



**BILL C-37,
AN ACT TO AMEND THE CONTROLLED DRUGS AND SUBSTANCES
ACT AND TO MAKE RELATED AMENDMENTS TO OTHER ACTS**

April 6, 2017

Presented to:

THE STANDING SENATE COMMITTEE ON LEGAL AND
CONSTITUTIONAL AFFAIRS/COMITÉ SÉNATORIAL PERMANENT DES AFFAIRES
JURIDIQUES ET CONSTITUTIONNELLES
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PRESENTATION TO THE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

RE: BILL C-37 - AN ACT TO AMEND THE CONTROLLED DRUGS AND SUBSTANCES ACT AND TO MAKE RELATED AMENDMENTS TO OTHER ACTS

Introduction

REAL Women of Canada is a non-partisan non-denominational women's organization, federally incorporated in 1983. The members of REAL Women of Canada come from all walks of life and from differing economic, social, cultural and religious backgrounds. We are united by our concern for the family, the basic unit of society.

REAL Women of Canada promotes the equality, advancement and well-being of women, recognizing their contribution as interdependent members of society, in the family, the workplace and the community.

REAL Women of Canada has long had an interest in the drug issue in Canada. Our concern is based on the harms caused to the addicts themselves, and to their families. There is no greater sorrow for a spouse, parent, or child, than to have an addicted member in their family.

REAL Women of Canada was an intervener in the Supreme Court of Canada case *PHS Community Service v. Attorney General* [2011] 3 S.C.R. 134 which legalized drug injection sites. Our organization was the only one of the 15 interveners which did not have either a financial, personal or professional interest in the outcome of the case. Our concern was entirely based on the addicted individual and the implications on his/her family and society.

Bill C-37 amends s.56 of the *Controlled Drugs and Substances Act* (CDSA) to permit an exemption for the establishment of drug injection sites for medical purposes. Further, S.42(2) of Bill C-37 provides as follows:

- (2) An application for an exemption under subsection (1) shall include information, submitted in the form and manner determined by the Minister, regarding the intended public health benefits [emphasis ours] of the site and information, if any, related to
 - (a) The impact of the site on crime rates; [emphasis ours]
 - (b) The local conditions indicating a need for the site;
 - (c) The administrative structure in place to support the site;
 - (d) the resources available to support the maintenance of the site; and
 - (e) expressions of community support or opposition.

That is, Bill C-37 provides that the application for an exemption for drug injection sites must be for a medical purpose and for an intended public health benefit and to control crime (S.42(a) of Bill C-37).

These amendments to the CDSA in Bill C-37 are based on the Supreme Court of Canada decision in *PHS Community Service v. Attorney General* [2011] 3 S.C.R. 134 (referred to above) in which the court stated:

... on future applications, the Minister must exercise that discretion within the constraints imposed by the law and the Charter, aiming to strike the appropriate balance between achieving public health and public safety ...

The Minister therefore is obligated by this Court decision to exercise her discretion in accepting an application for drug injection sites to “strike the appropriate balance” between public health and public safety before approving any drug injection site application.

According to the Preamble to Bill C-37 drug policies must be **evidence-based**.

REAL Women submits that drug injection sites do not provide a public health benefit or public safety. The proposed injection site must demonstrate by **factual evidence** that it satisfies these two requirements. Currently the evidence in support of drug injection sites is based on the drug injection site called InSite, which is the first drug injection site in North America, and is located in Vancouver’s downtown east side.

Factual Evidence On InSite

The background to this facility is that it was established in 2003, in accordance with the then Section 56 of the *Controlled Drugs and Substances Act* (CDSA) which provides that an exemption may be made to the Act by the Minister for purposes of medical and scientific research. Over 30 peer reviewed studies indicated that InSite was alleged to have curtailed crime, disease, and led to a 35% reduction in deaths caused by drug overdose. That is, those 30 studies, without exception, found that InSite’s operation had produced exemplary results. In short, these advocates/researchers’ studies concluded that the injection site was reducing harm and death rates for addicts, etc., as well as reducing the crime rate in that local area.

