To: **The Honourable Jean-Yves Duclos**
Minister of Health
hcminister.ministresc@hc-sc.gc.ca

The Honourable Carolyn Bennett
Minister of Mental Health and Addictions
mhaminister.ministresmd@hc-sc.gc.ca

CC: **Dr. Stephen Lucas**
Deputy Minister of Health Canada
Stephen.lucas@hc-sc.gc.ca

Jennifer Saxe
Director General Health Canada,
Controlled Substances and Cannabis Branch
Jennifer.saxe@Canada.ca

Health Canada
Substance Use and Addictions Program
hc.suap-puds.sc@canada.ca

Dr. Theresa Tam
Chief Public Health Officer,
Public Health Agency of Canada
phac.cpho-acsp.aspc@canada.ca

July 4, 2022

Dear Ministers Bennett and Duclos,

We are now approaching a year since our initial appeal to Health Canada for an **urgent exemption** for DULF and VANDU under Section 56(1) of the Controlled Drugs and Substances Act (CDSA). Since our submission, we have lost 1,504 people in British Columbia to preventable and accidental overdose deaths. We have also passed the sixth anniversary of BC's declared public health emergency. The response at all levels of government during this time amounted to minuscule and misdirected attempts at systems change, including efforts aimed at decriminalization and medicalized safe supply. In order to decelerate the relentless death toll in our communities, we are writing once again, asking you to immediately approve our request for a Section 56(1) exemption. The exemption must be used as a stopgap for current policy failure until a more robust solution to the crisis of prohibition can be created.

Please take notice that while we await your approval, we intend to move forward with our compassion club model utilizing the tools that we currently have available to us. This includes running a 40-person evaluative pilot research study on the impacts of this model over the next six months. For your attention, find the program framework, including the full project evaluation and project ethics, attached as ***the DULF and VANDU Evaluative Compassion Club: A Strategic Framework for Preventing Overdose Deaths due to the Unpredictable Illicit Drug Supply.***

To be clear, if we had a tangible, supportive response from your government, we would not be forced to run an unsanctioned program. However, we also cannot afford any more years of inaction, given the direct correlation to a mounting death toll. Swift and impactful action are requisite. Moreover, and for the sake of clarity, we will proceed to once again explain why decriminalization and medicalized safe supply will not have a meaningful impact on the unprecedented number of deaths we are witnessing in our communities.

I - Addressing Decriminalization

Decriminalization as proposed in British Columbia may be one step aimed at removing the stigma and criminality around substance use, but as it stands, it remains severely flawed and wholly inadequate, particularly given your government's decision to reduce the legal threshold

quantity of possession to a mere (unevidenced) 2.5 grams cumulative. Further, and as you know, decriminalization is not a direct response to accidental drug overdose or the increasingly toxic drug supply. As Health Canada's **own** expert task force on substance use has stated, "regulation of drugs will have the greatest impact on ending the drug toxicity death crisis and minimizing the scale of the unregulated drug market."[1] Further, the drugs we are seeing in BC are significantly stronger than the government and law enforcement understand. Tolerance is rising with toxicity and to set a decriminalization threshold at 2.5 grams actually reinforces criminalization for many people who use drugs, as the majority of drug users will need to possess over this amount for their bare use. Ultimately, BC's current model of decriminalization remains an inadequate and ineffective policy not only in regards to the criminalization of people who use drugs, but also as a solution to our current public health crisis.

