



Unharm submission to the Parliament of Victoria Law Reform, Road and Community Safety Committee's Inquiry into Drug Law Reform.

Submitted 17 March 2017

Thanks for the invitation to make a submission to the Parliament of Victoria Law Reform, Road and Community Safety Committee's Inquiry into Drug Law Reform.

Unharm's submission was compiled by Executive Director Dr Will Tregoning. Each section of the submission is comprised of research-based policy analysis alongside stories submitted by Unharm supporters, summarising their own personal experiences relevant to each policy area.

Under Term of Reference 1, this submission addresses

- The criminalisation of drug use and personal possession
- The criminalisation of supply of prohibited drugs
- The use of Passive Alert Detection Dogs in public places

Under Term of Reference 2, this submission addresses

- Drug safety testing services (also known as pill testing or drug checking services) and early warning systems
- Decriminalisation of drug use and personal possession
- Best practice regulation of recreational-cannabis markets
- Heroin assisted treatment

Unharm is a grassroots organization of people promoting wellbeing in a world with drugs. For more information about Unharm, see www.unharm.org/faqs

Please refer all correspondence related to this submission to:

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TOR1 The effectiveness of laws, procedures and regulations relating to illicit and synthetic drugs and the misuse of prescription medication in minimising drug-related health, social and economic harm.

1. The effectiveness of criminalisation of use and personal possession of prohibited substances in minimising drug-related health, social and economic harm.

Policy context

The *National Drug Strategy 2011-2015* did not endorse or even mention illicit drug consumer arrests, but did endorse 'efforts in diverting people from traditional criminal justice pathways by providing information and/or referring them to assessment and treatment.'¹ This is widely supported in the Australian community: 68% of Australians think that possession of cannabis for personal use should not be an offence, and more than half support alternatives to criminalisation for personal possession of ecstasy, heroin, methamphetamines and hallucinogens.² Nevertheless, despite a lack of strategic guidelines, explicit objectives, or popular support consumer arrests continue. More than 90,000 of the approximately 112,00 drug arrests nationally in 2013-14 were for drug consumer offences, representing an arrest every six minutes.³

Performance against implied objectives

Despite the absence of any explicit strategy behind drug consumer arrests, it is possible to deduce underlying beliefs that perpetuate the practice: that the use of illegal drugs is inherently abuse and a causes substantial harm⁴; that criminalisation and enforcement establish a social norm against the use of illegal drugs⁵; that enforcement is an effective deterrence against the use of illegal drugs;⁶ and that the criminalisation of drug use provides a net social benefit.⁷ None of these is supported by evidence.

¹ *National Drug Strategy 2011-2015*

² Australian Institute of Health and Welfare, 2014, *National Drug Strategy Household Survey 2013: final report*, AIHW.

³ Australian Crime Commission, *2013-14 Illicit Drug Data Report*.

⁴ Loxley, Wendy, et al, 2004, *The prevention of substance use, risk and harm in Australia: a review of the evidence*, Australian Government Department of Health and Ageing.

⁵ Loxley, Wendy, et al, 2004, *The prevention of substance use, risk and harm in Australia: a review of the evidence*, Australian Government Department of Health and Ageing.

⁶ Loxley, Wendy, et al, 2004, *The prevention of substance use, risk and harm in Australia: a review of the evidence*, Australian Government Department of Health and Ageing.

⁷ Commonwealth of Australian Governments, 2007, *Best practice regulation: a guide for ministerial councils and national standard setting bodies*, Commonwealth of Australian Governments.

International comparisons show there is little correlation between consumer-law enforcement regimes and rates of drug use.⁸ Similarly, in a review of the decriminalisation of cannabis possession in South Australia, none of the studies found an increase in cannabis use attributable to the introduction of the Cannabis Expiation Notice scheme.⁹

Effects related to 'harm minimisation'

While the criminalisation of use and personal possession do not have their apparently-intended effects, they have other important effects. Illegality promotes secrecy around drug use and reluctance to seek help when problems occur.^{10 11} It actively creates harm by 'placing users at risk of a drug conviction that can have serious life-long consequences, detrimentally impacting upon education, employment, housing, travel and relationships.'¹² By legitimising discrimination, the criminalisation of drug use has promoted stigma and social marginalisation.¹³

Crucially, criminalisation of drug use and personal possession also alienates people who use prohibited substances from taking part in preventing drug-related problems. About 15% of Australians in 2013 reported recent illicit use of drugs.¹⁴ The real proportion is likely to be higher given that people who use illicit drugs are often unwilling to admit use in social surveys.¹⁵ Forty two percent of people reported lifetime illicit use and among adults under 40, lifetime illicit drug use was more common than not. This means that at least 3,500,000 Australians recently used at least one illicit drug and more than 9,700,000 have done so in their lifetime. A strategy to prevent drug-related problems based on support from the whole community would need to recognise that illicit drug use is common in the community and that people who use those substances must be involved in the solutions.

