

DRUG “TRAFFICKING”: CRIMINAL OFFENCES

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This content is taken from [Read Between the Lines](#) and is based on sex workers' knowledge and wisdom, notably of workers facing multiple forms of criminalization and state violence. For the complete document, and for info on sex work offences, go to [Stella's website](#) or contact us.

This document does not provide any legal advice. It is offered to sex workers, to people who use drugs, and to members of our communities who wish to improve their living and working conditions. This information is not intended to influence anyone to commit illegal acts.

This card explains the drug “trafficking” and “possession for the purpose of trafficking” offences related to drugs criminalized by the CDSA (Controlled Drugs and Substance Act).

To be found guilty of a criminal offence there must be evidence to prove that you did it. Knowing when you are involved in a criminal offence may help inform your decisions, help you protect yourself, and help prevent you from providing evidence that can be used against you (e.g. making statements to police, leaving drugs and equipment in view).

Remember that many people regularly share, use, or sell drugs without being arrested. This information is not intended to contribute to panic or fear—but to help us minimize the harms of criminalization.

REMEMBER: ANY TIME YOU SPEAK TO POLICE YOU ARE MAKING A STATEMENT.

- No matter where you are or who you are with, anything you say is a statement.
- This statement is EVIDENCE that can be used to charge and prosecute you or other people (e.g., partner/friend, dealer/seller, client).
- It could be used in someone's trial, or to influence someone to plead guilty or provide information.
- If you do not want to make a statement, try to not react to their words/behaviors. Try to maintain control over yourself, avoid conflict and remain silent.

Your silence cannot incriminate you, but your statement might.

THE RIGHT TO SILENCE

- ➔ Other than identifying yourself (legal name, address, birthdate) in certain contexts:
 - ~ You have the right to not answer any other questions or say anything else to police.
 - ~ You have no legal obligation to cooperate with a police criminal investigation.
- ➔ See [Identifying Yourself to Police](#) to know when you are legally required to identify yourself.
- ➔ People face different risks when interacting with police (e.g., to health, safety and life, legal and financial). See [Questions to Ask Yourself: Dealing With Police](#) on responding to police in different situations depending on the risks you face.

DRUGS CRIMINALIZED BY THE CDSA

If you do not have a prescription in your name, the CDSA makes it a criminal offence to “traffic” or “possess for the purpose of trafficking” drugs such as:

- Heroin and other pharmaceutical opioids (hydromorphone/Dilaudid, oxycodone/Oxys, pethidine/Demerol, codeine, fentanyl, etc)
- Methadone and other substitution treatments
- Cocaine
- Crack
- Crystal meth (Methamphetamines)
- Amphetamines (Adderall)
- Ketamine
- GHB
- MDMA
- Mushrooms (psilocybin/psilocin)
- LSD
- PCP
- Mescaline
- Methaqualine (Quaaludes)
- Methylphenidate (Ritalin, Concerta, etc)
- Benzodiazepines
- Anabolic steroids (testosterone)

The CDSA is a federal law that applies to all provinces and territories across Canada. BUT the enforcement of drug laws can vary from one city/region to another depending on exemptions, prosecutors and police.

“POSSESSION FOR THE PURPOSE OF TRAFFICKING”: THE OFFENCE

You could be found guilty if there is evidence that you:

- knew the drug was in your possession AND
- knew the drug was an illegal (“controlled”) substance AND
- consented to their possession or had some measure of control over them AND
- had the drugs with the intent to “traffic” them (see definition of “trafficking” on page 3).

REMEMBER

- ➔ **The legal definition of “possession” is not limited to having the drugs in your personal/physical possession.** It includes knowing that you have them in someone else’s possession/custody or in another place.
- ➔ **No specific quantity of drugs is required to be found guilty of “possession for the purpose of trafficking”** (rather than the offence of “possession” for personal use only). BUT the quantity is an important part of the evidence and the judge/jury will consider it when deciding whether you had the intent to traffic.

“TRAFFICKING IN SUBSTANCES”: THE OFFENCE

You could be found guilty if there is evidence that you DID OR OFFERED TO:

- 1 Sell drugs, including the sale of a prescription to obtain them.** This includes:
 - ~ offering to sell the drugs, even if the transfer is not completed or no one has received anything in return OR
 - ~ helping someone to buy/sell drugs (i.e. if the sale could not have taken place without your help). For example, if you communicate with your dealer so that your client or friend can purchase the drugs.

- 2 Give or share drugs.**
 - ~ This includes sharing, cutting or giving someone drugs for free, for any reason, whether or not you receive anything in return. For example, if you bring drugs to use with a client, if you “serve” them on your body, if you give drugs to a friend.

- 3 Administer drugs.**
 - ~ This includes administering (e.g. injecting) the drug to someone, including situations where the person asked you to do it.
- 4 Transfer, transport, ship or deliver drugs.**
 - ~ Transport means moving drugs for the purpose of sharing/distributing it to someone else.
 - ~ This includes the transport of drugs to your own home to use with your partner, friend, client, roommate, etc.
 - ~ If the evidence proves that the transportation is ONLY for personal consumption, you can be found guilty of simple “possession,” but not for “trafficking” or “possession for the purpose of trafficking.”

Bringing, sharing and administering drugs (i.e. “trafficking”) can be an important part of survival and community. Using together and sharing drugs we know are safer can contribute to our quality of life, bring pleasure and joy, help us survive, and be a way we celebrate within community. It can also reduce the risk of overdose and deaths related to the poisoned drug supply.

The harms of criminalization place us in difficult and unsafe situations where we have to risk or compromise our health and agency.

“TRAFFIC” (SHARING, ADMINISTRATION, SALE, TRANSPORT) RELATED TO DEATH BY OVERDOSE

“Manslaughter” and “criminal negligence” are other serious criminal offences that are used to oppress and punish people who use, share and sell drugs.

In Canada, several people have been charged with these offences for giving or selling drugs/alcohol to someone who then overdosed and died as a result.

These cases include people who:

- ~ directly administered the drug (ex. injected) to the person who fatally overdosed
- ~ sold the drug to the person who fatally overdosed
- ~ gave the drugs for free to the person who fatally overdosed



“TRAFFIC” OFFENCES AND BEING RELEASED ON BAIL

If you are arrested for a trafficking offence:

- You will be detained until your “bail hearing,” when a judge will decide if you will be released while your case is proceeding.
- The law favours that you will be detained UNLESS you can prove why you should be released.
- If you are at risk of being charged with a trafficking offence, consider preparing a release plan in advance (e.g. can someone deposit money, can you prove that you have a legal income, can you provide a fixed address, can you prove “ties to the community”).

See *Read Between the Lines* for more info.

See *Read Between the Lines* for info on:

- other CDSA offences (e.g., possession, import/export)
- criminal offences related to cannabis (e.g. possessing, distributing, selling, producing)
- the types of evidence often used to charge people for drug offences.



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