A - Decriminalization, Thresholds, and Overdose

In regards to the criminalization of drug users, decriminalization will be ineffective because the set thresholds do not reflect the realities of drug use in BC. Many health, research, legal, and policy organizations have called for *full decriminalization*.[2] This includes the essential requirement that threshold quantities, if adopted, reflect the actual use and purchase patterns of all people who use drugs[3] alongside the removal of police from instances of simple possession (including drug seizures). Full decriminalization is discussed in literature such as *Decriminalization Done Right: A Rights-Based Path for Drug Policy;*[4] *Act Now! Decriminalizing Drugs in Vancouver;*[5] *and The Human Rights Case for Drug Reform.*[6]

In regards to the threshold limit itself, VANDU, in partnership with substance use researchers, conducted a survey on the acceptable amounts that would be carried for simple possession. The survey found that VANDU's membership's needs vastly exceed the decriminalized amounts. Specifically, when participants were asked how long 2 grams of opioids would last them, the average answer was approximately 24 minutes.[7] [8] Anecdotally, when this length of time is discussed with long time VANDU members, many have reflected on how different fentanyl is compared to heroin, and how their use patterns differ. Specifically, they expressed that when they were predominantly using heroin in the past, they would be able to make that high last for hours. Several VANDU members reflected on their ability to have a 9-5 job, and to not feel the urge to use drugs again till late in the afternoon or evening. More research is

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[1] Canada, H. (2021, August 13). Government of Canada. Canada.ca. Retrieved July 4, 2022, from https://www.canada.ca/en/health-canada/corporate/about-health-canada/public-engagement/external-advisory-bodies/expert-task-force-substance-use/reports/report-1-2021.html

[2] Savehilaghi, S. (n.d.). Vancouver Area Network of Drug Users & Pivot Legal Society Joint Statement. Pivot Legal Society. Retrieved July 4, 2022, from https://www.pivotlegal.org/vandu_pivot_joint_statement

[3] Savehilaghi, S. (n.d.). Vandu and pivot's position on threshold amounts in Vancouver's application to decriminalize. Pivot Legal Society. Retrieved July 4, 2022, from https://www.pivotlegal.org/vandu_and_pivot_on_threshold_amounts

[4] Canadian Drug Policy Coalition. (2022, January 14). Decriminalization done right: A rights-based path for Drug Policy. Canadian Drug Policy Coalition. Retrieved July 4, 2022, from https://drugpolicy.ca/decrim-done-right/

[5] Savehilaghi, S. (n.d.). *Act now! Decriminalizing drugs in Vancouver*. Pivot Legal Society. Retrieved July 4, 2022, from https://www.pivotlegal.org/act_now_decriminalizing_drugs_in_vancouver

[6] *World Report 2014: Rights trends in the human rights case for drug reform*. Human Rights Watch. (2021, September 6). Retrieved July 4, 2022, from https://www.hrw.org/world-report/2014/essays/human-rights-case-for-drug-reform

[7] Vancouver Area Network of Drug Users. (2022). VANDU Decriminalization Survey (Version 1) [Unpublished data set]. Vancouver Area Network of Drug Users.

[8] Vancouver Area Network of Drug Users. (2022). *Nothing About Us, Without Us. VANDU vs. the "Vancouver Model" of Decriminalizing Small Drug Possession* [Powerpoint slides]. https://docs.google.com/presentation/d/17CHQQd_zT9JRKDNvIT5K1l2YcyZcUMKVeXTSKHaiZwA/edit#slide=id.p

needed in this area but with the rise of fentanyl in Vancouver's illicit opioid supply, there has been a drastic change in the consumption patterns and dependency of VANDU members.

The aforementioned survey was conducted by VANDU and researchers who had been involved in Vancouver Injection Drug Users Study (VIDUS) to ensure the VANDU decriminalization survey data collection was rigorous. VIDUS is one of the longest-running community-recruited prospective cohort studies of people who inject drugs (PWID) in the world[9]. A variety of questions were asked related to current consumption and buying patterns of people who use drugs in the downtown eastside. Specifically focusing on decriminalization thresholds and other drug laws. The data collection for this survey was completed in less then a week due to quick turnaround of the City of Vancouver decriminalization exemption request. VANDU peers and staff worked with researchers to train peers in data collection. 162 surveys are completed in 4 days. This data has given us greater insight into what VANDU members are experiencing on a daily basis.