Continuing to arrest illicit drug users is out of step with community attitudes and practices, is counterproductive to the objective of creating safe and healthy communities, and alienates a crucial group from participation in solving drug-related problems. The persistence and, indeed, escalation, of drug consumer arrests in Australia is counter to the objectives of the National Drug Strategy and actively promotes harm.

⁸ UK Home Office, 2014, *Drugs: International Comparators*, UK Home Office.

⁹ DASC, 1999, *The impact of cannabis decriminalisation in Australia and the United States*, DASC.

¹⁰ Buchanan, Julian, 2015, 'Ending drug prohibition with a hangover?', in *British Journal of Community Justice*, 13 (1) 55-74.

¹¹ World Health Organisation, 2014, *Consolidated Guidelines on HIV prevention, diagnosis, treatment and care for key populations*, World Health Organisation.

¹² Taylor, Stuart, et al., 2016, 'Prohibition, privilege and the drug apartheid: The failure of drug policy reform to address the underlying fallacies of drug prohibition,' in *Criminology and Criminal Justice*, pp1-18.

¹³ Manderson, Desmond, 1993, *From Mr Sin to Mr Big*, Oxford University Press.

¹⁴ Australian Institute of Health and Welfare, 2014, *National Drug Strategy Household Survey 2013: final report*, AIHW.

¹⁵ Chalmers, Jenny, et al., 2016, 'The stigmatisation of 'ice' and under-reporting of meth/amphetamine use in general population surveys: A case study from Australia', *International Journal of Drug Policy*.

Personal experiences of the criminalisation of drug use and personal possession

1.

I am a lawyer. I have acted for a number of client in criminal cases arising from possession of small quantities of drugs. I have never seen the benefit of charging people with possession – be it small quantities of cannabis, ecstasy or cocaine.

Normally it is the person's first offence. Normally they plead guilty and I stand before the court and say how sorry the person is for breaking the law and taking drugs. They will get a few references saying how they are normally a good person who contributes to society.

The judge may convict them, or give them a bond or fine or let them off with a warning. The judge may give them a small lecture on the perils of drugs and the person walks out with a conviction (if unlucky) or without a conviction (if lucky).

Often to secure a non-conviction, the person will attend a drug course with addicts. It is absurd. I often feel like yelling out the judge "come on, this is ridiculous, this is not a drug addict, nor even a problematic user. This is a young person experimenting with drugs like most Australians have at some time in their life. This is waste of time, money and effort. This person is not a criminal. No more so than you or me, no worse than someone drinking alcohol or coffee."

Let's stop criminalising people for using drugs and accept that a lot of drug use is non-problematic. It is charging people for possession that is far worse for that individual – creating stigma, a loss of trust in the police and potentially affecting their employability and life in a far more negative way than the occasional use of an illicit drug

2.

The current criminalisation of drug use makes me feel more detached from society, and also builds resent for the greater community as I feel persecuted simply for preferring a drug other than alcohol and nicotine. It has also led to a hatred of police officers amongst my social circles, and from me as well, due to their harassment and violence towards non-violent citizens that are just looking to experiment and enjoy life.

3.

The criminalisation of cannabis [use] is of greatest concern to me. I have been using cannabis now for over 40 yrs. I suffer post traumatic stress and cannabis is the only thing that helps keep me away from that deep dark place where my mind keeps taking me back to. I have problems with paranoia that are related ONLY to police and my ILLEGAL use of cannabis. I live in fear of the police. I live in fear of losing my license. I fear that I may not be able to get a supply. I rent and have had to move house because people complain about the smell and I fear they will dob me in to police.

4.

The criminalisation of Cannabis [use] had a seriously negative effect on my life due to prejudice and ignorance and fear and anxiety and guilt and shame, whereas Cannabis has had only a positive impact on my life. We are and have been made to feel as criminals and outsiders for too long, called lazy and no-hopers and losers and lacking motivation. All lies perpetuated by the media, politicians and authorities over the decades. I have experienced genuine, repeated episodes of fear of the police, of "getting caught". I have felt persistent guilt and shame due to the prejudices and lies expressed by the media over the decades that result in ignorant, naive, prejudiced immediate family and society that believed there was something "wrong" and "other" about me.

