

From Social Exclusion to *Project Inclusion*

Systemic Issues,
Strategic Litigation,
Unpacking Stigma,
and Envisioning Change

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2019

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Pivot's office is located on the stolen lands of the Musqueam, Squamish, and Tsleil-Waututh peoples.

We are grateful to Indigenous peoples for their continuous relationship with their lands and are committed to learning to work in solidarity as accomplices in shifting the colonial default.

I recognize that Edmonton occupies Treaty 6 Territory,
in an area known as **amiskwacîwâskahikan** (ᐱᓄᓄᓕᓕᓐᓂᓕᓐᓂᓕᓐᓂᓕᓐ).

This is the ancestral and traditional territory of the
Cree, Dene, Blackfoot, Saulteaux, Nakota Sioux, as well as the Métis.

*Special thanks to Dr. Bernie Pauly
for her support in developing this presentation.*

Outline

- Introduction to Pivot Legal Society
- *Project Inclusion*
- Key recommendations
- The path forward: Advancing public health & safety goals
- Auditing for stigma
- Questions & comments

Principles & Philosophy

Mandate:

To use the law to address the root causes of poverty and social exclusion. Our name is metaphor for our approach to social change - by making the most tangible violations of human rights the focal point of our efforts, we exert maximum pressure in order to shift society toward greater equality and inclusivity.

4 Policy Areas:

- sex workers' rights
- police accountability
- housing and homelessness
- drug policy

Police Accountability

- The police occupy a uniquely powerful role in our society – they are often the first point of contact in a crisis
- Law enforcement must be responsive to the needs of diverse communities
- We want to establish a system of transparent and accountable policing system





Drug Policy

- The war on drugs has failed – and devastated our communities
- Pivot works with people who use drugs to create legal and policy change that will meet their most pressing needs
- We are working to build an evidence-based approach to drug policy that promotes health and human rights.

Homelessness

- As long as people face homelessness, they should not be harassed, ticketed, or displaced by law enforcement just for trying to stay safe
- We challenge discriminatory laws and law enforcement practices





Sex Workers' Rights

- The criminalization of adult sex work means sex workers experience decreased control over the conditions of their work and are subject to increased violence and discrimination
- Decriminalization is a necessary step to protecting the safety and rights of sex workers by ensuring that they have full access to health, safety and human rights

Leveraging our Tools

- **Strategic litigation** can play a role in supporting social movements
- Lawyers can effectively wield their knowledge to support directly-impacted folks and communities



Photo: Anita Place Tent City, BCSC hearing | June 2019

Leveraging our Tools Cont'd

- Law should **complement** social movements
- Law can quash, co-opt, & defang direct action

” once the court proceedings begin, the organized and resistant, class-independent power of the tent city is replaced by the bureaucratic, individualizing, categorical power of bourgeois legal rights. By appearing before a court in the context of testing their Charter rights, someone who is homeless ceases to be only a public danger because they are designated, by the authority of their legal counsel, as a person before the law. The moment we enter a courtroom to defend ourselves against the brutality of property law, we begin breaking down the collective power that got us there.”

