

Youth, Drugs and the Law



Public Legal Education and Information Service of New Brunswick (PLEIS-NB) is a non-profit organization. Its goal is to provide New Brunswickers with information about the law. PLEIS-NB receives funding and in-kind support from the Department of Justice Canada, the New Brunswick Law Foundation and the New Brunswick Office of the Attorney General.

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This booklet does not contain a complete statement of the law in the area and changes in the law may occur from time to time. Anyone needing specific advice on his or her own legal position should consult a lawyer.

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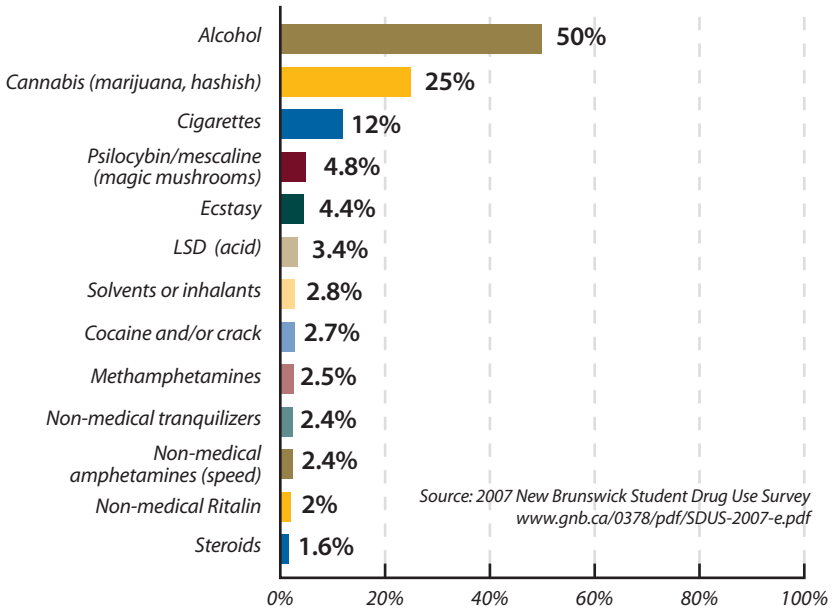
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Did You Know?

In 2007, New Brunswick students reported using the following drugs at least once in the year before the survey:



What is a drug?

A drug is any substance that, when absorbed into the body, changes normal body or mind functions. “Drugs” can include tobacco, alcohol, prescription drugs and street drugs.

Why are some drugs illegal?

Some drugs are illegal because our society or government has decided that they are likely to cause harm to someone. For example, marijuana has over 2,000 different chemicals when smoked. Some of the chemicals in marijuana alter thinking while others may cause cancer.

Canada has important laws to deal with the illegal drug use. The *Criminal Code* and the *Controlled Drugs and Substances Act* are two of these laws.

Are drugs that are not illegal safe to use?

Not all drugs are illegal - but that doesn't mean they are harmless. For example, the two most popular drugs - tobacco and alcohol - which are lawful for use by adults, can both be deadly. In fact, cigarette smoking is the single most preventable cause of death in North America. Alcohol is considered a drug because its main ingredient (ethanol) slows down brain function and can cause irreversible damage to brain cells.

Even though some drugs are not illegal, there may still be laws to regulate them. The law dealing with alcohol regulation in New Brunswick is the *Liquor Control Act*. This law prohibits people from drinking alcohol in a public place or having alcohol under the age of 19.

Canada also has strict rules for the use of other drugs which are not illegal. Many commonly used drugs or medications can be dangerous if not used properly and without the advice of a doctor. It can be a crime to have or to try to get some drugs without a valid prescription written specifically for you. Just because a drug is not 'illegal' does not mean that the drug is necessarily 'safe' for everyone to use without a doctor's advice. For example, drugs like oxycodone and methadone have specific medical uses which can be beneficial when taken under a doctor's supervision, but both drugs can kill someone who takes them incorrectly.



How are drugs harmful?

Drugs can cause harm to a person in many different ways – some harm can be immediate, like an overdose. Other drugs may cause long-term harm which may not show up for years, like cancer from smoking.

