The Arguments For And Against Vancouver's Supervised Injection Site

When the Supreme Court of Canada convenes Thursday to consider Vancouver's supervised injection site, it will hear detailed arguments that hinge on the fine print of the Canadian Constitution.

But besides being a landmark showdown between federal and provincial powers, the hearing also sets the stage for a ruling expected to affect not only the daily lives of injection drug users on Vancouver's Downtown Eastside but drug policy across the country and potentially farther afield.

In cities including Victoria and Montreal, groups that have lobbied for supervised injection sites along the lines of Vancouver's Insite facility will be waiting to see whether their proposals could proceed without breaking the law.

Across the country, researchers and health-care workers are looking to the Supreme Court decision as a signal that could shape future health care policy, ranging from needle exchange programs in prisons to inhalation rooms for crack-cocaine smokers.

Internationally, health researchers will be monitoring the case as a bare-knuckle brawl between political ideology and evidence-based research, of which a small mountain has accumulated to back Insite and which supporters repeatedly cite in their long-running fight to keep the clinic open.

At home and abroad, policy makers are watching the case in the context of Prime Minister Stephen Harper's newly-minted majority and tough-on-crime agenda.

A lightning rod for controversy, Insite attracts support and detractors along several main lines.

Supporters say:
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It saves lives:

There have been no overdose deaths at Insite since it opened in 2003. On average, nearly 600 injections occur daily at the site and last year alone there were more than 200 "overdose interventions" by Insite staff who provide oxygen or drugs to users who are in danger of overdosing. A paper published in the Lancet in April of this year found fatal overdoses within 500 metres of Insite decreased by 35 per cent after the facility opened compared to a decrease of nine per cent in the rest of Vancouver.

Earlier this month, the B.C. Coroners' Service warned of a spike in overdose deaths resulting from potent heroin being sold throughout the province and urged drug users to use community services such as Insite "where possible." B.C. public-health officials and the British Columbia Nurses' Union support the facility.

It serves as a bridge to detox and treatment:

Insite was conceived of as part of a four-pillars approach those being harm reduction, prevention, treatment and enforcement modelled on similar programs that jurisdictions such as Switzerland and Germany pursued in the 1990s.

By offering a clean, safe, non-judgmental environment to shoot up, the reasoning goes, Insite allows drug users to connect with other services, whether that be treatment for a drug-related abscess or dental care.

Last year, Insite staff made more than 5,000 referrals to other social and health agencies, including 458 admissions to Onsite, a neighbouring detox facility that opened in 2007 and recorded a "program completion rate" of 43 per cent in 2010.

Supporters say supervised injection facilities should be seen as just one piece of a bigger puzzle in treating drug addiction and its related toll on society.
It benefits public health and the broader community:

Among the many studies published on Insite are papers that conclude the clinic has not led to an increase in drug-related crime, is not a negative influence of those seeking to stop drug use and has resulted in a drop in public injections in back alleys and doorways.

Studies have also reported declines in dangerous behaviour, such as sharing needles, and a related decrease in HIV infections. The Vancouver Police Department supports the facility, which studies have shown has resulted in fewer discarded needles in neighbourhood streets.

In fighting to keep Insite open, the provincial government argues that the health benefits of the facility should trump jurisdictional issues, saying in written submissions to the court that British Columbians have a "visceral" memory of hundreds of addicts dying needlessly in flophouses and on the street before Insite was opened.

Those who want to see the site closed maintain:

Insite's operation is an affront to federal control:

When Insite opened, it obtained a three-year exemption from Canada's Controlled Drugs and Substances Act from Health Canada. That exemption was extended twice, until June 30, 2008. When the federal government declined to extend the exemption, Insite supporters launched a court challenge. The B.C. Supreme Court and the B.C. Court of Appeal supported B.C.'s right to run the clinic on health grounds. The federal government appealed.

Federal prosecutors say Ottawa needs to maintain control over drug policy and that giving B.C. control over Insite would open the door to a fragmented, patchwork of rules and regulations across the country.