Ultimately, the federal decriminalization exemption that was granted on May 31st, 2022 did not listen to the experts. Once again, drug policy was not informed by the needs of people who use drugs but by those who benefit from the current criminalization system. Police were heavily consulted on this public health issue despite it being touted *as* a public health issue, and the very low threshold number of 2.5 grams is reflective of the influence the police have on the issue. Further, most recent evidence through multi-criterion policy analysis, recommends that British Columbia utilizes a global threshold quantity of 15 grams for personal possession[10].

Ultimately, if drug users remain criminalized under BC's model of decriminalization, due to the low threshold limits, the resultant harms will include overdose. Overdose is the leading cause of death among people being released from provincial correctional institutions in BC. Persons who have been incarcerated in provincial correctional centers are 4 times more likely to die of overdose compared to non-incarcerated British Columbians.[11] Research tells us that if we are to reduce overdose in BC we must reduce the number of persons who use drugs who enter custody, particularly for drug and poverty-related offenses.[12, 13] It is the duty of our governments to stop criminalizing drugs and see the real harms this criminalization is creating.

B - Decriminalization and Rates of Overdose

Regardless of the amounts decriminalized, drug users will be left to continue consuming substances under an unregulated and prohibitionist structure which will continue to push illicit drugs towards more concentrated, potent, addictive and ultimately dangerous substances. To this end, under British Columbia's upcoming framework, the community of people who use

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[9] Vidus. BCCSU. (n.d.). Retrieved July 4, 2022, from https://www.bccsu.ca/vidus/

[10] Adams, Erica. *From Illicit to Equitable: An Evaluation of Decriminalization Models for British Columbia*. Simon Fraser University, 2022.

[11] Gan WQ, Kinner SA, Nicholls TL, Xavier CG, Urbanoski K, Greiner L, Buxton JA, Martin RE, McLeod KE, Samji H, Nolan S. Risk of overdose-related death for people with a history of incarceration. Addiction. 2021 Jun 1;116(6):1460-71.

[12] Kinner SA, Gan W, Slaunwhite A. Fatal overdoses after release from prison in British Columbia: a retrospective data linkage study. Canadian Medical Association Open Access Journal. 2021 Jul 1;9(3):E907-14.

[13] Friedman J, Hansen H. Far From a "White Problem": Responding to the Overdose Crisis as a Racial Justice Issue. American Journal of Public Health. 2022 Feb;112(S1):S30-2.

drugs are left to watch as the existing drug poisoning/overdose crisis worsens. This phenomenon is well documented in *Today's Fentanyl Crisis: Prohibition's Iron Law, Revisited*.[14]

The benefits of a regulated market are also well documented. Ultimately, lack of quality control mechanisms in the illicit market results in devastating consequences:

> First, underground markets provide less information about products and vendors because transactions occur in secret. Second, consumers in the market avoid reporting defective or impure substances because this might implicate their own law-breaking. Third, consumers of illegal drugs have no legal recourse should they purchase a substance of inferior quality, in contrast to individuals who bought tainted headache medicine or contaminated food in a legal market. On the supply side, producers and sellers of impure or tainted products face weak incentives to remove these products, knowing that buyers are unlikely to communicate with one another and unlikely to report their problems. Taken together, these factors allow more poor-quality drugs onto the market, which increases the chance of poisoning and overdose.[15]

While the research should speak for itself, there are also several government officials and representatives who have highlighted the need to regulate the illicit market or provide a scalable low barrier model of “safe supply”.

In the words of BC’s chief coroner, Lisa Lapointe:

> This public health emergency has impacted families and communities across the province and shows no sign of abating. In 2021 alone, more than 2,200 families experienced the devastating loss of a loved one. In the past seven years, the rate of death due to illicit drug toxicity in our province has risen more than 400%. Drug toxicity is now second only to cancers in B.C. for potential years of life lost. We cannot simply hope that things will improve. It is long past time to end the chaos and devastation in our communities resulting from the flourishing illicit drug market and to ensure, on an urgent basis, access across the province to a safe, reliable regulated drug supply.[16]

In the words of the Honourable Patty Hajdu, P.C., M.P.:

> Providing a pharmaceutical-grade alternative to the toxic street supply (i.e. a safer supply), both in the context of treatment or as a harm reduction measure, can support people who use drugs by reducing their risk of overdose, infection and withdrawal.[17]

The release of the *BC Coroner’s Service Death Review Panel: A Review of Illicit Drug Toxicity Deaths* in March 2022 also made it clear that overdose deaths stem primarily from a lack of a

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[14] Beletsky, L., & Davis, C. S. (2017). Today's fentanyl crisis: Prohibition's Iron Law, revisited. The International journal on drug policy, 46, 156–159. https://doi.org/10.1016/j.drugpo.2017.05.050

[15] Coyne CJ, Hall AR. Policy Analysis Four Decades and Counting The Continued Failure of the War on Drugs. Published online 2017. Available at: https://www.cato.org/sites/cato.org/files/pubs/pdf/pa-811-updated.pdf

[16] Government of BC (2022, February 9). More than 2,200 British Columbians lost to illicit drugs in 2021. Retrieved July 4, 2022, from https://news.gov.bc.ca/releases/2022PSSG0010-000188

[17] Health Canada. (2020, September 1). Government of Canada. Canada.ca. Retrieved July 4, 2022, from https://www.canada.ca/en/health-canada/services/substance-use/minister-letter-treatment-safer-supply.html

regulated drug supply, as driven by Canada's drug prohibition policy:

> The primary cause of increased deaths is the growing toxicity and unpredictability of the street supply of drugs. The current drug policy framework of prohibition is the primary driver of this illegal, unregulated, and toxic street supply. Until new regulatory approaches are implemented within the national drug policy framework, and improvements in the quality and reach of the continuum of support, harm reduction and treatment services are made, the risk of significant harm, death and this public health emergency are unlikely to improve.[18]

The report goes on to recommend that the first priority in addressing the crises should be providing a safer drug supply of pharmaceutical alternatives that includes both medical and non-medical models, a service which is desperately needed. Our model responds to this need by using available resources, and acts as a peer-designed and peer-led program for drug supply regulation.

Health Canada acknowledges the need for "creating a stigma-free health system [which] will require collaborative action and sustained commitment of key players across the health system". To this end, the Federal Government of Canada has an essential role to play, and commitment to resolving the issue of the toxic illicit drug supply and collaboration with community-developed programs, such as ours, is imperative. Health Canada's hypocrisy in not permitting us to operate, clear from your lack of communication with us, and action on this urgent public health matter, further serves to alienate a population already impaired from the social, legal, and physical environments in which they find themselves.

II - Addressing the Medicalization of Illicit Supply Regulation

Given the above information, there is an undeniable impetus to bring a level of regulation to the illicit markets. In our past communications, we have highlighted the severe shortfalls of the medicalized model of safe supply. Specifically, those pertaining to such a supply's incompatibility in a medicalized system, historical medicalized trauma and racism, and the existence of an inherently exclusionary system that offers nothing for PWUD to fall back on.

As we have stated before, and you have acknowledged, measures taken to provide safe supply in a medicalized context have been deeply flawed, as:

1. Prescribers do not want to prescribe and do not want to be the gatekeepers to safe supply.[19]
2. This has been due to bullying by colleagues and fear of their college.[20]
3. Receiving a substance use disorder diagnosis is harmful to people who have managed or recreational use patterns.[21]

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[18] *Illicit drug toxicity deaths in BC - gov*. (n.d.). Retrieved July 4, 2022, from https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf

[19] Tyndall, M. (2020). A safer drug supply: A pragmatic and ethical response to the overdose crisis. *CMAJ*, *192*(34), E986–E987. https://doi.org/10.1503/cmaj.201618

[20] Myhill-Jones, B. J. (2021). *RE: A safer drug supply: a pragmatic and ethical response to the overdose crisis*. https://www.cmaj.ca/content/re-safer-drug-supply-pragmatic-and-ethical-response-overdose-crisis-0

[21] "Discrimination Against Patients With Substance Use Disorders Remains Prevalent And Harmful: The Case For 42 CFR Part 2, " Health Affairs Blog, April 13, 2017.DOI: 10.1377/hblog20170413.059618

4. Medicalization reduces harm reduction uptake and effectiveness.[22]
5. Not all people who use drugs have a “substance use disorder” and they are at risk of death because of a toxic drug supply.

