDS Conference, held in August 2006 in Toronto, Canada, there were more presentations on human rights issues than at any previous International AIDS Conference.

This issue of the *HIV/AIDS Policy & Law Review* includes a special section containing the most relevant presentations on legal, ethical, and human rights issues from the conference and its many satellite meetings. See page 61.



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The Canadian HIV/AIDS Legal Network (www.aidslaw.ca) promotes the human rights of people living with and vulnerable to HIV AIDS, in Canada and internationally, through research, legal and policy analysis, education and community mobilization. The Legal Network is Canada's leading advocacy organization working on the legal and human rights issues raised by HIV/AIDS.

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Comments?

We would like to hear your views and opinions. Letters to the editor, responses to specific articles, and comments on the format of the Review are welcome and encouraged.

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Canada's 2003 renewed drug strategy — an evidence-based review

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to inject drugs.³ In the first six months of 2005, over 20 percent of all newly recorded HIV infections in Canada were associated with injection drug use; among newly infected women, injection drug use accounted for 38 percent of recorded infections.⁴ The health of people who inject drugs is also threatened by the risk of contracting hepatitis C, developing abscesses, endocarditis and other injection related infections, and overdosing.^{5, 6, 7, 8}

Drug-related harms also present a substantial economic burden for Canadians. In 2004, the medical costs of HIV infection among injection drug users in the city of Vancouver was estimated to be in excess of \$215 million.⁹ Nationally, direct health care costs attributable to illicit drug use were estimated to be over \$1.13 billion for 2002.¹⁰ In that same year, illicit drug use is believed to have contributed to over 215 000 sick days resulting in income loss of over \$21 million.¹¹

In the area of law enforcement, it is noteworthy that 23 percent of all criminal charges processed through Canadian courts in 2002 were attributed to illicit drugs. This was associated with a cost of \$330 million that year. Additionally, for 2002, policing costs and correctional service costs associated with illicit drugs were estimated to be \$1.43 billion and \$573 million respectively.¹² In spite of these efforts, in 2002 the Canadian Addiction Survey found that illicit drug consumption rates were higher than ever previously recorded. In 1994, 28.5 percent of Canadians

reported having consumed illicit drugs in their life; by 2004, that figure had jumped to 45 percent.¹³

In addition, drug law enforcement has contributed to incarceration rates in Canada that exceed those of most Western European Countries.¹⁴ Aboriginal communities have been particularly affected; rates of HIV infection among Aboriginal drug users have been shown to be elevated in comparison to non-Aboriginal persons.¹⁵ Recent studies have demonstrated that incarceration of injection drug users is independently associated with both syringe sharing¹⁶ and acquisition of HIV.¹⁷ In fact, estimates suggest that approximately 20 percent of HIV infections among injection drug users in Vancouver have been acquired in prison.¹⁸

Drug policy in Canada

Through the legal prohibition of psychoactive substances, Canada's Drug Strategy has attempted to address problems related to drug use by reducing the demand for and the supply of illicit drugs. An enforcement-based approach has dominated Canada's drug policies since the passing, in 1908, of the *Opium Act*, which made it illegal to import, manufacture or sell opium. Efforts to control and regulate psychoactive substances have subsequently relied on legislation — specifically, the *Opium and Drug Act*, the *Narcotic Control Act*, the *Food and Drug Act* and, currently, the *Controlled Drugs and Substances Act* — to ban the production, distribution and use of illicit drugs.

Canada's first federal drug strategy, introduced in 1987 under the title "National Drug Strategy," relied heavily on enforcement-based legislation, thus criminalizing people who use drugs and effectively resulting in the criminal justice system assuming a major role in dealing with illicit substance use. Of note, however, is the fact that the National Drug Strategy acknowledged substance use as primarily a health issue.

A substantial proportion of the funds previously directed towards demand reduction were reallocated to supply reduction.

In 1992, the National Drug Strategy became "Canada's Drug Strategy," and its five year budget was increased from \$210 to \$270 million. Of note, a substantial proportion of the funds previously directed towards demand reduction were reallocated to supply reduction efforts.¹⁹ Also, the National Strategy to Reduce Impaired Driving was merged with Canada's Drug Strategy, and a Drug Strategy Secretariat was introduced as a coordinating body.

In 1997, Canada's Drug Strategy was renewed with no increase in funding. In 2001 and 2002, concerns

regarding the direction and effectiveness of Canada's Drug Strategy were repeatedly stated throughout a number of high profile government reports including the 2001 Report of the Auditor General of Canada, the Report of the Senate Special Committee on Illegal Drugs (2002) and the Report of the Special [House of Commons] Committee on Non-Medical Use of Drugs (2002).

In 2001, the Auditor General reported that the federal government had failed to effectively lead and coordinate a national approach to addressing problematic substance use. The Auditor General found that the government lacked basic information pertaining to the progress of its activities, and did not even know what the provinces, territories and municipalities were spending on supply and demand reduction initiatives.²⁰ An analysis of recorded expenditures that were available revealed that 95 percent of federal funds related to illicit drugs were directed towards supply reduction efforts.²¹ The Auditor General also reported being unable to locate information on the extent of Canada's drug abuse problems.