Sometimes drugs can cause physical damage, such as liver disease, tooth loss or skin itching or a rash. Other drugs can cause mental harm to a person, such as hallucinations, memory loss or permanent brain damage.

Want to learn more?

To find out more about the effects of different drugs, check out this Health Canada website: www.hc-sc.gc.ca/hc-ps/drugs-drogués/learn-renseigne/index-eng.php

Do the police have the right to search me or my property?

The police are only allowed to search you if they have good reason to believe you have illegal drugs, weapons or alcohol in your possession, or if you give them permission. The police cannot stop a person and search them without a reasonable basis. If the police officer has a good reason for believing illegal drugs will be found in a place, the officer can search any person in that place. Because “place” includes cars, trucks and boats, both drivers and passengers can be searched.

Generally, the police cannot search your car or your house without a warrant or without your or your parents’ permission. There are some exceptions, for example, if a police officer has reason to believe that someone is in danger or that a crime is being committed and it would be unreasonable to wait for a search warrant.



What is a search warrant?

A search warrant is a court order that has been signed by a judge that gives the police permission to search a certain area for specific items listed in the warrant. A judge will only issue a warrant if the police can prove that they have reasonable grounds for the search.

What if I refuse to let the police search me?

If the police decide to arrest you, they have the right to do a 'safety search' – to search your clothes and pat you down to make sure you don't have any weapons or other dangerous items. If they find drugs during this search, they can charge you with drug offences, even if you weren't originally arrested for a drug crime.

When searching a person, police officers can use reasonable force to prevent the loss of evidence. If the police have a search warrant, they can use reasonable force to make a thorough search of the place. This may include breaking open doors, windows, locks, floors, walls, ceilings, compartments, or any other thing to look for drugs.

Can teachers or a principal search my locker or bookbag? Do they have the right to search me personally?

There is no specific law that gives teachers the right to search you. However, there is no law that forbids it. In some situations, teachers and school administrators have the right to perform searches without a warrant. Although they don't need a judge's permission, they must have reasonable cause for the search. While you are at school, they are responsible for supervising the school grounds and ensuring your health and well-being. In this way, teachers on school property have a similar role to parents in a home.



Because teachers and school administrators are responsible for making sure that schools are positive learning and working environments, they may search school property such as lockers, desks, etc. While students may keep personal items in these locations, this property is the responsibility of the school. If teachers and school administrators want to search students' clothing and personal property, they must follow strict rules and procedures.

There are limits on the rights of school staff to search students or property. The search must follow legal requirements. If it does not, a court may find that the search was illegal.

When can the police arrest me?

The police can arrest you if they have good reason to believe you have committed a crime, you are in the process of committing a crime, or you are about to commit a crime.

What happens if the police arrest me?

If the police place you under arrest they must tell you your rights. They must be sure that you understand these rights. If you do not understand, or if you have questions, don't be afraid to ask. The police will repeat these rights and explain them to you.

If the police place you under arrest, they must contact your parents or guardians. Being arrested is very serious and your parents or guardians have the right to know where the police have detained you and why.

You have the same right as an adult to talk with a lawyer if the police arrest or detain you, ask you to make a statement, or require you to appear in court.

You, as a young person, also have the right to have a parent, guardian or another appropriate adult with you while the police ask you questions.

For more information about your rights if you are arrested or detained, check out PLEIS-NB's booklet called **Youth Have Rights**, available on our Youth Justice website at www.youthjusticenb.ca.



If I'm arrested because I'm found with drugs, what types of crimes or offences could the police charge me with?

The *Criminal Code* lists 5 main types of drug offences. They are:

1. Possession

The offence of possession is the least serious of the drug offences. Possession means that a person has a drug in their custody and knows it, even if they do not know exactly what kind of drug.

2. Trafficking

The *Controlled Drugs and Substances Act* defines "traffic" as "to sell, administer, give, transfer, transport, send, or deliver" a controlled substance. There does not have to be any exchange of money. Trafficking can also include selling or giving someone a prescription that does not belong to them. Trafficking is a more serious offence than possession, and has more serious sentence options.