5.

A relative has been imprisoned because of drug laws. The crime: cannabis possession on several occasions. This has affected the family, the relatives and friends. Significant costs for legal representation drained us. This is not a justice system for the greater good, it is a petty drain on resources and the community.

6.

There are so many occasions i.e. Fringe Festivals, sporting events, music concerts et al when I would love to consume cannabis to enhance the experience, but instead are "limited" to consuming alcohol. The day after consuming alcohol I am often, even slightly, hungover; whereas with cannabis there virtually is no "hangover". For me, cannabis has provided a "gateway" out of alcohol use, and has improved my fitness, and overall health and wellbeing. With criminalisation of cannabis use, it is a waste that this cannot be shared with more of the population, many who struggle with alcohol abuse.

2. The effectiveness of criminalisation of supply of prohibited substances in minimising drug-related health, social and economic harm.

Policy context

Despite the efforts of law enforcement and Customs to enforce laws against production, importation and sale of prohibited substances, the Australian illicit drug market is large and persistent. In 2013 the Australian Bureau of Statistics estimated that the 2010 illicit drug market (excluding illicit sales of pharmaceutical drugs, and performance enhancing drugs) totalled an annual expenditure of \$7.1 billion.¹⁶ The ABS based their estimates on consumption data from the National Drug Strategy

¹⁶ Ryan, John, (ed.), 2013, 'Profits dwarf drug responses' in *Anex Bulletin*, Volume 11 Edition 6.

Household Survey. A separate analysis in 2013 incorporated seizure data as well, and estimated a 2010 market size of \$17 billion.¹⁷

In 2015, the National Ice Taskforce reported that despite increased law enforcement activity, the methamphetamine market remained 'strong,' with the drug still 'easy to get' at a price that had remained stable.¹⁸ The Taskforce described this as a 'lack of any discernible market response,' and noted that even 'very large seizures' had no discernable effect.¹⁹

Effectiveness of supply control through prohibition and enforcement

International research has found that enforcement of prohibition is unable to control the market for illicit drugs. A 2013 analysis of international drug surveillance databases, including data from Australia, assessed the long-term impact of enforcement-based supply reduction interventions. On the basis of this analysis, the researchers concluded that

*'with few exceptions and despite increasing investments in enforcement-based supply reduction efforts aimed at disrupting global drug supply, illegal drug prices have generally decreased while drug purity has generally increased since 1990. These findings suggest that expanding efforts at controlling the global illegal drug market through law enforcement are failing.'*²⁰

There are many examples of this phenomenon, including from Australia. A tripling of cannabis seizures in Australia in 1997-98 had no discernable effect on cannabis prices, which continued to decline²¹ and a 1995 analysis of heroin law enforcement in Australia found that 'attempts to increase the street price of heroin (and therewith reduce the demand for it) by creating a shortage of the drug are not likely to prove successful.'²²

Economic factors preventing market control through prohibition

Australia has a large and sophisticated border control system that has not been able to prevent drug importation. The economics of the illicit drug trade and the scale of movements of passengers and cargo into Australia each year gives a sense of why.

¹⁷ Jiggen, John, 2013, 'Estimating the size and value of Australia's market for illegal drugs and its potential for taxation under a regulated market,' accessible at <http://www.ffdlr.org.au/forums/docs/howmanyconesb+w-3.pdf>, accessed 25 July 2016.

¹⁸ Department of the Prime Minister and Cabinet, 2015, *Final Report of the National Ice Taskforce*, Commonwealth of Australia.

¹⁹ Department of the Prime Minister and Cabinet, 2015, *Final Report of the National Ice Taskforce*, Commonwealth of Australia.

²⁰ Werb, Dan, et al 2013, 'The temporal relationship between drug supply indicators: an audit of international government surveillance systems', *BMJ Open*, accessible at <http://bmjopen.bmj.com/>

²¹ United Nations Office on Drugs and Crime, 2008, *Drug Policy and Results in Australia*, United Nations, pg 57.

²² Weatherburn, Don, et al., 1995, *Drug law enforcement policy and its impact on the heroin market*, New South Wales Bureau of Crime Statistics and Research.

More than two million 20 foot equivalent containers (TEU) enter Australian ports each year²³ and only about 5% are inspected.²⁴ Even the one million mail items screened each week²⁵ represent less than a third of the 170 million mail items arriving each year.²⁶ In addition, seventeen million passengers arrive in Australia each year.²⁷ The sheer quantity of cross border traffic makes prevention of importation impossible, and there is a strong economic incentive for traffickers because Australian consumers are prepared to pay high prices for illicit drugs.