The crucial point that is not disclosed is that these 30 studies on InSite were all carried out by the same individuals from the British Columbia Centre for Excellence on HIV/AIDS, located at UBC, who were one and the same activists, who had lobbied for the establishment of the drug injection site in the first place. As a result, they had a personal interest, as well as a conflict of interest, in ensuring that InSite be regarded as successful. In effect, their research was carried out for the purpose of supporting the political objective of continuing the operation of InSite by way of promoting the site as “successful”.

According to information obtained under the *Access to Information Act*, between 2003 and 2011, these biased researchers who had previously lobbied for the injection site, received over \$18 million from the Canadian Institute of Health Research (CIHR) to carry out their research on InSite. All their studies were peer reviewed only by **supporters** of the drug injection facility. Also, these researchers, contrary to standard scientific procedure, refused to share their data with other researchers so that their studies could be replicated. One of these studies on InSite was published in the British medical Journal, *Lancet* on April 18, 2011. This study was pivotal in the decision by the Supreme Court of Canada, handed down on September 30, 2011, to prevent the federal Minister of Health from closing down the injection site.

According to this 2011 study, there was a 35% reduction in overdoses in the 500 metre radius around InSite, while in the rest of Vancouver, the rate decreased by 9% due to the presence of InSite.

However, an international team, consisting of three Australian medical doctors, (including an epidemiologist and two addiction medicine specialists), a Canadian academic and an American psychiatrist found serious errors in the advocates' studies, which they concluded entirely invalidated their findings. Their objections were published in Lancet, British Medical Journal, January 14, 2012, Vol. 379.

Also, a B.C. Coroner's report showed that overdoses actually increased in that Insite area by 14%, or 11%, when population-adjusted, between 2003, the year before Insite opened, and 2005, the final year of the study period.

Consequently, the Supreme Court of Canada's decision legalizing drug injection sites was based on invalid information.

There is further evidence on drug injection sites that contradict the studies by these researchers. The Expert Advisory Committee on Drug Injection Sites was established by the federal government to determine whether the claims of those supporting Insite were legitimate, and a valid approach to the problem of drug addiction.

The findings of the Expert Committee were released in March 31, 2008. The Expert Committee concluded as follows:

- (a) Only 5% of the drug addicts in the area use the drug injection site and of these, only 10% use the facility exclusively for their injections. In other words, 90% of drug addicts continue to inject their drugs on back streets, alleyways, etc. leaving their contaminated needles behind.
- (b) There is no proof that the site has decreased the incidence of AIDS and hepatitis in drug addicts;
- (c) There is no indication that the crime rate has decreased; and
- (d) Only 3% of the InSite clients are referred for treatment.

Findings on the Crime Rate Located in the Insite Area

Inspector, John McKay, responsible for policing the drug injection site has provided evidence that 65 officers from the Vancouver Police Department patrolled the five-block area around InSite, in order to control the crime (see attached statement by Inspector McKay). The police officers were prohibited from charging addicts with possession and, instead, were obliged to escort the addict into the injection site. Sixteen year olds had access to the site, and first time drug users, as well as pregnant women. First time users of Insite were instructed how to inject drugs by personnel in the facility. Drug addicts or casual users obtain their illicit drugs, of questionable purity, from drug traffickers located in the area, and the addicts bring these into the site for injection purposes. As a result, the drug injection site became a "honey pot" or meeting point for drug traffickers.

Evidence from other jurisdictions indicates that drug injection sites increase the overdose rate for addicts.ⁱ In Sydney, Australia, drug centre overdoses are 32 times higher than on the street. Testimony from rehabilitating ex-clients is that overdoses are so high because users experiment with their drugs since they are safely provided with more heroin and drug cocktails than they would dare try on their own, outside on the streets. This means that more drugs are used in the drug injection sites, enriching the local drug dealers outside the centre, but no lives are saved.

Further, no official evaluation of the Sydney injection centre (the most recent evaluation was carried out in 2010) has claimed any evidence of reduction of HIV or Hepatitis C.

Since the street drugs sold are of unknown purity and composition, it is difficult to believe that such injections are a reasonable solution to the problem of drug addiction. They do not provide a public health benefit, the criteria established by the Supreme Court of Canada.