Excerpt from “to build a poor people’s movement”
Ivan Drury



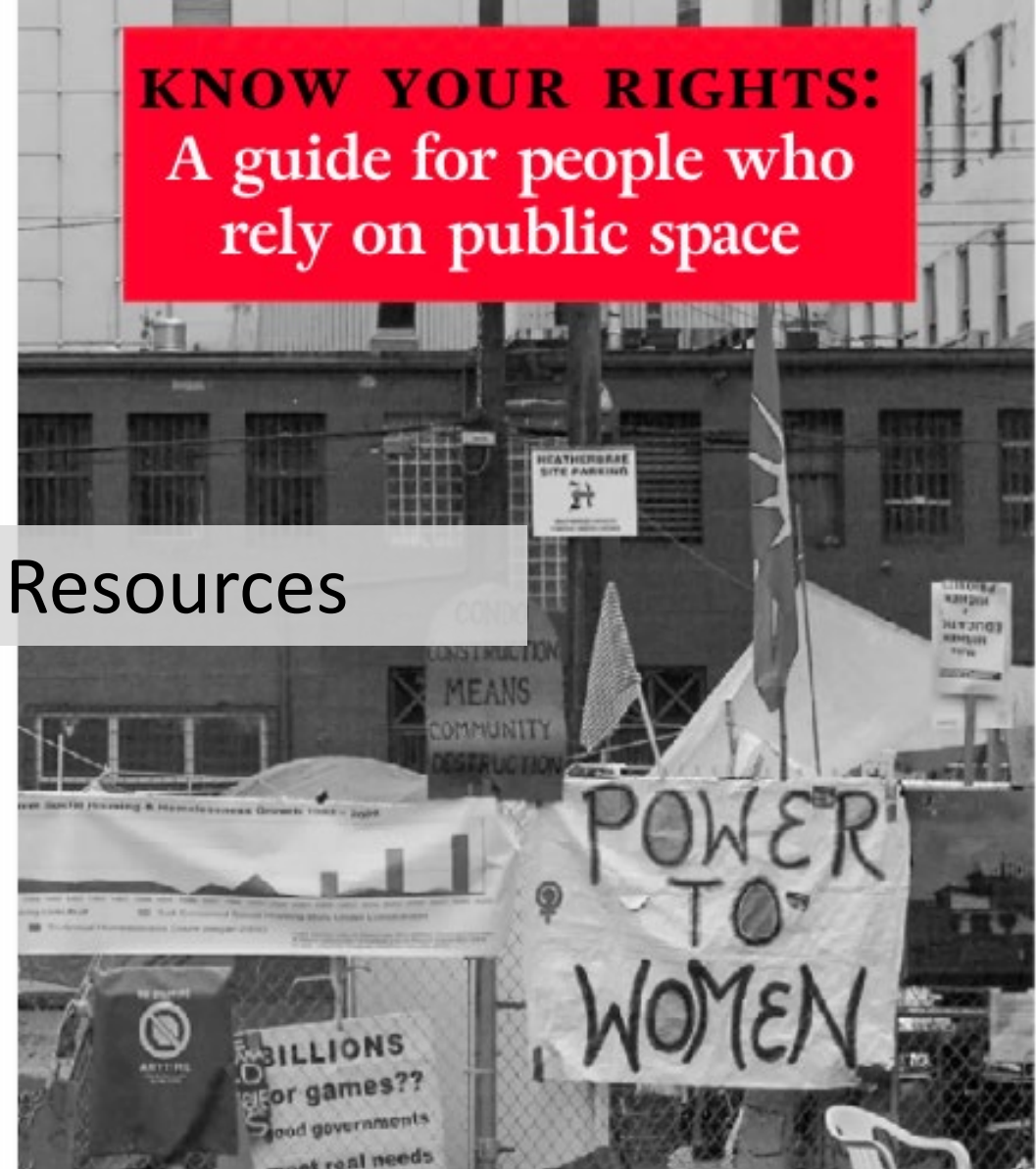
CONFRONTING ANTI-HOMELESS
AND ANTI-SUBSTANCE USER STIGMA
IN BRITISH COLUMBIA



Relevant Resources

PIVOT
LEGAL SOCIETY

KNOW YOUR RIGHTS:
A guide for people who
rely on public space



PIVOT
LEGAL SOCIETY

equality lifts everyone

Project Inclusion

- Comprehensive study into the ways in which specific laws and policies in policing, health care, and the court system directly undermine the health and safety of people who are homeless and living with substance use issues
- Pivot travelled to 10 municipalities across BC
 - Interviewed people with lived experience (76)
 - Convened focus groups (6 total)
 - Surveyed service providers (119)
 - Reviewed bylaws and demographics (62 municipalities)
- We heard about how people who rely on public space and use substances are trapped in a cycle of criminalization - laws and policies are setting people up to fail