The legal wrangle will zero in on the constitutional conundrum posed by Insite the federal
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government has authority over criminal law and the promotion of health and safety, but provinces decide how health care can be delivered.

Governments should not facilitate drug use:

Despite the research studies backing Insite and its harm-reduction approach, there is still profound discomfort for many with any facility that gives addicts a green light to inject illegal drugs and flout the law. Governments, they argue, should not be facilitating illegal, dangerous activities. “The state has no constitutional obligation to facilitate drug use at a specific location by hardcore addicts, the mildly addicted, frequent users or occasional users,” federal prosecutors Robert Frater and W. Paul Riley said in written submissions to the court.

There have been arguments that money spent on Insite would be better spent on services such as treatment and that government’s support of supervised injection sites sends a mixed message to young people who might be considering illicit drug use.

Supervised injection sites do nothing to deter drug use or help drug addicts:

Part of the federal government's argument is that drug laws are not an unreasonable restriction on individuals' liberty. "Unsafe injection or, for that matter, consumption by injection at all, is a choice made by the consumer," the federal prosecutors say in their brief to the Supreme Court.

There are also arguments that supervised injection sites are a magnet for drug dealers and predators, and that public safety demands that illegal drugs be tightly controlled. ies have shown has resulted in fewer discarded needles in neighbourhood streets.

SUPERVISED INJECTION FOR THE SAKE OF PUBLIC HEALTH

Vancouver's supervised drug-injection clinic, Insite, saves lives and prevents human misery. Providing addicts with a safe, sterile place to inject heroin and other drugs is a pragmatic and effective way to curb the spread of infectious disease, including HIV/AIDS and hepatitis B and C, and to reduce substance abuse and overdoses.

Yet the federal government persists in opposing it, viewing Insite not as a critical component of British Columbia's health-based approach to treating addiction, but as a stark violation of criminal law.

This Thursday, when the Supreme Court of Canada hears the case, it will weigh these opposing arguments and rule on the jurisdictional dispute between B.C. and Ottawa, ultimately deciding the fate of the clinic. The province's responsibility for health care must take precedence over the Harper government's prohibitionist inclinations.

The fact is, this clinic has been operating under an exemption to Canada's drug laws dating back to 2003. A study, published last month in the British medical journal The Lancet, found that since the site opened the number of overdose deaths in the immediate area has declined by 35 per cent. This study, by the B.C. Centre for Excellence in HIV/AIDS, confirms the findings of more than a dozen others that outline undisputed public-health benefits from the clinic, located in Vancouver's Downtown Eastside, an impoverished area with near-epidemic levels of disease.

Were the court to side with the federal government, the consequences would be terrible. More addicts would overdose; fewer would participate in detox programs; HIV and hepatitis transmission rates would increase.
Narcotics addiction is a physiological condition. Providing addicts with sterile needles, as well as counselling that may lead to rehabilitation, saves the health-care system money. It also reduces harm, resulting in fewer medical complications and fewer fatal and non-fatal overdoses, which require police, ambulance and hospital care.

The existence of this clinic does not negatively impact on federal narcotics control efforts. Insite is a legitimate response to a public-health crisis. Other cities such as Victoria and Toronto are contemplating opening supervised-injection clinics. They prevent addicts from going into dark alleys to inject, harming themselves and others. Insite protects the health of B.C.’s public, and should remain open.

INSITE IS INCREASINGLY MAINSTREAM

Today, federal government lawyers will be in the Supreme Court of Canada putting forward its case for shutting down Insite, Vancouver's internationally recognized supervised injection site for people who inject drugs. The Dr. Peter AIDS Foundation will be there as an intervener.

Study after study have shown the individual and health system benefits of supervised injection service. It is increasingly mainstream thinking in Canadian health care as reflected by other interveners in the Supreme Court case - Canadian Nurses Association, Association of Registered Nurses of British Columbia, Registered Nurses Association of Ontario, Canadian...
And, it's also becoming increasingly mainstream thinking on our streets as evidenced by a recent Ontario survey presented at the 20th Annual Canadian Conference on HIV/AIDS Research in Toronto last month. Now that Insite has been operating for over seven years, many wonder what all the fuss is about. The sky hasn't fallen.