Following the Auditor General's report, the Special Committee on the Non-Medical Use of Drugs echoed the concerns regarding the organization and structure of Canada's Drug Strategy. After an extensive review of Canada's Drug Strategy, the Special Committee recommended that "a renewed Strategy include clear, measurable goals and objectives as well as a process for evaluation and accountability."²²

The Report of the Senate Special Committee on Illegal Drugs, released the same year, presented similar critiques. The Senate Committee stated: "One of the obvious weak-

nesses of the [drug strategy] is its inability — inevitable in the absence of clear indicators — to provide a comprehensive evaluation of its success in meeting its objectives."²³ After considering many of the harmful effects of enforcement-based policies, the Senate Committee advised the Canadian government to move towards a regulatory approach for controlling cannabis. The report concluded that enforcing cannabis prohibition had been unsuccessful at reducing cannabis consumption or problematic use and that "the continued prohibition of cannabis jeopardizes the health and well-being of Canadians."²⁴

As a result, when Canada's Drug Strategy was renewed in 2003, special attention was given to developing leadership capacities; increasing research, monitoring and reporting capabilities; and supporting the modernization of drug legislation and policy.

The purpose of our analysis is to objectively review Canada's Drug Strategy as renewed in 2003. Specifically, we report on expenditures and activities related to the renewed Drug Strategy. Further, we evaluate these activities and expenditures in light of current scientific evidence pertaining to the reduction of drug-related harm.

Methodology

Information concerning the frameworks, activities, and expenditures associated with Canada's Drug Strategy were first obtained through a comprehensive review of the Government of Canada's website. Relevant search terms used included "drug strategy," "illicit drugs" and "drug policy." This was followed by a review of Health Canada's Drug

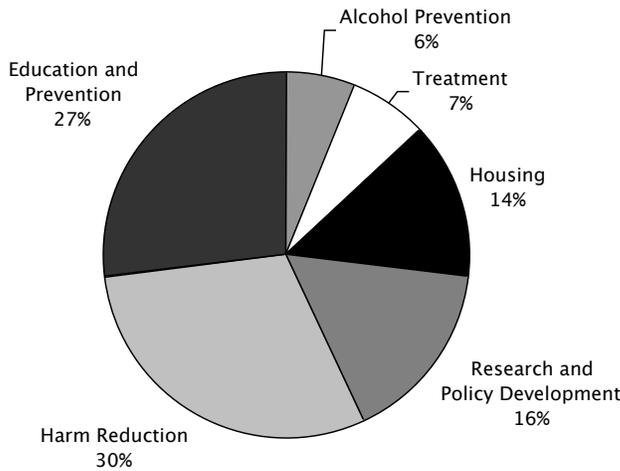
Strategy website (www.hc-sc.gc.ca/ahc-asc/activit/strateg/drugs-drogues/index_e.html) and relevant financial reports from the Treasury Board of Canada (www.tbs-sct.gc.ca/common/us-nous_e.asp). Then, individuals responsible for evaluating the performance of Canada Drug Strategy were contacted in writing and asked to provide relevant evaluation reports and information related to projected expenditures.

Additional information pertaining to actual Drug Strategy expenditures related to the Community Initiatives Fund was obtained through an Access to Information Request. A thorough review of all projects funded through Community Initiatives was then undertaken, and allocated project funds were categorized according to whether the project's main target was related to the prevention of alcohol-related harm, addiction treatment, education and prevention, housing, research and development, or harm reduction. Finally, expenditures pertaining to illicit drug treatment programs were calculated using the formula employed previously by the federal Auditor General. Specifically, the illicit drug portion of treatment and rehabilitation funding was estimated to be 45 percent of total treatment expenditures.²⁵

Canada's Drug Strategy (2003)

The stated central aim of Canada's Drug Strategy (2003) is to "ensure that Canadians can live in a society increasingly free of the harms associated with problematic substance use."²⁶ The Drug Strategy further states that with a balanced approach to reduce both the demand for and the supply of drugs through prevention, treatment, enforcement and harm reduction initiatives,

Figure 1 – Breakdown of Community Initiatives Fund for 2004-2005 by Category



Source: Records released under the Access to Information Act (Request #A-2006-00249/ma).

the Strategy will contribute to a “healthier, safer Canada.”²⁷ The Drug Strategy, as stated in its evaluation framework, aims to address past criticisms relating to: deficient federal leadership and coordination, lack of harmonization across and within levels of government around research, knowledge and evaluation frameworks, under-investment in demand reduction initiatives, and outdated legal and policy approaches.²⁸

Thus, Drug Strategy investments were concentrated in four specific areas. The first area pertained to initiatives to enhance the federal government’s leadership and coordination capabilities. A total of \$2.7 million was allocated to Health Canada for 2003-2004 to develop a Drug Strategy Secretariat, and \$1.3 million was delegated for a biennial conference intended to increase coordination and clarify national agendas, priorities and goals.²⁹