3. Possession for the Purpose of Trafficking

Possession for the purpose of trafficking means that you have a drug on your person or in your possession, and you have a large enough quantity of the drug that it appears that you were going to give or sell some of it to someone else. The police do not have to prove that you were going to sell the drug – they only have to prove that you had enough of the drug to qualify for the offence. Specific quantities for different drugs are set out in the laws. In some cases, the quantity of the drug may not matter if you are found with equipment such as scales for weighing the drug, or if the drug is packaged in a certain way that would make it easier to distribute. Sentences for possession for the purpose of trafficking are the same as those for trafficking.



4. Production

Production includes both manufacturing a chemical substance (meth labs) and growing or cultivating plants (marijuana). For example, a person who grows substantial amounts of marijuana plants could be charged with production and possession of marijuana for the purpose of trafficking.

5. Importing and Exporting

Importing or exporting means taking or sending a drug across the Canadian border. The person does not have to physically carry the drug over the border. Planning the act can lead to a charge of importing or exporting. Ordering drugs over the internet can lead to a charge of importing. If you take any type of drug to another country, you may be charged with a crime in that country, and many countries have more serious sentences than Canada for drug offences, including the death penalty.

Want to check out Canada's drug laws for yourself?

Both the Criminal Code and the Controlled Drugs and Substances Act are available on this website: laws.justice.gc.ca

What about impaired driving – does it only apply to alcohol?

No. “Impaired” means that a person’s ability to drive a vehicle has been reduced by the use of alcohol or drugs. Marijuana and other drugs can slow brain function and decrease a person’s ability to operate a motor vehicle. Being under the influence of a drug or alcohol can make it difficult for a person to judge distances, keep within one lane, steer properly and react quickly. Using marijuana and other drugs can reduce your alertness, concentration, coordination and reaction time. These effects can last up to 24 hours after smoking marijuana.

Impaired driving offences apply to anyone who is driving or has care and control of a vehicle. This includes a car, truck, boat, farm equipment, snowmobiles, aircraft and all-terrain vehicles. A person does not have to be driving to be charged with this offence; it is enough for a person to be found impaired in the car with the keys.

Provincial laws in New Brunswick now require new drivers to have a zero blood alcohol content until they reach 21 years of age. This means that if you are found with any alcohol in your blood, your drivers' license will be suspended.

If I'm arrested, will I always have to go to court?

No, if you break the law you will not always be charged by the police and go to court. Depending on the seriousness of the crime, and whether you have a previous criminal record, the police may use other options to hold you accountable for your actions. They may give you a warning, meet with your parents or refer you to a program or agency in the community.

In some cases, the police may decide to forward your file to the Crown Prosecutor to have charges laid against you. Even when charges are laid, you may be given the option to do community service, write an essay or letter of apology, attend a program or voluntarily have other appropriate consequences. If you agree to take part in an alternative to court, and complete everything you agree to, the charges will be dismissed and you will avoid having to go to court. Taking responsibility without going to court means you will not have a youth justice court record.



What kinds of sentences do youth get when the court finds them guilty of drug-related crimes?

When youth aged 12 to 17 are charged with crimes, a special law called the *Youth Criminal Justice Act* (YCJA) applies to them. The *Criminal Code* applies to both adults and youth. The YCJA, however, is the law that deals with how we hold young people accountable when they are accused of crimes. It contains rules, guidelines and options for police, judges and others who deal with youth crime.



Under the YCJA, there are many sentencing options available to the court which can be used alone or along with other options when sentencing youth.

Some of the options include:

- Warnings
- Conditional or absolute discharge
- Payment of fine of up to \$1,000
- Community service
- Probation for up to 2 years
- Custody and supervision order

To decide on an appropriate sentence under the YCJA the judge must consider such things as the character, attitude and maturity of the accused young person, as well as any previous record, the circumstances of the crime and the quantity of the drug involved.

What kinds of sentences could adults get if they are convicted of drug crimes?