It is noteworthy that the federal Expert Committee estimated that each addict causes \$350,000 worth of crime each year in order to purchase drugs from a trafficker to feed his/her addiction. It is not surprising, therefore, that in 2006, Vancouver had the second highest rate of violent and property crime of any major city in the United States or Canada. Drug injection sites do not reduce crime, but increase it.

Major European Cities Reject Drug Injection Sites

For the reasons set out above, more than two dozen major European cities signed in 1994 the European Cities Against Drugs Declaration, opposing safe-injection sites and the free distribution of drugs. Officials from Berlin, Stockholm, London, Paris, Moscow and Oslo, etc. embraced the principle that "the answer does not lie in making harmful drugs more accessible, cheaper and socially acceptable. Drug injection sites serve to **increase** the problem of drug addiction and crime.

The Effect of Bill C-37

The purpose of Bill C-37 is to facilitate the establishment of drug injection sites across Canada, supposedly to curtail the drug problem in Canada.

This drug problem has been exacerbated recently by the huge increase in deaths by drug overdose caused by the opioid fentanyl. There has been a 74% increase in such deaths in British Columbia in 2015 over the previous year, due to this drug.

Fentanyl is prescribed by physicians across Canada in order to relieve pain caused by anything from dental problems to post-surgical discomfort. This increase in prescriptions for opioids has caused Canada, together with the United States, to attain the undesirable status of having the highest per capita volume of opioids dispensed in the world. This has led to the huge increase in deaths on a daily basis from opioids.

Even though efforts are being made to control the number of prescriptions for opioids provided by physicians, this has not decreased drug overdose deaths in Canada. This is because it is not just prescription opioids that are creating the drug problem, but also it is caused by other drugs contaminated by fentanyl, bought by drug addicts from drug traffickers which they carry into the Vancouver drug injection site for injection purposes: 86% of the illicit drugs brought into the Vancouver drug injection site were contaminated with illicit fentanyl. **Drug injection sites do not save lives but increase overdose deaths.** That is, Canada is facilitating overdose death by increasing the ready accessibility to drugs for easy injections at a drug injection site.

In short, the proliferation of drug injection sites which will be facilitated by Bill C-37 will serve tragically to **increase** deaths by drug overdose. Drug injection sites make no pretense of providing treatment for drug addicts. Instead, they normalize illicit drug use and provide the addict with a sense of entitlement to use illicit drugs while increasing the crime rate in the surrounding areas to facilitate this drug use.

Criminal Justice System

The criminal justice system serves as the major engine that pushes addicts into treatment and recovery, the drug courts make recovery possible for thousands of offenders each year. In fact, according to experts in the field in the U.S., 50% of people in treatment are there because of referral by the criminal justice system.

Research carried out at the University of Glasgow, Scotland and the Centre of Drug Research in Glasgow, Scotland,ⁱⁱ indicate that treatment of drug addicts actually increases when drug enforcement occurs. That is, positive results flow from drug enforcement in that one of the aftermaths of police operations is that there is a marked increase in the proportion of drug users seeking treatment. This is because drug courts allow the conviction to be suspended if the offender agrees to take treatment and be monitored through regular urinalysis and counselling. Those who complete the drug-free program receive a suspended sentence or conditional discharge. Those who fail, are required to return to the regular court system for sentencing. When offered a choice between a drug conviction or treatment, the addict usually chooses treatment.

It is significant that there is no difference in outcome between those addicts who seek treatment voluntarily or by way of the courts.

Providing Genuine Assistance to Addicts

An effective way to prevent deaths by drug overdose is by way of a prescription drug monitoring program. This is an electronic database that tracks controlled substance prescriptions. It can provide health authorities timely information about prescribing and patient behaviors that contribute to the epidemic and facilitate a nimble and targeted response

Drug Addicts Require Compassion Not More Drugs

Well off individuals such as doctors, lawyers, airline pilots, etc., can afford to obtain treatment for their addiction. It is the addicts without money or support who are shuffled off to InSite, and in future, the other drug injection sites established under Bill C-37. They will continue to inject themselves with street drugs, which will only deepen their addiction. This results in the addicts' increased degradation, and, often leads to their terrifying death. The problem of drug use is not solved by enabling drug addicts to use more drugs, which is the result of the proliferation of drug injection sites across Canada.