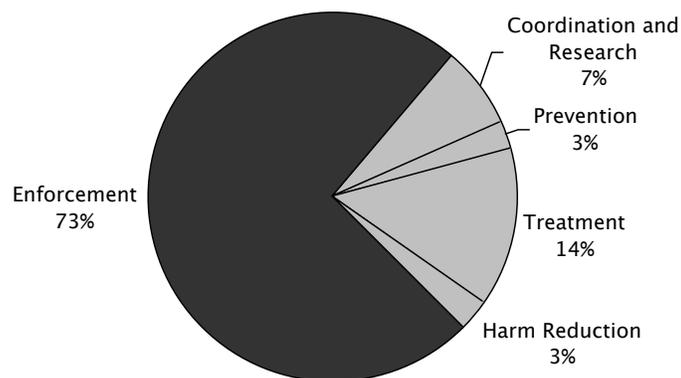
New monies were also directed towards research and monitoring substance abuse problems in Canada, specifically through the Canadian Centre on Substance Abuse. To sup-

port demand reduction initiatives, the renewed Strategy placed emphasis on developing partnerships and interventions that supported community-based education and prevention programs. This was largely accomplished through the Community Initiatives Fund, which distributed just under \$3 million in the 2004-2005 fiscal year to facilitate commu-

nity based approaches to substance abuse issues (see Figure 1 for a breakdown of Community Initiatives Fund expenditures by category).³⁰

Through the Drug Strategy, the government transferred \$13 million to the provinces in 2004-2005 for alcohol and drug treatment and rehabilitation programs.³¹ According to the Horizontal Logic Model in the Horizontal Results-Based Management and Accountability Framework for Canada’s Drug Strategy, in 2004-2005 a separate fund of around \$72 million was directed to First Nations alcohol and drug abuse programs, about \$3 million to Drug Treatment Courts, over \$5 million to Drug Awareness Services, including Drug Abuse Resistance Education (DARE) prevention programs, and upwards of \$18 million to alcohol and drug abuse services for federal inmates, of which \$8.8 million was for methadone maintenance treatment programs.³² Lastly, in 2004-2005, \$1.4 million was invested towards modernizing

Figure 2 – Illicit Drug Portion of Actual Federal Drug Strategy Expenditures for 2004-2005 by Category



Source: Harm reduction expenditures calculated from documents provided by the Government of Canada’s *Horizontal Results-Based Management and Accountability Framework for Canada’s Drug Strategy: Final Report*, 19 October 2004; and through records released under the Access to Information Act (Request #A-2006-00249/ma July 24, 2006). Remaining calculations derived from *Plans, Spending and Results for 2004/2005* (Treasury Board of Canada Secretariat).

legislation and policy, including making amendments to previous precursor control measures.³³

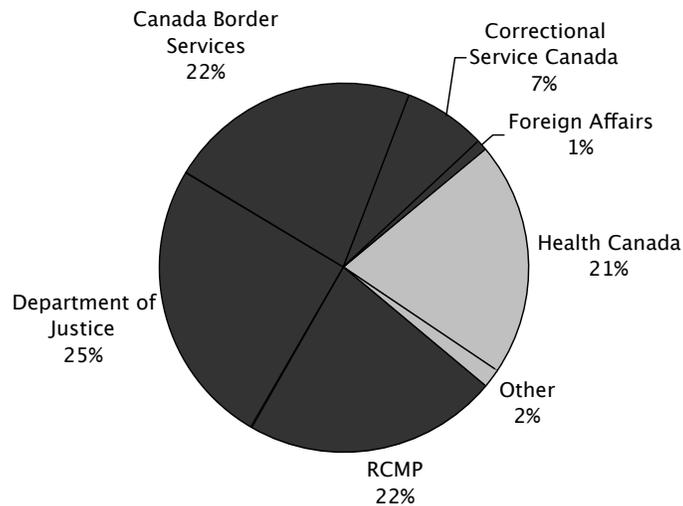
Treasury Board accounting documents indicate that of the \$368 million spent in 2004-2005 on addressing illicit drugs, 73 percent (\$271 million) was targeted towards enforcement initiatives (see Figure 2). These federally funded supply reduction measures include: border control programs (over \$80 million), RCMP drug-related investigations (approximately \$75 million), drug analysis services (approximately \$8 million) and federal prosecution services (approximately \$90 million).^{34, 35} The remaining 26 percent (\$97 million) was earmarked for coordinating and monitoring the renewed strategy, as well as generating research and knowledge surrounding substance use (seven percent, \$26 million); and, finally, prevention (2.6 percent, \$10 million), treatment (14 percent, \$51 million) and harm reduction related programs (2.6 percent, 10 million).³⁶

Further analysis of the distribution of the illicit drugs portion of Drug Strategy funds for 2004-2005 reveals that enforcement-related departments received a total of 77 percent (\$286.2 million) (see Figure 3.). Specifically, the RCMP received 22 percent (\$82 million), the Department of Justice 25 percent (\$92.4 million), the Canadian Border Services 22 percent (\$82 million), Correctional Services Canada seven percent (\$27 million) and Foreign Affairs one percent (\$2.9 million).³⁷

Discussion

Our review of the available evidence demonstrates that the funding structure of Canada's Drug Strategy (2003) continues to concentrate investments in enforcement related

Figure 3 – Illicit Drug Portion of Actual Federal Drug Strategy Expenditures for 2004-2005 by Department or Agency



Source: *Plans, Spending and Results for 2004/2005* (Treasury Board of Canada Secretariat).