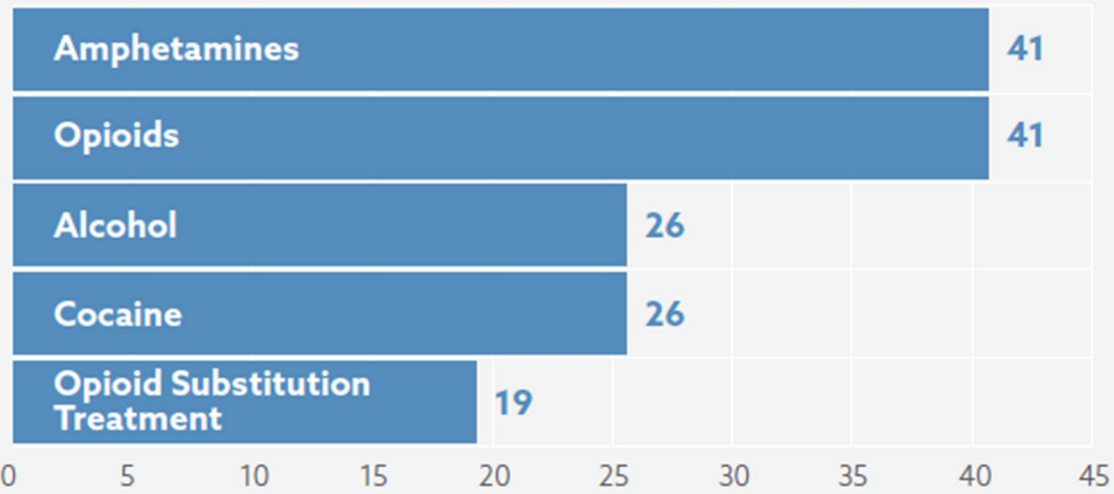
DATA GENERATION

Working across BC, we:

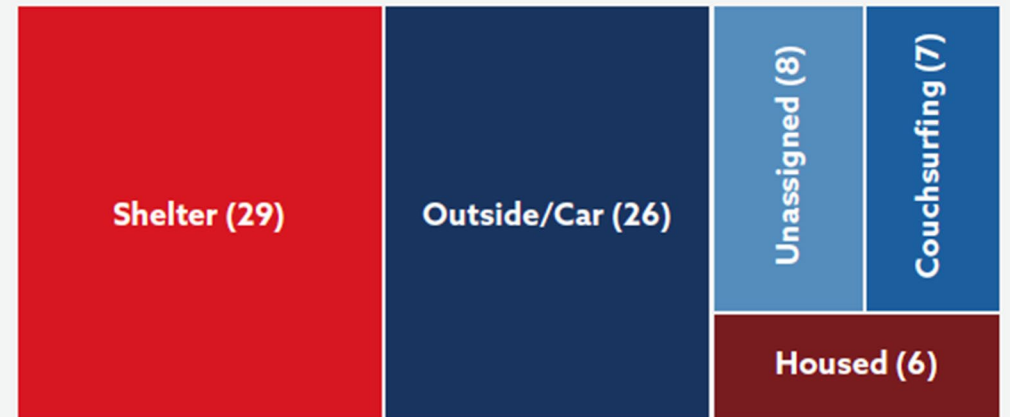
- sourced input from 119 service providers;
- reviewed bylaws and demographics in 62 municipalities;
- interviewed 76 study participants;
- convened six focus groups;
- conducted 12 municipal media scans;
- conducted nine Freedom of Information requests;
- gathered data from BC's five regional health authorities; and
- travelled to 10 communities across the province.



SUBSTANCES USED IN PAST 30 DAYS



HOUSING STATUS



Pathways Forward

- Move away from criminalization and prohibition
- Practice Directives for Police in BC
- Improved police accountability mechanisms
- End to conditions that are at odds with public health
- Design services that work for people
- Peer service development and delivery
- Protect against discrimination based on social condition

Key Recommendations

The Director of Police Services must develop the following Provincial Policies for all policing agencies in British Columbia:

(b) Provincial Policy on harm reduction which should include:

- i. a directive to deprioritize simple possession of controlled substances and an overview of the harms of confiscating substances (including alcohol) from people with addictions and limited resources;
- ii. a directive to never confiscate new or used syringes, naloxone, and other harm reduction and overdose prevention supplies;
- iii. a statement that harm reduction supplies, whether new or used, are not a basis for search or investigation;
- iv. a directive that local police forces work with service providers to develop bubble zones around safe consumption sites, overdose prevention sites, and other harm reduction sites, taking into consideration policing practices that may deter access including visible presence, arrests in close proximity, undercover operations in and near, and surveillance of people using the service.