Currently, Canada is promoting a weak version of harm reduction, one which advocates mainly for human rights without protecting them. However, people who use drugs need you to engage in its strong version, one which fully recognizes the right to use drugs. The medicalization of political and social problems, despite being humanistic and pragmatic on the ground, has resulted in political hesitation which works in compliance with the War on Drugs.[23]

III - Moving Forward

The Global Commission on Drug Policy (GCDP) makes its stance on the regulation of illicit drugs clear, saying "drugs should be legally regulated not because they are safe but because they are potentially harmful." While Canada is recognized as a global leader in harm reduction, cooperation with our program offers Health Canada an opportunity to be a bold international leader by following the GCDP’s recommendation that “legal regulation should be explored for all psychoactive substances. Regulation means not only protecting the health and safety of the end-consumer, but also creating a supply chain with strict controls for potency, quality and access.”[24]

We cannot afford to continue waiting while the federal government confines us to insurmountable bureaucratic processes, which we have in good faith and full effort attempted to work within. As we have mentioned in our May 3rd letter to Health Canada, we not only endorse, and would prefer to run a model that utilizes licit pharmaceutical drugs. However, given the nature of the crisis, and the insurmountable obstacles that have been placed in our way to accessing such a supply, we will move forward with the resources that we have been provided. Nevertheless, we will continue to engage and plead with our government to work with us to stop this crisis, but it does not appear that you are willing to engage in supporting or guiding us. Ultimately, moving forward without the support of the federal government is unfavorable; it forces us to conduct our life-saving and evidence-based intervention at high risk to ourselves and without any protection or support, however, as drug users, we know what must be done.

By August 1st, 2022, we will begin operating our previously mentioned 40-person pilot study following the procedures for a compassion club and conduct an evaluation as outlined in *The DULF and VANDU Evaluative Compassion Club: A Strategic Framework for Preventing Overdose Deaths due to the Unpredictable Illicit Drug Supply*, which has been attached to this email.

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[22] Kolla, G., & Strike, C. (2021). Medicalization under prohibition: The tactics and limits of medicalization in the spaces where people use illicit drugs. Drugs: Education, Prevention and Policy, 28(2), 127–137. https://doi.org/10.1080/09687637.2020.1769029

[23] Rêgo X, Oliveira MJ, Lameira C, Cruz OS. 20 years of Portuguese drug policy - developments, challenges and the quest for human rights. Subst Abuse Treat Prev Policy. 2021;16(1):59. Published 2021 Jul 17. doi:10.1186/s13011-021-00394-7

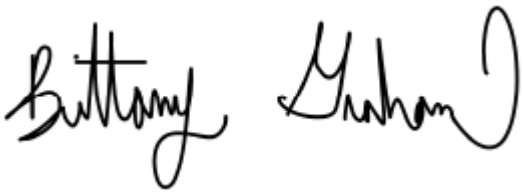
[24] Global Commission on Drug Policy. Time to End Prohibition.; 2021. Accessed June 29, 2022. https://www.globalcommissionondrugs.org/wp-content/uploads/2021/12/Time_to_end_prohibition_EN_2021_report.pdf

As a reminder, the life, liberty, and security of people who use drugs are at stake, both in terms of your government's inaction to save lives, and decisions like this one that can deny people who use drugs the ability to protect their own health and safety in the face of overlapping health crises. Should you follow through on your intention to reject our Section 56 Exemption, be aware that we will fight for our rights, and challenge a decision making framework that has left us to die.

Regards,

Jeremy Kalicum
Co-founder, Drug User Liberation Front

Eris Nyx
Co-founder, Drug User Liberation Front



Brittany Graham
Executive Director, Vancouver Area Network of Drug Users