activities. Although the proportion of funding allocated to enforcement-based initiatives has decreased from 95 percent in 2001 to 73 percent in 2005, Canada's Drug Strategy has been slow to respond to the growing body of scientific evidence indicating that many of the harms associated with psychoactive drugs are due to enforcement based policies and practices.^{38, 39, 40, 41, 42, 43, 44, 45, 46} For example, in terms of practices, intensified police enforcement strategies have been found to destabilize drugs markets and disperse concentrated drug scenes into surrounding areas, which separates drug users from health and prevention services, including needle exchanges and treatment programs.^{47, 48}

Furthermore, the effects of destabilized markets linked to intensified police enforcement include: heightened levels of violence, increased theft and property crime and, among some users, a shift from smoking to injecting illicit substances.⁴⁹ High-risk injecting

behaviour has also been repeatedly linked to enforcement practices.^{50, 51, 52, 53} When police pressure is intensified during supply reduction efforts, some drug users report being reluctant to access or carry clean injecting equipment.^{54, 55} When under pressure, injectors are more likely to skip important safety steps in the injection processes.⁵⁶ Specifically, injectors have been found to: be less likely to take the time to measure their dosage or to "taste" their drugs for purity before injecting,^{57, 58} are also less likely to clean the injection site prior to injecting,⁵⁹ and are more likely to damage their veins and cause other injection-related soft tissue damage.⁶⁰

However, while some evidence of health promoting police policies exists, as in Vancouver where police have implemented evidence-based overdose response policies⁶¹ and have been known to actively refer drug users to Vancouver's supervised injection site, it is unclear whether the current federal Drug Strategy is

supporting such innovative initiatives or police-public health partnerships.

Likewise, the ongoing heavy investment in supply reduction efforts runs counter to the large body of evidence indicating that such approaches have been consistently ineffective in reducing illicit drug supply, as well as the price and purity of illicit drugs. By way of example, a 2001 World Customs Organization report found that even post-September 11th, security measures have had a “negligible” impact on the influx of illicit drugs into the U.S.;⁶² and a recent Canadian study demonstrated that the largest heroin seizure in Canadian history had no impact on the use, price and purity of heroin locally.⁶³ Furthermore, instead of guiding illicit drug users towards health and treatment services, enforcement-based practices routinely result in an increased number of drug users entering correctional facilities, despite evidence indicating that incarceration is associated with HIV infection among injection drug users.^{64, 65, 66} In fact, as noted above, a recent external evaluation of HIV transmission among injection drug users in Vancouver concluded that 20 percent of HIV infections among Vancouver users have been acquired in prison.⁶⁷

It is now widely understood that abstaining from drugs is not a realistic goal for many individuals.⁶⁸ The World Health Organization (WHO) affirms that, “[a]n exclusive focus on achieving a drug free state as an immediate goal for all patients may jeopardize the achievement of other important objectives such as HIV prevention.”⁶⁹ Indeed, many low-threshold treatment and harm reduction initiatives that provide services to those who cannot or

will not abstain from illicit drug use have historically been undermined by enforcement-based policies and practices.^{70, 71} Further, there are opportunity costs associated with such heavy investment in enforcement, as many low threshold programs remain under-funded and not available to high-risk drug injecting populations despite their established health benefits.^{72, 73}

The Auditor General, Senate Committee and Special Committee all identified a need for comprehensive public reporting on the performance of Canada’s Drug Strategy. When the renewed Drug Strategy was put in place in 2003, it promised to use “measurable indicators of performance and to report every two years to Parliament and Canadians on the progress made by Canada’s Drug Strategy.”⁷⁴ However, no reports or evaluations of the renewed Strategy have so far been made available and, overall, there is a lack of accounting for the effectiveness of invested resources.⁷⁵ For instance, the school-based prevention program, DARE, is one of the primary recipients of Drug Awareness Service funding.⁷⁶ In 2004-2005, DARE was implemented in over 1300 schools reaching over 50 000 students across Canada,⁷⁷ despite the fact that DARE has been shown to be ineffective.^{78, 79, 80, 81, 82}

In fact, a document published by Health Canada for Canada’s Drug Strategy in 2001 reported that “studies published in peer reviewed journals, including a 5-year prospective study and a meta-analysis of D.A.R.E outcome evolutions, have been consistent in showing that the program does not prevent or delay drug use, nor does it affect future intentions to use drugs.”⁸³ This document, entitled “Preventing Substance

Use Problems Among Young People: A Compendium of Best Practices,” calls for curriculum development that exhibits interactive methods of instruction and conveys accurate and balanced information on substances — features which the DARE program has not been found to effectively incorporate.⁸⁴ From a scientific perspective, instead of continuing to fund DARE programs, Canada’s Drug Strategy should be investing in more effective education prevention programming. However, in 2004-2005, Drug Strategy funds were used to re-certify 550 existing DARE officers and to recruit and train 150 additional officers.⁸⁵

Similarly, \$3.28 million in the 2004-2005 fiscal year were allocated to drug treatment courts⁸⁶ despite the lack of solid scientific evidence in support of this approach.⁸⁷ Furthermore, Canada’s Drug Strategy continues to promote and fund drug treatment courts over chronically under-funded voluntary treatment programs that have established success rates.^{88, 89, 90}

