

## Inquiry into the use of Cannabis in Victoria

**Organisation Name:** Australian Cannabis Awards

**Your position or role:** Founder

### SURVEY QUESTIONS

**Drag the statements below to reorder them. In order of priority, please rank the themes you believe are most important for this Inquiry into the use of Cannabis in Victoria to consider::**

Accessing and using cannabis, Education, Social impacts, Public health, Mental health, Young people and children, Criminal activity, Public safety

**What best describes your interest in our Inquiry? (select all that apply) :**

Advocacy body

**Are there any additional themes we should consider?**

Existing detrimental effects of prohibition on public health, funding criminal activity, social consequences from stigma, drug driving losing licences, sniffer dogs humiliating and punishing minorities, job losses from irrelevant testing, mental health problems from no access, impact on our economy from forbidding an entire industry, distrust in the government from unjust and failed laws.

**Select all that apply. Do you think there should be restrictions on the use of cannabis? :**

Personal use of cannabis should be decriminalised.

(Decriminalised: there are no criminal or civil penalties instead a person is referred to a drug diversion program or other health/ treatment service), Personal use of cannabis should be legal. , Sale of cannabis should be legal and regulated. , Cultivation of cannabis for personal use should be legal.

### YOUR SUBMISSION

**Submission:**

While the committee is tasked with addressing the consequences of cannabis legalisation on the terms of reference, it is essential to also compare these to the consequences of prohibition itself. The committee needs to factor in the costs associated with the current failed model of cannabis prohibition and compare any solutions to that as a starting point. The terms of reference should also consider the wide-ranging effects of prohibition on many other areas of our society in addition to those listed, which amplify the problem of prohibition. The prohibition of drugs has failed by every measure, especially those listed in the terms of reference. Prohibition, or even quasi-legalisation, has been shown to have negative impacts on children accessing cannabis, the quality of cannabis they access, the places they access it from, the other drugs they are exposed to when accessing it, the lack of education and information they have access to, the stigma they suffer and keep secret their use from parents, doctors, and teachers, the impact this can all have on their mental and physical health, and the ongoing distrust they have in the government for demonising a plant they now realise is not dangerous and evil like they have been led to believe.

**Do you have any additional comments or suggestions?:**

### FILE ATTACHMENTS

**File1:** [5f3d1572a479e-Our racist drug laws.pdf](#)

**File2:**

**File3:**

**Signature:**



## **Our racist drug laws**

So, what do we do about deaths in custody? After the groundswell of support for Black Lives Matter in Australia, and after seeing the shocking statistics about deaths in custody and institutionalised racism, we all seem to agree that much more needs to be done to prevent both racism and police injustice in Australia. However, we're left asking the question, what changes can we actually implement to make the criminal justice system... just?

The death of African-American man George Floyd in Minnesota has been a seismic global event, which has sparked a need to find practical and actionable solutions to address our flawed criminal justice system.

There are, of course, some achievable and effective solutions to reduce police killings, such as extensive training, screening, and accountability. Yet, the overall amount of interactions with police officers should be drastically reduced in the first place, and could be one essential key to ending the seemingly endless cycle of police killings in Australia—and around the world. It's especially tragic that many of the deaths in custody have eventuated from minor infractions and misdemeanours—usually drugs.

## **We lost the war**

If you've read any study on drug policy in the last 30 years, you'll be aware that drug prohibition has utterly failed. Like alcohol prohibition before it, by every metric, drug prohibition fails to reduce harm, availability, or regulation of any illicit drugs. We have long known that the war on drugs has created laws that are unworkable, illogical, unjustifiable, unscientific, counterproductive and worse; they generate countless unintended consequences. In fact, drug laws often create the exact opposite outcomes to those desired. Prohibition has resulted in increased crime, drug impurities, overdoses, and social harm; and has caused reverberating damage on a much larger scale than ever anticipated.