The real question to be addressed, therefore, is whether addicts should continue to be marginalized and manipulated, or should they be helped with treatment, so as to return them to a healthy and normal life with their families? It is obvious that a compassionate society should not kill addicts by furthering their addiction, but rather, should reach out to them by way of treatment.

An effective drug policy must focus on reducing the demand for drugs through prevention, education and treatment, as well as enforcement, not by increasing the number of drug injection sites across Canada as provided by Bill C-37.

i Correspondence received from Gary Christian, Drug Free Australia, July 27, 2014

ii McGallagly, Joseph and McKeganey, Neil (2012) "Does Robust Drug Enforcement Lead to an Increase In Drug Users Coming Forward for Treatment?" Education Prevention and Policy vol 20 No. 1 pp 1-4

STATEMENT TO LANCET

Beat Enforcement Team (BET) - Vancouver Police Department 2003 - 2006

John Mc-Kay - then Officer in Charge (BET)

Downtown East Side Vancouver - Policing Rationale

The inception of what eventually became known as the Beat Enforcement Team (BET) occurred in early 2003. At that time the Vancouver Police Department recognized that the Vancouver Agreement between 3 levels of government with the so called "4 Pillars approach" was going to have a major effect on the VPD's ability to successfully police the Down Town East Side (DTES) of Vancouver. This was largely due to the harm reduction pillar which emphasized the value of the Supervised Injection Site which was going to be located in the heart of the DTES in the 100 block of East Hastings.

While the VPD could not at the time argue against the 4 Pillars approach – harm reductionists using statistics and opinion on European Model success – they believed that there had to be some control over the situation in the DTES because of the impact on the community once the dealers figured out that their clients were not being charged and indeed allowed to be in possession of the drugs. VPD feared that there would be a free for all and open warfare between dealers who wanted a greater share of the clientele. As well, the harm reduction philosophy might bring "drug tourists" into the area which would add to the policing problem.

Closely associated to the drug use in the DTES was the movement of stolen property into the local pawnshops of which there were 49 in the immediate area. Selling stolen property was a method of obtaining hard cash for the purpose of buying drugs.

In order to maintain some control over the potential outcomes of the new harm reduction philosophy the VPD began what was known as the Beat Enforcement Team. This unit was made up of 4 squads of police, administration staff, and a police Inspector totaling 65 personnel.

The unit consisting of 65 officers was originally named CET for Citywide Enforcement Team. The name was used because other parts of the city also wanted more beat cops so the effort in the DTES was disguised as a unit that could go anywhere to patrol, hence the name "Citywide Enforcement Team." The original concept under Inspector Doug Lepard, the OIC CET, and DCC, Bob Rich, was to have members stand on the corner and intercept drugs and stolen property. They had a high profile and there was some success with the mandate which was to disrupt the flow of stolen property etc.

The mission of BET was to interrupt the flow of stolen property and disrupt the trafficking of drugs in the area. As the officer in charge of the unit from September 2003 – September 2006 it was my role to achieve these goals.

In order to achieve these goals I spent as much time on the street as possible learning and from several good civilian contacts who had been working in the area for years I was able to glean a lot of background knowledge about the people and the issues around addiction. I implemented a combination of surveillance, undercover work, high presence uniform police and intelligence driven tactics. In a nutshell we shut down all but 7 pawnshops for failure to comply with the law on property and due to specifically targeted undercover operations we gained a lot of success in getting rid of the dealers. Many of these operations such as Operation Lucille, New Boy, became high profile media covered events.

It is my understanding that the effect of 65 police officers in the DTES is negated in the Lancet analysis produced by the harm reduction proponents. That attitude is much too convenient for them because the truth of the matter is that the police were integral to the lowered death rates by being on the street and in and out of the various Single Residence Occupancy hotels in which the addicts reside. The projects and contacts that police made in SROS and on the street with the mentally ill also helped to lower death rates because of the positive nature for the most part of the officers assigned to that beat.

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