Another critical shortcoming of Canada’s Drug Strategy relates to the lack of decisive action to ensure that vital public health services exist across the country. Because health care in Canada is a provincial responsibility, the majority of prevention, treatment and harm reduction measures have been left to provincial authorities to attend. However, no federal body has been monitoring how or if provinces are providing these services.⁹¹ For example, in British Columbia, needle exchange programs are available in only 14 cities and communities.⁹² This situation continues despite rigorous evaluations reporting that needle exchange services effectively reduce the risks

of HIV and hepatitis C transmission among injection drug users.^{93, 94}

According to the WHO, “[t]he provision of access to sterile injection equipment for injecting drug users and the encouragement of its use are essential components of HIV/AIDS prevention programs, and should be seen as a part of overall comprehensive strategies to reduce the demand for illicit drugs.”⁹⁵ Canada’s Drug Strategy’s stated overarching goal is to reduce harms associated with substance use, yet the Strategy makes no provisions to ensure the availability of key services, such as needle exchange, on a country-wide basis.

The review of Drug Strategy expenditures to date also points to several important missed opportunities to encourage and effectively support the development of new, innovative public health services that could further contribute to the reduction of harms associated with substance use. Under Canada’s current Drug Strategy, innovative public health interventions, such as Vancouver’s supervised injection site (InSite) and the North American Opiate Medication Initiative (NAOMI), are limited to small pilot studies, and their operational requirements are vastly different from other drug-related programs.

For Vancouver’s injection site, these requirements included the condition that the local police department approve of the initiative, despite its status as a medical public health intervention. Interestingly, InSite and NAOMI are subjected to an extraordinarily high standard of evaluation, while projects such as the school-based prevention program DARE, run by the RCMP, continue to receive funds through Canada’s Drug Strategy despite a lack of evidence

supporting their efficacy. Conversely, the formal scientific evaluation of Vancouver’s injection site has objectively documented a significant range of positive public order and public health outcomes.^{96, 97, 98, 99, 100, 101}

Yet, even with established findings, including increased uptake into detoxification programs among those who use the facility¹⁰² and reductions in needle sharing,¹⁰³ and overall public order improvements in the surrounding area,¹⁰⁴ the federal government recently refused to extend the operation of the site for an additional three years beyond its initial pilot phase, claiming that there is a lack of understanding surrounding the impact of the facility.¹⁰⁵ (See “Supervised injection facility granted time-limited extension” in the Canadian Developments section of this issue.) It has also put a halt to the establishment of new injection sites. This decision by the federal government — and the federal Health Minister’s comments in September 2006 that “[r]ight now the only thing the research to date has proven conclusively is drug addicts need more help to get off drugs”¹⁰⁶ — demonstrates a limited understanding of the scientific evidence derived from the evaluation of the injection site.

Conclusions

Although Canada’s Drug Strategy was renewed in 2003 following criticisms regarding spending, activities, leadership and a lack of appropriate monitoring and evaluation, many of the problems of the past remain. Currently, through Canada’s Drug Strategy, the federal government continues to invest heavily in policies and practices that have repeatedly been shown in the scientific literature to be ineffective or harm-

ful. Specifically, while the stated goal of the Canada’s Drug Strategy is to reduce harm, evidence obtained through this analysis indicates that the overwhelming emphasis continues to be on conventional enforcement-based approaches which are costly and often exacerbate, rather than reduce, drug-related harms. Further, Canada’s Drug Strategy has not seized the opportunity to promote a national standard of care that reduces the most deadly harms associated with illicit drug use.

With regard to the distribution of funding, the findings of this analysis suggests that the current federal spending on harm reduction initiatives which target HIV/AIDS and other serious harms is insignificant compared to the funds devoted to treatment and, particularly, enforcement. This stands in stark contrast to recent comments made by various stakeholders suggesting that there has been an over-investment in harm reduction programming.¹⁰⁷

Our results also indicate that the Drug Strategy continues to suffer from a lack of appropriate evaluation. Despite promises of regular reporting, information pertaining to evaluation of the Drug Strategy is limited, making it difficult to assess the return on investments made. The exception is the areas in which the Drug Strategy has promoted innovation in harm reduction, such as the pilot study of Vancouver’s safer injection facility, which has produced a number of published scientific studies. However, it appears that while controversial interventions supported through the Drug Strategy are being held to an extraordinary standard of proof, interventions receiving the greatest proportion of funding remain under-evaluated. Canada’s Drug Strategy has so far

also failed to provide national standards of care for Canadians affected by substance use issues.

In summary, our results suggest there remain challenges associated with the federal Drug Strategy that pertain to spending, activities, leadership, and monitoring and evaluation. A greater concern relates to the continued allocations of funds to ineffective programs. Perhaps most importantly, if Canada wants to fulfill its mission of reducing the most severe harms associated with illicit drug use, steps must now be taken to implement a truly evidence-based national drug strategy.

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Alcohol and Other Drugs: Prevalence of Use and Related Harms: Detailed Report. Canadian Centre on Substance Abuse, 2005.

⁶ European Monitoring Centre for Drugs and Drug Addiction, Annual Report: The State of the Drugs Problem in Europe, 2005. Available via <http://ar2005.emcdda.europa.eu/en/home-en.html>.

⁷ J.S. Millar, HIV, Hepatitis C, and Injection Drug Use in British Columbia: Pay Now or Pay Later? British Columbia Provincial Health Officer, June 1998.