After 90 years of the war on drugs, it's obvious that the war has been lost—notably because it was a war against our own people, not drugs. As they say, you can't arrest your way out of drug use because drugs are a health issue, not a criminal issue. The introduction of prohibition itself was not based on any science, health, or societal advice in the first place. If you've got the time, it's worth discovering that prohibition was actually a direct product of racism in America, instituted to suppress racial minorities, from which Australia followed with gusto. And it's no secret that people with dark skin are disproportionately targeted and affected by drug law enforcement - as originally intended. In the United States, Black people are four times more likely to be arrested for cannabis than white people—even though usage rates are roughly equal.

## **Making race a crime**

That wasn't an unintended consequence; it was the very purpose of the drug laws introduction—see the quote below from the Nixon administration. In Australia, recent data from the NSW Bureau of Crime Statistics shows that non-Indigenous people were 4 times more likely to be let off with a warning than Indigenous people. These Indigenous people

would then be forced into the criminal justice system, which experts say “they will potentially never get out of”.

The 437 deaths in custody which is tracked by The Guardian were “the tip of the iceberg of disadvantage and disempowerment that criminalisation brings into effect”. On any given day, there are around 10,000 Indigenous adults in prison - which is 29% of the prison population. The high numbers of Indigenous people in prison has consequences for virtually all Indigenous people. It impacts the individuals who are incarcerated, as well as their families and communities. Children with a parent in prison are particularly vulnerable, increasing their risk of contact with the justice system early in life.



Source: ABS (2016). Corrective services, Australia, June quarter 2016. Canberra: ABS; AIHW 2017. Youth justice in Australia 2015–16. AIHW Bulletin no. 139. Cat. no. AUS 211. Canberra: AIHW.

### Laws from a racist past

A common saying among cannabis users is ‘the most dangerous thing about weed is being caught’.

The origins of the war on drugs were best summed up by one of the key politicians responsible for its creation - a former advisor to Richard Nixon, John Ehrlichman - where he notoriously confessed in 1999 that;

“The Nixon White House had two enemies: the anti-war left and black people. You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”

Currently, nearly 80% of those who are in federal prison for drug offences in the USA are black or Latino. This alarming insight into the history of drug prohibition is especially true in Australia. The National Drug Household Survey (2011) reported cannabis use among Indigenous respondents was 19% versus 10% for non-Indigenous respondents. For juvenile detainees the figures are shocking, with almost 90% of Indigenous juvenile detainees tested positive to drugs, compared to 40% of non-Indigenous (Adam et al. 2007). Even if the police were perfectly trained and screened to not be racist, this fact alone means that Indigenous people are almost twice as likely to be affected by cannabis prohibition.

Many of our drug laws allow for the exercise of discretion by the officer at the scene of a first offence to divert the offender into a drug program. Recently, new data from NSW was released, suggesting significant race-based differences regarding diversion. Between 2013 and 2017, 82.55% of all Indigenous people found with smaller quantities of cannabis were pursued through courts, whereas only 52.29% of non-Indigenous people were. This also extends to prosecutions which are almost twice as likely to pursue a mandatory minimum sentence for an Indigenous person charged with the same offence as a white person. It just goes to show how Indigenous people are treated differently at every stage, and highlights the injustice of the justice system and of our nation's pledge to address systemic racism.

Further, recently released data shows that Indigenous people are also significantly over-represented in the number of strip searches conducted by NSW police. This data shows that within a two-year period, 12% of all strip-searches were conducted on Indigenous people, despite them making up only 3.4% of the state's population.

Taking away police power to arrest cannabis users would take away their ability to initiate custody or searches in the first place, let alone restrain them in deadly constraints.

### **Who are we hurting?**

We already know that cannabis is hundreds of times less dangerous than alcohol and cigarettes, which are both 100% legal and widely available. Almost all other illicit drugs are also safer than these two, and yet we lock up people for being in possession of a plant - especially those with dark skin. Consuming cannabis is not dangerous, and should not be a crime.

“The first step in undoing the damaging effects of the war on drugs is legalising cannabis. No one has ever died from a weed overdose, but plenty of people have died from police enforcement of archaic and racist drug policies” said [REDACTED] founder of the Cannabis Industry Awards. “In states around the world which have removed or relaxed drug laws there has been a drastic fall not only in arrests, but also in police interactions and searches”.

