

# **Proposed Amendment to Bill C-10**

**Submitted to: Senate Legal and Constitutional Affairs Committee**

**By: COUNTERfit Harm Reduction Program, Toronto**

We are proposing an amendment to Bill C-10 that would provide an exemption from the provisions in Bill C-10 establishing mandatory minimum sentences for crimes committed pursuant to the *Controlled Drugs and Substances Act* for Good Samaritans who call 911 in an overdose situation.

## **Background**

Far too many people are dying from drug overdoses in Canada. Many overdose deaths occur because those who witness overdoses are fearful of the implications of calling 911 and of subsequent risks of police involvement and/or criminal prosecution. As Bill C-10 is slated to bring in sweeping changes to almost every area of Canada's criminal justice system, it is timely to consider the urgent need for an amendment to exempt witnesses from prosecution for calling 911 in the case of overdose. Bill C-10 provisions stipulating mandatory minimum prison sentences for drug-related offences will unquestionably intensify fear of prosecution for witnesses of drug overdose and increase rates of preventable overdose deaths across the country.

## **Overdose Deaths: A Preventable Epidemic**

Overdose happens when a person takes an amount of a drug or combination of drugs that is more than the body can handle. As a consequence, the central nervous system is not able to control basic life functions. Overdose deaths from illicit drugs and prescription drugs are a leading cause of death among drug users in Ontario and nationwide. The annual rate of fatal overdoses for drug users who inject is estimated to be between one and three per cent per year (1). Due to fragmented reporting systems, up-to-date Canadian statistics on overdose fatalities are unavailable. Most recent Ontario statistics from 2004 report 7.7 people died of drug overdoses per 100,000 people (2,3). This accounts for almost 1000 overdose deaths in 2004, which is the most ever recorded in Ontario and more deaths than provincial HIV/AIDS and homicides combined in the same time period (4,5). This parallels virtually all statistical records and estimates across North America showing overdose death to be increasing every year. The tragedy is that many of these deaths could have been prevented.

## **911 Good Samaritan Immunity Legislation Prevent Overdose Deaths**

Most overdoses occur in the presence of other people. The chance of surviving an overdose, like that of surviving a heart attack, is almost entirely dependent on how fast one receives emergency medical services (EMS). Though witnesses to heart attacks rarely hesitate to call 911, witnesses to an overdose too often waver on whether to call for help, or in many cases simply don't make the call. People's reasoning for not calling is fear of police involvement and prosecution. People using drugs illicitly greatly fear arrest and will avoid calling even in urgent cases where EMS are needed for a friend or family member who is overdosing. Just before losing consciousness, anecdotal reports from our service users have also found that victims of overdose will often ask friends

not to call 911 because they're on parole or don't want to go to jail. The more practical solution to encourage overdose witnesses to seek medical help is to provide exemption from criminal prosecution, an approach commonly referred to as 911 Good Samaritan Immunity legislation.

Studies consistently show that most overdose fatalities occur one to three hours after a person ingests or injects drugs (6). Research estimates that between 10 and 56 percent of people witnessing a drug overdose call EMS, and most of those doing so only call after failed attempts to revive the person who is overdosing (7). The window of time following an overdose presents a critical opportunity to intervene and seek medical help before vital minutes elapse and an overdose becomes a fatality.

### **Growing a Nation-wide Movement to Prevent Overdose Fatalities**

In 2004, Ontario reported an all-time high number of overdose fatalities. 911 Good Samaritan legislation is a step toward reducing overdose fatalities and urgent action is needed to enact this legislation in Canada (2,3). States south of the border — including New Mexico, Washington and Connecticut — have all passed Good Samaritan legislation in the last four years. This past July, New York became the largest state to pass this law, where support was bipartisan and the bill passed nearly unanimously.

Across Canada, allies in support of moving this forward could include drug users, drug user-led organizations, public health authorities, mayors, harm reduction program staff, health providers, lawyers and law societies, academics, methadone doctors, university campus leaders, and police-community liaison officers/advisory boards. Resistance may be encountered from police departments and related institutions who may misinterpret the legislation as “soft on crime” and as jeopardizing public safety, however broadly supported legislation could lead to training of local law enforcement, EMS and other emergency and public safety personnel and mitigate some of these concerns.

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3. Dhalla Irfan A. et al. (2009) “Prescribing of opioid analgesics and related mortality before and after the introduction of long-acting oxycodone.” *Canadian Medical Association Journal* 181(12)
4. Sauve, Julie (2004) “Crime Statistics in Canada, 2004.” *Statistics Canada – Catalogue* no. 85-002-XPE, Vol. 25, no. 5)
5. Remis, Robert S. et al. *Report on HIV/AIDS in Ontario 2008*. Ontario HIV Epidemiologic Monitoring Unit
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