⁸ J.V. Cain, Report of the Task Force into Illicit Narcotic Overdose Deaths in British Columbia. Province of British Columbia: Office of the Chief Coroner, 1994.

⁹ L.M. Kuyper et al., "The cost of inaction on HIV transmission among injection drug users and the potential for effective interventions," *Journal of Urban Health* 81, 4 (2004): 655–660.

¹⁰ J. Rehm et al.

¹¹ Ibid.

¹² Ibid.

¹³ E Adlaf et al.

¹⁴ Correctional Service Canada, Speakers Binder, Section 7 Statistics. Available via www.csc-scc.gc.ca/text/pblct/guideorateur/sec7_e.shtml.

¹⁵ K.J. Craib et al., "Risk factors for elevated HIV incidence among Aboriginal injection drug users in Vancouver," *Canadian Medical Association Journal* 168, 1 (2003): 19–24.

¹⁶ E. Wood et al., "Recent incarceration independently associated with syringe sharing by injection drug users," *Public Health Reporter* 120, 2 (2005): 150–156

¹⁷ M. W. Tyndall et al., "Intensive injection cocaine use as the primary risk factor in the Vancouver HIV-1 epidemic," *AIDS* 17, 6 (2003): 887–893.

¹⁸ H. Hagan, "The relevance of attributable risk measures to HIV prevention planning," *AIDS* 17, 6 (2003): 911–913.

¹⁹ Special Committee on Non-Medical Use of Drugs, *Policy for the New Millennium: Working Together to Redefine Canada's Drug Strategy: Report of the Special Committee on Non-Medical Use of Drugs.* House of Commons, Government of Canada, December 2002.

²⁰ Office of the Auditor General of Canada, *Report of the Auditor General of Canada 2001, Chapter 11 Illicit Drugs: The Federal Government's Role*, 2001.

²¹ Ibid.

²² Special Committee on Non-Medical Use of Drugs.

²³ Senate Special Committee on Illegal Drugs, *Cannabis: Report of the Senate Special Committee on Illegal Drugs.* Abridged Version ed. University of Toronto, 2003.

²⁴ Ibid.

²⁵ Office of the Auditor General of Canada.

²⁶ Government of Canada, *Canada's Drug Strategy: What is it?* Cat. H 128-1/05-443-1, 2005.

²⁷ Ibid.

²⁸ Government of Canada, *Horizontal Risk-Based Audit Framework: Strategic Risk Management of Canada's Drug Strategy Renewed. Final Report.* Document provided by Office of Drug Strategy Secretariat, 2004. [On file with authors.]

²⁹ Government of Canada, *Horizontal Results-Based Management and Accountability Framework for Canada's*

Drug Strategy. Final Report. Document provided by Office of Drug Strategy Secretariat, 2004. [On file with authors.]

³⁰ Health Canada, *Records Released Under the Access to Information Act.* Request #A-2006-00249/ma. Access to Information and Privacy Division, 2006. [On file with authors.]

³¹ Ibid.

³² Government of Canada, *Horizontal Results-Based Management and Accountability Framework for Canada's Drug Strategy. Final Report.*

³³ Treasury Board of Canada Secretariat. *Canada's Drug Strategy: Plans, Spending and Results 2004/2005.* Government of Canada [database online]. Available from http://www.tbs-sct.gc.ca/proxy.lib.sfu.ca/rma/epi-ibdrp/hrbd/rhbd/cds-sca/2004-2005-bd_e.htm#s7.

³⁴ Government of Canada, *Horizontal Results-Based Management and Accountability Framework for Canada's Drug Strategy. Final Report.*

³⁵ Treasury Board of Canada Secretariat.

³⁶ Source for calculations: *Plans, Spending and Results for 2004-2005* (Treasury Board of Canada Secretariat), [available online]; *Horizontal Results-Based Management and Accountability Framework for Canada's Drug Strategy. Final Report* (Government of Canada) [available on file with authors]; and records provided by Health Canada released under the Access to Information Act request [also available on file with authors]. For this analysis, the illicit drug portion of treatment and rehabilitation funding was estimated to be 45 percent of total treatment expenditures; this was based on the Auditor General's 2001 assessment that the illicit drug portion of alcohol and drug treatment funding was 45 percent of total treatment expenditures.

³⁷ Ibid.

³⁸ E. Wood et al., "The impact of a police presence on access to needle exchange programs," *Journal of Acquired Immune Deficiency Syndrome* 34, 1 (2003): 116–118.

³⁹ D. Dixon and P. Coffin, "Zero tolerance policing of illegal drug markets," *Drug and Alcohol Review* 18: 477–486.

⁴⁰ J. Csete and J. Cohen, "Abusing the user: police misconduct, harm reduction and HIV/AIDS in Vancouver," *Human Rights Watch* 15, 2B (2003): 1–28.

⁴¹ H. Cooper et al., "Characterizing perceived police violence: implications for public health," *American Journal of Public Health* 94, 7 (2004): 1109–1118.

⁴² T. Kerr, W. Small and E. Wood, "The public health and social impacts of drug market enforcement: a review of the evidence," *International Journal of Drug Policy* 16, 4 (2005): 210–220.