Data compiled by the Open Policing Project demonstrates that overall, marijuana legalisation leads to less police interaction, and less police interaction means fewer deaths, particularly

for First Nations people. Australian police claims of “I smell marijuana” is an oft-cited reason for initiating a search of Indigenous people in public, or their cars during a traffic stop.

“While nobody would claim that cannabis legalisation would end police brutality or indeed the deeply entrenched racial inequities in Australian society” said [REDACTED], “the end of prohibition is a necessary step towards de-escalating the tensions caused by the over-policing of First Nations people. It would not only decrease police killings and violence, but it would also chip away at the systemic racism responsible for it.”

### **Time for change!**

It’s now more than 50 years since US President Richard Nixon famously declared the “war on drugs” but one thing that’s obvious to anyone associated with criminal law reform - the time has come for clearly articulated and specific measures that will decriminalise and legalise cannabis, and end the failed war on drugs.

Racism in drug laws is not new. In fact, South Australia’s Opium Act of 1895 was the first act of parliament anywhere in the world to prohibit the non-medical use of a drug. Crucially however, it applied only to Aboriginals. Such race-based “paternalism” was mirrored in other Australian policies at the time, and thereafter. Prior to allowing Indigenous people to vote, we even classed them as wards of the state, implying that they couldn’t look after themselves.

For those new to the drug law reform debate, it’s important to know that this is just the start of a very long list of benefits of legalisation, which is too long to address in this article. Cannabis legalisation has far-reaching upsides economically, environmentally, and socially. With approximately 35% of the population using it at least once, Cannabis users are Australia’s largest criminalised minority, and have suffered undue and unjust persecution by the law and society - especially First Nations peoples.

“It’s impossible to talk about addressing racial injustice in Australia without addressing drug law reform - specifically cannabis laws.” said [REDACTED]

Despite the seismic shifts in social attitudes toward cannabis recently, our laws are simply not keeping up. While we have recently allowed for certain medical prescriptions, any other use remains a criminal offence. Cannabis is still a Class 8 drug in Australia - the most dangerous and punishable classification.

### **How do we compare?**

When compared to progressive and science-driven states in North America, they have not only legalised the plant and its use, they have also expunged the criminal records of hundreds of thousands of non-violent drug offenders. They realised how wrong they had been, and that legalisation itself wasn’t enough. For the lives of most First Nations people, both our drug laws and the way they are treated is at considerable odds with the broad public opinion.

Even today, cannabis prohibition is used as a cover for racist policing tactics aimed at lower socio-economic areas and people with non-white skin. Even in prison, inmates still use

cannabis - it was the most common illicit drug used on a daily basis in the past 4 weeks, with statistically significantly greater use among Indigenous (46 %) than non-Indigenous (37 %) inmates ( $p = 0.05$ ).

It's revealing to see that there is no state in the nation where Indigenous people have been less or equally likely to be arrested than non-Indigenous. In every one of the states in Australia, there is a disproportionately higher likelihood of being arrested for First Nations peoples.

Across the ditch, in an honest and surprising admission by the Chief Science Adviser to the Prime Minister of New Zealand, on an official educational website about cannabis it states "Discriminatory application of the [cannabis] law disproportionately affects Māori, young men and people from lower socioeconomic backgrounds when it comes to enforcement". This frank statement really compels us to act decisively on these racist laws. There is no room in our society for the utterly failed, useless and outdated laws which cause such pain with no benefits.

### **Where to from here?**

Given the long-term negative impacts that an arrest can have on lifelong economic and health indicators, cannabis legalisation would not only reduce police interactions, but would also eliminate the cascading social impacts of arrests on First Nations peoples.

To both address the immediate issue of deaths in custody, and the larger more systemic structural racism, re-legalising cannabis is arguably the single most substantive action that could be enacted in Australia, and around the world. We can immediately lower the number of reasons a cop can even approach you in the first place, by repealing these racist laws.