I hope the Supreme Court will rule in favour of Insite. It would mean one of two things, or both - the Court agrees Insite falls under provincial jurisdiction as a health care undertaking, or the Court agrees that the right to access Insite free from prosecution is protected by Section 7 of the Canadian Charter of Rights and Freedoms for individuals who inject drugs.

Individuals are suffering from the ravages of long standing injection drug use in towns and cities across Canada. The legal and political battles to keep Insite open leaves other cities and provinces reluctant to open supervised injections sites, despite knowing the need. The Dr. Peter Centre experience offers a way for supervised injection service to be integrated into health clinics and communities.

In 2002, a year and a half before Insite opening, the Dr. Peter Centre integrated supervised injection service into its broad range of health care services for people living with HIV/AIDS. The Centre, a part of Vancouver's downtown West End neighbourhood alongside heritage houses, daycares, an elementary school and, in the midst of a bustling urban life, continues to provide the service in its day health program and 24-hour skilled nursing care residence.

The galvanizing impetus to pursue implementing the service was two overdoses (one in a bathroom, the other in the laundry room), fortunately neither fatal. We were aware there had never been a death in a supervised injection site anywhere in the world. It would have been inconsistent with our mission of care for people living with HIV/AIDS to ignore there was a way to reduce risk of death by overdose.

We proceeded after consultation with the College of Registered Nurses of British Columbia, the entity authorized and required, under B.C.'s Health Professions Act, to establish standards for registered nursing practice. The College confirmed that it was within the scope of registered nursing practice to provide individuals with evidence-based information so they can
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give themselves injections more safely, and that teaching and promoting such self care prevents illness and promotes health. Nurses do not touch, inject, or provide the drugs.

A March 2011 report from the B.C. Office of the Provincial Health Officer, Decreasing HIV Infections Among People Who Use Drugs by Injection in British Columbia: Potential Explanations and Recommendations for Further Action, recommends that access to supervised injection services should be incorporated into routine public health clinics throughout B.C., using the Dr. Peter Centre model.

Health care leaders and policy-makers from Prince George to Victoria, Saskatoon to Toronto, New York to San Francisco, Kiev to Kaliningrad have visited to gain an understanding of our integrated approach.

The Lancet, a leading medical journal, in its recent online commentary states, "Misplaced moral judgments have underpinned the neglect of people who inject drugs. Yet, it is wholly immoral to let people become infected with HIV or die when evidence based interventions exist to prevent these outcomes. A bold and human response is needed from governments. Lives are at stake."

Robertson and Ex-Mayors Join Insite Fight

With the court battle to determine the fate of the supervised-injection site Insite slated to start this week, Vancouver Mayor Gregor Robertson and five former mayors asked the Harper government on Tuesday to drop its campaign against the facility.

In an open letter to the federal government, the six argued that Insite had significantly reduced overdose deaths in the Downtown Eastside since it opened in 2003.
"It has saved lives, reduced transmission of deadly diseases, and increased the use of detox and addiction treatment," Robertson said. On Thursday, the Supreme Court of Canada will consider whether the federal government has the authority to shut down the facility. In January 2010, a B.C. Court of Appeal ruled provinces have jurisdiction for health care.

The letter was also signed by ex-Vancouver mayors Sam Sullivan, Larry Campbell, Philip Owen, Mike Harcourt and Art Phillips.

"Drug addiction is a health issue, not a criminal issue," said Owen, who was mayor from 1993-2002 and whose creation of the Four Pillars Coalition led to the opening of Insite. Owen added that rampant drug use, the rapid spread of HIV infections and overdose deaths skyrocketed in the 1990s.

"To close Insite would put Vancouver at risk of going back to that," he said.