The Australian Crime Commission's national manager of strategic intelligence reported in 2014 that kilograms of cocaine that sold for about \$3000 a kilo in Colombia could be sold in Australia for \$190,000 to \$250,000 a kilo.²⁸ These relative prices means that only a fraction of exported cocaine would need to reach Australia for an exporter to break even.

The UK Prime Minister's Strategy Unit concluded in 2003 that, putting an illicit drug trafficker out of business would require a sustained seizure rate of at least 60% and that 'sustained successful interventions on this scale have never been achieved.'²⁹

A potential counter-example is Australia's 'heroin drought,' which began in 2000 after a glut of heroin availability in the 1990s. This has sometimes been claimed as an effect of law enforcement (for example, Weatherburn et al, 2001³⁰) and in the *National Drug Strategy 2016-2025 Draft* it was described as the 'the best and most contemporaneous example' of supply reduction through enforcement. However, a review of analyses of the drought concluded that

'the causes of the drought remain the subject of considerable controversy... In the absence of a definitive account of the causes of the drought, the drought itself presents few lessons for policy. Instead, we are left with a comprehensive descriptive account of the effects of large changes in

²³ Ports Australia, 'Containerised Trade in TEU for 2013/2014,' accessible at

<http://www.portsaustralia.com.au/aus-ports-industry/trade-statistics/?id=5>, accessed August 2 2016

²⁴ Australian Customs and Border Protection Service, 2015, *Annual Report 2014-15*, Commonwealth of Australia.

²⁵ Australian Customs and Border Protection Service, 2015, *Annual Report 2014-15*, Commonwealth of Australia.

²⁶ Department of Agriculture and Water Services, 'Mailing goods to Australia,' accessible at <http://www.agriculture.gov.au/travelling/bringing-mailing-goods/mail>, accessed August 2 2016.

²⁷ Australian Bureau of Statistics, 2015, 'Overseas Arrivals and Departures, Australia, Jun 2015,' accessible at <http://www.abs.gov.au/ausstats/abs@.nsf/products/961B6B53B87C130ACA2574030010BD05>, accessed August 2 2016.

²⁸ In Moor, Keith, 2014, 'Australia warned its ice problem is reaching pandemic proportions' in *Herald Sun*, April 30 2014.

²⁹ Strategy Unit, 2003, *Strategy Unit Drugs Report*, Whitehall, UK, 2003, accessible at http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/media/cabinetoffice/strategy/assets/drugs_report.pdf, accessed June 15 2016

³⁰ Weatherburn, Don, et al, 2001, 'The Australian Heroin Drought and its Implications for Drug Policy', *Crime and Justice Bulletin* 59.

*drug supply on some relevant outcome measures, and a series of postulated causes that are almost impossible to accept or refute.*³¹

A recent review of the effectiveness of tougher enforcement on illicit drug prices concluded that there was little correlation between tougher enforcement and increased drug prices, and the authors observed that

*'given the high human and economic costs of stringent enforcement measures, particularly incarceration, the lack of evidence that tougher enforcement raises prices call into question the value, at the margin, of stringent supply-side enforcement policies in high-enforcement nations.'*³²

This finding was foreshadowed in Australia in 1989, when the Parliamentary Joint Committee on the National Crime Authority concluded that 'all the evidence shows... not only that our law enforcement agencies have not succeeded in preventing the supply of illegal drugs to Australian markets but that it is unrealistic to expect them to do so.'³³

Harms from failure to control the market

Prohibition makes drug use less safe by preventing quality control and accurate labelling,³⁴ and brings consumers into contact with criminal networks.³⁵ Illicit drug production is also hazardous to the environment and to health through unregulated production methods, disposal of byproducts, accidental explosions, and chemicals absorbed into surfaces of properties used to manufacture drugs like methamphetamine.³⁶

On annual sales of \$7.1 billion in 2010, the ABS calculated that wholesale and retail distributors made margins of \$5.879 billion. Given substantial profits, corruption of legal authorities is a common, unintended consequence of illicit drug markets.³⁷

The *National Ice Taskforce Final Report* described how, within these drug markets, 'the threat of violent retribution is used to deter competition or unpaid debt.'³⁸ Tough enforcement measures that disrupt

³¹ Dietze, Paul, 2008, 'What more can we learn from the heroin drought?', in *International Journal of Drug Policy* 19: 270–272

³² Pollack, Harold, et al., 2014, 'Does tougher enforcement make drugs more expensive?', *Addiction*, Volume 109, Issue 12, pages 1959–1966

³³ Parliamentary Joint Committee on the National Crime Authority, 1989, 'Drugs, crime and society', Australian Government Publishing Service.