⁴³ J. Fitzgerald, "Policing as public health menace in the policy struggles over public injecting," *International Journal of Drug Policy* 16, 4 (2005): 203–206.

⁴⁴ S. Friedman et al., "Relationship of deterrence and law enforcement to drug-related harms among drug injectors in US metropolitan areas," *AIDS* 20, 1 (2006): 93–99.

⁴⁵ H. Cooper, D. Wypij and N. Krieger, "Police drug crackdowns and hospitalization rates for illicit-injection-related infections in New York City," *International Journal of Drug Policy* 16, 3 (2005): 150–160.

⁴⁶ D. Dixon and L. Maher, "Anh Hai: policing, culture and social exclusion in a street heroin market," *Policing & Society* 12, 2 (2002): 93–110.

¹ Public Health Agency of Canada, *HIV and AIDS in Canada: Surveillance Report to June 30, 2005.* Surveillance and Risk Assessment Division, Centre for Infectious Disease Prevention and Control, 2005.

² J. Buxton, *Vancouver Drug Use Epidemiology.* Canadian Community Epidemiology Network on Drug Use, 2005.

³ J. Rehm et al., *The Costs of Substance Abuse in Canada 2002.* Canadian Centre on Substance Abuse, March 2006.

⁴ Public Health Agency of Canada.

⁵ E. Adlaf, P. Begin and E. Sawka, *2004 Canadian Addiction Survey (CAS): A National Survey of Canadians' Use of*