OTHER INJECTION SITE TO BACK INSITE IN OTTAWA

Operators of Vancouver's other -- and lesser known -- supervised injection program will share their harm-reduction model with Canada's highest court as a high-profile federal appeal to shutdown Insite gets underway in Ottawa tomorrow.

"It would be unconscionable for health-care providers such as us and Insite to send people back out on the street," said Maxine Davis, executive director of the Dr. Peter AIDS Foundation, an intervener in the case.
"While the outcome is specifically about Insite, we also provide a supervised injection service.

We want to share with the court our experience and why it is important."

While Insite, the supervised injection site in the Downtown Eastside, has been a lightning rod for controversy since it opened, the Dr. Peter Centre has quietly operated a small, supervised injection program for almost a decade in Vancouver's West End.

The program, which launched 18 months ahead of Insite, is integrated into a broad range of services that includes hot meals, art and music therapy and counselling.

In March, Dr. Perry Kendall, B.C.'s provincial health officer, published a report recommending that supervised injection services (based on the Dr. Peter Centre model) be integrated into public health clinics across the province to reduce HIV infection.

"Once many of those basic issues in your life are being taken care of on a daily basis, you can actually begin to reflect on your life and what you may want to do to move forward in a way that is healthy," Davis said.

The federal government brought the appeal to the Supreme Court of Canada after a pair of defeats in B.C. courts.
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(Insite)

THERE IS NO REASON FOR CONSERVATIVES TO OPPOSE INSITE

In less than 24 hours, the Supreme Court of Canada will begin hearing arguments concerning the fate of Insite, Canada's supervised injection site. The provincial government, drug users and various health and social agencies will argue the site should remain open, while the federal government will argue that it has the authority to shut the site down.

The feds therefore seem outnumbered, but that's not the worst of it. Rather, the weight of the evidence, both legal and scientific, also favours the province. And this alone is reason enough for the federal government to reconsider its position.

First, the legal arguments: In May 2008, B.C. Supreme Court Justice Ian Pitfield held that certain sections of the Controlled Drugs and Substances Act violated Insite users' Charter rights and hence were of no force and effect.

This meant that Insite could stay open without fear that users or staff could face charges for possession or trafficking in controlled substances. The federal government decided to appeal Pitfield's decision, but early last year the B.C. Court of Appeal held that the feds don't have the authority to shut down a health care facility such as Insite.

The feds are therefore facing an uphill legal battle since they've already lost two arguments at two levels of court. And when one considers the scientific evidence, virtually all reasons for opposing Insite vanish.

Indeed, since Insite opened in 2003, more than 30 peer reviewed studies, published in the world's top medical journals, have attested to the benefits of the site. Among other things, the site has been associated with a reduction in needle sharing and public disorder, and with increased uptake of detoxification and treatment services. And most recently, a study published in the Lancet found Insite is associated with a reduction in overdose deaths.
Insite's association with increased use of detox should come as no surprise, since it is now part of a broader health care facility which includes detox and transitional housing services (Onsite). This, and the research findings, have led to broad support for Insite and widespread concern about the federal government's increasingly puzzling opposition to the facility. After all, Insite clearly saves lives, and clearly helps get (the hardest to reach) addicts into treatment - two things which the feds have repeatedly supported.

If that weren't enough, several studies have attested to Insite's cost effectiveness, with one Canadian Medical Association Journal study concluding that it could produce a cost savings of $20 million over the next decade. This, too, is something that one would expect the federal government to support.

And, of course, the government can support it. While the Supreme Court case will proceed, it's not too late for the feds to reverse their position and support a therapeutically and financially effective health care facility. Indeed, now that the Conservatives have attained a majority, there's no better time for them to offer Insite their support.

In so doing, they could regain the respect of those who have written off the Conservatives as anti-science, as more interested in adhering to ideology than in doing what works. And, most importantly, they could join the province of British Columbia, many social service agencies and many health care professionals in supporting a site that literally offers vulnerable people a new lease on life.