Adult drug sentences are directly related to the type and quantity of drug involved in the crime. They are set out in the *Controlled Drugs and Substances Act* and the *Criminal Code* they can range from fines and probation to life in prison.

What if I am charged, convicted and sentenced as a youth – does this mean I'll have a record?

You will have a youth court record. Generally, youth records close after a period of time. However, they don't close automatically just because the young person turns 18 years old. The time a youth record lasts depends on how serious the offence was, the outcome of the case, and whether the young person commits another offence while his or her record is open.

A youth record is not open to the public. This means very few people will be able to see your record. Some of the people who can see your record are: you, your parents or guardians, the police, the victims, and in some cases your teachers or principal.

You may request a copy of your record from the police. Once you have a copy of your record it is up to you to decide who to share that information with. For example, an employer may request a record check. While the police will not give any information to a potential employer, it is your decision on whether or not you disclose your record. If you have an open record, or refuse to provide a record check, an employer may decide not to hire you.

For more information on youth records, check out the PLEIS-NB resources listed at the back of this booklet.

Addiction Resources

What if I think I'm addicted to drugs and I can't stop using? Are there resources that can help me quit?

Yes, there are many resources available for youth with addictions. If you are convicted of a drug-related crime, it is important to remember that if you agree to go to treatment, the court may consider this when sentencing you.

Regional Addiction Services Youth Treatment Program

The provincial government has a free program called the Regional Addiction Services Youth Treatment Program. It is offered through local hospitals and provides group and one-on-one counseling for youth with drug and/or alcohol addictions. For more information, you can contact the numbers below:

Bathurst (506) 547-2086

Edmundston (506) 735-2092

Moncton (506) 856-2333

Campbellton (506) 789-7055

Saint John (506) 674-4300

Tracadie-Sheila (506) 394-3615

Fredericton (506) 452-5558

Miramichi (506) 623-3375

Portage Atlantic

Portage Atlantic is a residential youth addiction treatment facility in New Brunswick. A provincial treatment program for drug addicted youth (14 - 21 years old), Portage Atlantic offers a drug and alcohol-free program that encourages youth to take charge of their lives. Youth build self-esteem by developing family-like relationships, building on assets to create positive life situations, and strengthening their desire for rehabilitation.

It is a voluntary centre, meaning that no one can be forced to go to Portage Atlantic. For more information, check out Portage's website: **www.portage.ca** – and click on Portage Atlantic in the left-hand menu, or call the toll-free number **1-888-735-9800**.

There are many other resources available to youth with addictions – please refer to the next section of this booklet for more information.

Other Sources of Help and Information

PLEIS-NB Youth Justice Materials (www.legal-info-legale.nb.ca):

- Youth Have Rights
- Consequences of a Youth Record
- Youth Justice Workbook
- A Chance for Change (a video and user's guide about alternatives to court)
- Chasing Away Rain Clouds (video and discussion guide that look at youth justice issues, including drugs and addiction)
- Youth Justice Website – www.youthjusticenb.ca

John Howard Society – Offers drug and alcohol addiction counseling and prevention workshops. For more information, call your local JHS office:

Provincial office (506) 457-9810

Moncton (506) 854-3499

Miramichi (506) 622-4920

Fredericton (506) 450-2750

Edmundston (506) 736-0111

Saint John (506) 632-0800

Not4Me.ca – a youth drug prevention website with facts about different drugs and the risks associated with them – www.not4me.ca.

Deal.org - a Canadian website by youth, for youth. The Knowzone, found in the upper menu on the home page, contains a section on drugs, with specific information about drug categories, effects and laws – www.deal.org

Alcoholics Anonymous - a fellowship of men and women who share their experience, strength and hope with each other that they may solve their common problem and help others to recover from alcoholism. To find an AA meeting in New Brunswick, check out this website: www.area81aa.ca

Alateen - a program for youth dealing with friends and/or family who are addicted to alcohol - www.al-anon.alateen.org/

hekilledmyfriends.com – a website for youth designed to increase awareness about the dangers of impaired driving – www.hekilledmyfriends.com

Courtprep.ca - a site for youth preparing for court - www.courtprep.ca