Key Recommendations Cont'd

The Ministry of Mental Health and Addictions and the Ministry of Health must improve the ability of BC hospitals to meet the needs of people living with the effects of substance use, mental illness, and/or homelessness by:

- a) auditing experiences in hospitals, beginning with an analysis of people's experiences where they have been turned away from emergency rooms or discharged and where there have been negative health consequences;
- b) working with people with lived experience to audit provincial standards for effectively managing substance withdrawal in hospital settings;
- c) ensuring that all hospitals offer supervised consumption services to patients; and
- d) working with the Ministry of Municipal Affairs and Housing to create transitional housing options to ensuring that sick and injured people are not released from the hospital to the streets or to emergency shelter

Key Recommendations Cont'd

The Ministry of Housing and Municipal Affairs must immediately improve the number and accessibility of shelter options to ensure that everyone in BC always has access to a physical location where they can sleep, store belongings, and attend to personal care and hygiene in safety and without threat of displacement or sanctions. To do so they must:

- a) work in partnership with BC Housing to reinstate nightly turn-away counts at shelters and use data to ensure that there are adequate shelter beds to address the level of need in each municipality; .
- b) with the exception of temporary Extreme Weather Response shelters, recognize that overnight-only shelters are untenable for residents and provide funding to expand shelter hours; and
- c) provide shelter residents an accessible and independent complaint process

Key Recommendations Cont'd

All government actors and health care providers must recognize the specific and indispensable expertise of people with lived experience. Increase peer-run and peer-delivered services and peer-support positions within government services by

- (a) developing a provincial advisory board of people with lived experience of homelessness for BC Housing;
- (b) establishing provincial best practices for engaging people with lived experience of poverty, homelessness, and substance use in service delivery modelled on GIPA (Greater Involvement of People living with HIV/AIDS), MIPA (Meaningful Involvement of People Living with HIV), and NAUWU (Nothing About Us Without Us) principles;
- (c) collaborating with peer-led organizations to audit all provincial services (hospital, health, income assistance, shelter, housing) to identify and fund opportunities for peer engagement in service provision and planning;
- (d) developing a model for peer-involvement in the design and execution of homeless counts

Key Recommendations Cont'd

The Province of British Columbia must amend the Human Rights Code to prohibit discrimination and harassment based on social condition

Key Recommendations Cont'd

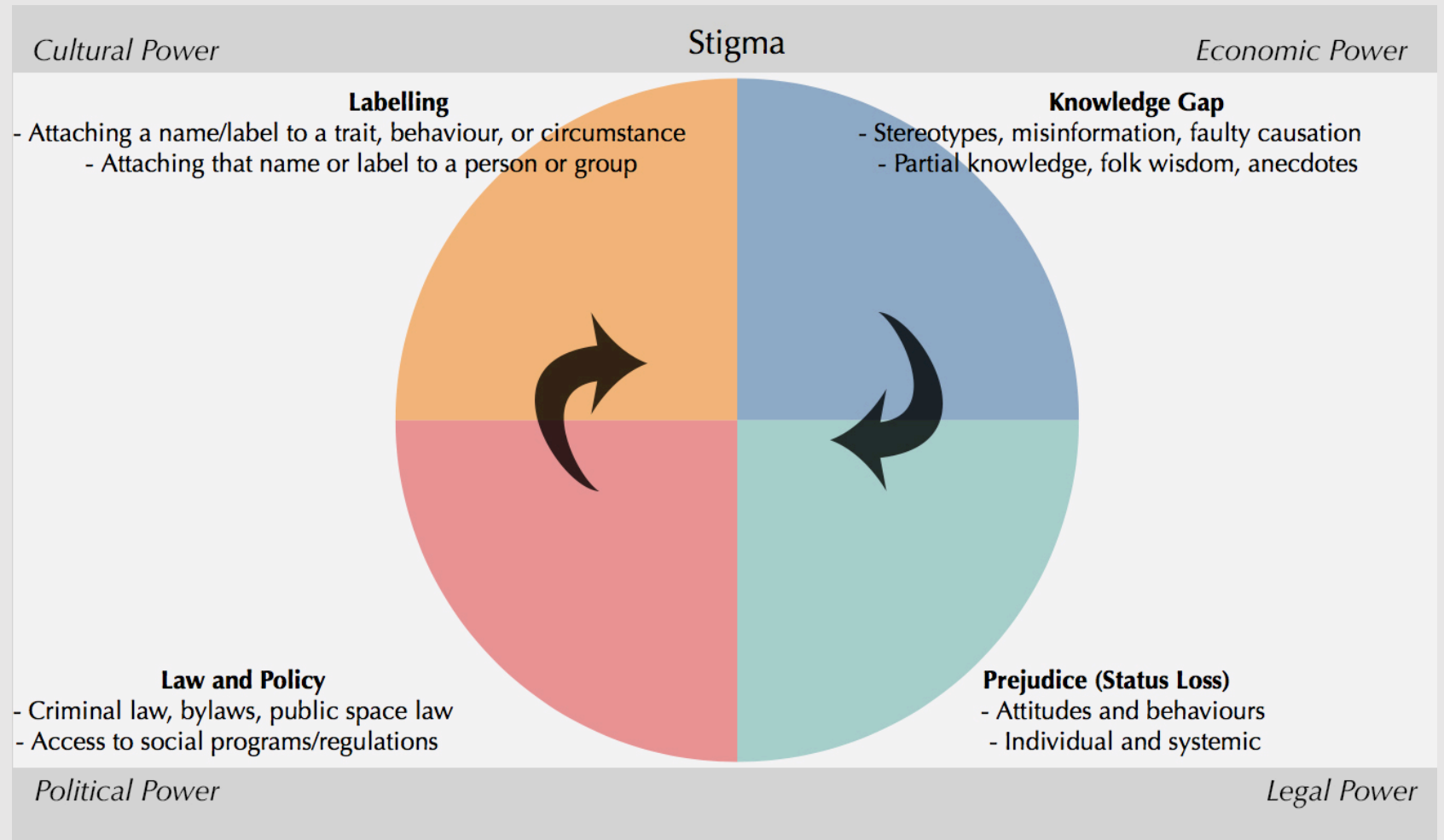
The Government of Canada must amend the Criminal Code to prevent the use and prosecution of discriminatory or destructive behavioural conditions of interim release and sentencing, specifically:

- (a) legislate that conditions imposed on interim release be reasonable and proportionate to the nature and seriousness of the alleged offence and the circumstances of the accused;
- (b) define “drug paraphernalia” as harm reduction medical equipment and prohibit the imposition of conditions that would interfere with the ability to access or possess harm reduction equipment;
- (c) prior to imposing an abstinence condition, require that courts consider a person’s dependence on drugs or alcohol. Abstinence conditions shall not be imposed on people living with addictions, except where doing so is necessary to protect the safety of a victim, witness, or the public, and harm-reduction measures shall be preferred over abstinence;
- (d) limit “red zone” conditions to situations where there is a substantial likelihood that, if released without a red zone, the accused will commit an offence involving violence or serious harm within the red zone and ensure that any red zone is tailored to the alleged offence, the principles of judicial interim release or probation, and circumstances of the individual;
- (e) remove paragraph 504(2.1) (g), the power for police to impose “abstinence” conditions; and
- (f) eliminate criminal sanctions for non-violent breaches of behavioural conditions.

Making Stigma Visible – Why Stigma-Auditing Matters



Auditing law & policy for stigma



Stigmatizing Solutions



Strathcona policing centre opens with 'fentanyl tax' money

Vancouver Courier - Sep. 13, 2018

An East Hastings Street storefront in **Strathcona** that used to sell marijuana seeds is now a **community policing centre** and officially opened its ...



Drug treatment courts to expand in Alberta after \$20M ...

CTV News - Oct. 31, 2019

EDMONTON -- More drug treatment courts are coming to Alberta after the ... 90 days in: **Police** chief focused on **mental health**, addiction.



Victoria police got so many overdose calls overnight they ran ...

Globalnews.ca - Apr. 27, 2018

Victoria police say their officers responded to so many **overdose calls** overnight on Thursday that they had to restock their naloxone supply in ...

From Criminalization to Inclusion

We must make multi-sectoral shifts from policing & criminalization to evidence-based alternatives

- Systems-level
 - Invest in housing
 - Work to build trust
 - Cultural safety is non-negotiable
- Programs-level
 - Engage peers
 - Broad harm reduction programming
 - Community-based research & action
 - Respond to crisis without police power

Questions?



Thank you!

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