- ⁴⁷ E. Wood et al, "Displacement of Canada's largest public illicit drug market in response to a police crackdown," *Canadian Medical Association Journal* 170 (2004): 1551–1556.
- ⁴⁸ L. Maher and D. Dixon, "Policing and public health: law enforcement and harm minimization in a street-level drug market," *British Journal of Criminology* 39, 4 (1999): 488–512.
- ⁴⁹ Ibid.
- ⁵⁰ Ibid.
- ⁵¹ T. Kerr, W. Small and E. Wood.
- ⁵² W. Small et al, "Impacts of intensified police activity on injection drug users: evidence from an ethnographic investigation," *International Journal of Drug Policy* 17, 2 (2006): 85–95.
- ⁵³ C. Aitken et al, "The impact of a police crackdown on a street drug scene: evidence from the street," *International Journal of Drug Policy* 13 (2002): 189–198.
- ⁵⁴ L. Maher and D. Dixon.
- ⁵⁵ K. Blankenship and S. Koester, "Criminal law, policing policy, and HIV risk in female street sex workers and injection drug users," *Journal of Law, Medicine and Ethics* 30, 4 (2002): 548–559.
- ⁵⁶ H. Cooper et al, "The impact of a police drug crackdown on drug injectors' ability to practice harm reduction: a qualitative study," *Social Science & Medicine* 61, 3 (2005): 673–684.
- ⁵⁷ L. Maher and D. Dixon.
- ⁵⁸ W. Small et al.
- ⁵⁹ H. Cooper et al.
- ⁶⁰ L. Maher and D. Dixon.
- ⁶¹ D. Wiebe, Inspector 1162, *Vancouver Police Department Planning and Research Section Policy Report*, Vol. 0648. Vancouver Police Department, 2006.
- ⁶² World Customs Organization. Annual Report 2001. Available via www.wcoomd.org/ie/En/Contact/Contact.html.
- ⁶³ E. Wood et al, "Impact of supply-side policies for control of illicit drugs in the face of the AIDS and overdose epidemics: investigation of a massive heroin seizure," *Canadian Medical Association Journal* 168, 2 (2003): 165–169.
- ⁶⁴ W. Small et al.
- ⁶⁵ E. Wood, J. Montaner and T. Kerr, "HIV risks in incarcerated injection-drug users," *The Lancet* 366, 9500 (2005): 1834–1835.
- ⁶⁶ E. Wood et al, "Recent incarceration independently associated with syringe sharing by injection drug users."
- ⁶⁷ H. Hagan.
- ⁶⁸ Health Officers Council of British Columbia, *A Public Health Approach to Drug Control in Canada*. Discussion Paper, October 2005.
- ⁶⁹ World Health Organization, UNAIDS and UN Office of Drug Control, *WHO/UNODC/UNAIDS Position Paper: Substitution Maintenance Therapy in the Management of Opioid Dependence and HIV/AIDS Prevention*, 2004.
- ⁷⁰ E. Wood et al, "The impact of a police presence on access to needle exchange programs."
- ⁷¹ W. Small et al.
- ⁷² World Health Organization, UNAIDS, and UN Office on Drugs and Crime, *Policy Brief: Reduction of HIV Transmission Through Drug-Dependence Treatment*, 2004.
- ⁷³ World Health Organization, UNAIDS, and UN Office on Drugs and Crime, *Policy Brief: Reduction of HIV Transmission Through Outreach*, 2004.
- ⁷⁴ Government of Canada, *Canada's Drug Strategy; Accountability and Reporting*. Cat. H128-1/05-443-4, 2005.
- ⁷⁵ Evaluation Analyst, Office of Drug Strategy Secretariat, Health Canada, personal correspondence [with K. DeBeck], 17 May 2006.
- ⁷⁶ Government of Canada, *Horizontal Results-Based Management and Accountability Framework for Canada's Drug Strategy. Final Report*.
- ⁷⁷ Treasury Board of Canada Secretariat.
- ⁷⁸ H. Becker, M. Agopian and S. Yeh, "Impact evaluation of drug abuse resistance education (DARE)," *Journal of Drug Education* 22, 4: 283–291.
- ⁷⁹ R. Clayton, A. Cattarello and B. Johnstone, "The effectiveness of drug abuse resistance education (Project DARE): 5-year follow-up results," *Preventive Medicine* 25, 3 (1996): 307–318.
- ⁸⁰ S. Ennett et al, "How effective is drug abuse resistance education? A meta-analysis of Project DARE outcome evaluations," *American Journal of Public Health* 84, 9 (1994): 1394–1401.
- ⁸¹ D. Rosenbaum et al, "Cops in the classroom: a longitudinal evaluation of drug abuse resistance education (DARE)," *Journal of Research in Crime and Delinquency* 31, 1 (1994): 3–31.
- ⁸² D. Rosenbaum and G. Hanson, "Assessing the effects of school-based drug education: a six-year multilevel analysis of Project D.A.R.E.," *Journal of Research in Crime and Delinquency* 35, 4 (1998): 381–412.
- ⁸³ G. Roberts et al, *Preventing Substance Use Problems Among Young People: A compendium of Best Practices*. Government of Canada, 2001.
- ⁸⁴ S. Ennett et al.
- ⁸⁵ Treasury Board of Canada Secretariat.
- ⁸⁶ Government of Canada, *Horizontal Results-Based Management and Accountability Framework for Canada's Drug Strategy. Final Report*.
- ⁸⁷ J. Anderson, "What to do about 'much ado' about drug courts?," *International Journal of Drug Policy* 12, 5–6 (2001): 469–475.
- ⁸⁸ E. Wood et al, "Inability to access addiction treatment and risk of HIV infection among injection drug users," *Journal of Acquired Immune Deficiency Syndrome* 36, 2 (2004): 750–754.
- ⁸⁹ D. MacPherson, *A Framework for Action — A Four-Pillar Approach to Drug Problems in Vancouver*, April Revised Edition ed. Drug Policy Program, 2001.
- ⁹⁰ J.S. Millar.
- ⁹¹ Programs Officer, Office of Demand Reduction, Health Canada, personal correspondence [with K. DeBeck], 22 June 2006.
- ⁹² Government of British Columbia, Ministry of Health, *HIV/AIDS and Problematic Substance Use: Needle Exchanges*, 21 July 2005. Available via www.healthservices.gov.bc.ca/hiv/needle.html.
- ⁹³ World Health Organization, UNAIDS and UN Office of Drug Control, *WHO/UNODC/UNAIDS Position Paper: Substitution Maintenance Therapy in the Management of Opioid Dependence and HIV/AIDS Prevention*.
- ⁹⁴ World Health Organization, UNAIDS, and UN Drug Control Office, *Policy Brief: Provision of Sterile Injecting Equipment to Reduce HIV Transmission*, 2004.
- ⁹⁵ Ibid.
- ⁹⁶ M. Tyndall et al, "Attendance, drug use patterns, and referrals made from North America's first supervised injection facility," *Drug and Alcohol Dependence* 83, 3 (2006): 193–198.
- ⁹⁷ E. Wood et al, "Service uptake and characteristics of injection drug users utilizing North America's first medically supervised safer injecting facility," *American Journal of Public Health* 96, 5 (2006): 770–773.
- ⁹⁸ T. Kerr et al, "Drug-related overdoses within a medically supervised safer injection facility," *International Journal of Drug Policy*, in press, corrected proof (2006).
- ⁹⁹ E. Wood et al, "Safer injecting education for HIV prevention within a medically supervised safer injecting facility," *International Journal of Drug Policy* 16, 4 (2005): 281–284.
- ¹⁰⁰ T. Kerr et al, "Impact of a medically supervised safer injection facility on community drug use patterns: a before and after study," *British Medical Journal* 332, 7535 (2006): 220.
- ¹⁰¹ E. Wood et al, "Do supervised injecting facilities attract higher-risk injection drug users?," *American Journal of Preventive Medicine* 29, 2 (2005): 126–130.
- ¹⁰² E. Wood et al, "Attendance at supervised injecting facilities and use of detoxification services," *New England Journal of Medicine* 354 (2006): 2512–2514.
- ¹⁰³ T. Kerr, et al, "Safer injection facility use and syringe sharing in injection drug users," *The Lancet* 366, 9482 (2005): 316–318.
- ¹⁰⁴ E. Wood et al, "Changes in public order after the opening of a medically supervised safer injecting facility for illicit injection drug users," *Canadian Medical Association Journal* 171 (2004): 731–734.
- ¹⁰⁵ Health Canada, "No new injection sites for addicts until questions answered says Minister Clement," news release, Ottawa, 1 September 2006.
- ¹⁰⁶ Ibid.
- ¹⁰⁷ B. Cleverley, "Tories say no decision on drug injection site until end of 2007," *CanWest News Service*, 2 September 2006. Available at www.canada.com/topics/news/politics/story.html?id=9a8e3301-ee1e-47ab-b52b-351d6537a474&k=12244.