³⁴ Reuter, Peter H. 2009, *The unintended consequences of drug policies*, European Commission.

³⁵ Taylor et al 2016

³⁶ Department of the Prime Minister and Cabinet, 2015, *Final Report of the National Ice Taskforce*, Commonwealth of Australia.

³⁷ Reuter, Peter H. 2009, *The unintended consequences of drug policies*, European Commission.

³⁸ Department of the Prime Minister and Cabinet, 2015, *Final Report of the National Ice Taskforce*, Commonwealth of Australia.

and destabilize the illegal market have been shown to be associated with increases in drug-related violence, as well as increasing the harms experienced by drug users and wider society.³⁹

Regulation of the illicit drug market through enforcement of prohibition meets all three criteria for a 'policy problem' as defined in the *Australian Government Guide to Regulation*: 'market failure,' 'regulatory failure,' and 'unacceptable hazard or risk.'⁴⁰ Regulatory failure in drug markets is actively harm-creating and it creates opportunity cost in preventing the use of more conventional regulatory strategies.⁴¹

Personal experiences of the criminalisation of drug supply

1.

I was effectively what would be described as a subsistence trafficker of drugs. Selling drugs covered the cost of my own drug use. My conviction for drug trafficking is severely career limiting, curtailing my potential to have meaningful employment and to contribute to society in a meaningful way. The harm caused to me by my conviction has long outlasted the harm caused to me by my drug use and has served to compound the social and economic harm caused to me by my drug use.

I worked as a security officer and crowd controller from 1992 to 1998 and immersed myself in the Melbourne drug scene from 1998 to 2012. I was a regular user and supplier of drugs at such venues as Dome, Viper Room and major dance music festivals at venues such as The Sidney Myer Music Bowl. On the basis of that experience I observe the following

- 1. The principal drug associated with violence is alcohol with the consumption of MDMA having little or no connection with violence.*
- 2. The violence associated with MDMA is directly attributable to the illegal market operation associated the supply and distribution of MDMA. For example, I have known people that got shot and people that did the shooting in the period of the Melbourne's "drug war" of the late 90's and early 2000's.*
- 3. I observed that high quality reliable supply of MDMA was available to me from 1998 until approximately 2008 and that the combination of 2 key market factors skewed the illicit drug market to a disastrous outcome. An international agreement was struck to constrain the worldwide supply of safrole, the organic base chemical used in the production of MDMA. This resulted in the commercially rational organized criminals who control illicit drug supply diverting their attention and resources to Methamphetamine.*

³⁹ Taylor et al 2016

⁴⁰ Office of Prime Minister and Cabinet, 2014, *The Australian Government Guide to Regulation*, Commonwealth of Australia.

⁴¹ Ritter, A. (2010). "Illicit drugs policy through the lens of regulation." *International Journal of Drug Policy* 21(4): 265-270.

2.

I have seen firsthand how the criminalisation of drug supply has allowed for “criminals” to easily build wealth and profit off this black market. It has also resulted in getting drugs of dubious and impure quality which makes the whole thing more dangerous.

3.

My son has just turned 18 and is an Epileptic which Cannabis use enables him to lead a normal life due the seizure control smoking Cannabis offers. Unfortunately he is an Apprentice on \$10.50 an hour so most of his earnings are eaten up by the exorbitant cost in obtaining a regular supply.

4.

I was never certain whether the weed was laced with meth or some other drug. I never knew if it was free from harmful pesticides, chemicals and fungal spores that could be harmful to health. I never knew the strength. The temptation to buy other harder drugs from dealers was often there.

5.

The criminalisation of drug supply means that I have to enter the “black market”. This involves risk and means that I am often in the presence of people using harder drugs (meth) to purchase cannabis. As well, I have to transport the cannabis home, which again represents increased risk. A conviction for “possession” could threaten my employment prospects, and travel to countries including the USA. There are also very vague guidelines for driving after consuming cannabis (noting that I avoid driving for a minimum 12 hours after consumption). I find this such an important area of legislation that is really not discussed, mainly due to the criminalisation of drug use and supply.

6.

I am a 42 year old tennis coach. I suffer from chronic sciatic nerve pain (due to playing tennis long term). I also suffer from Borderline Personality Disorder, which has me deal with intense emotional eruptions, mostly rage and anxiety, on a daily basis. DBT is a condition I have had since a child and the symptoms are significantly worsening as I get older. Marijuana helps greatly to relax my highly strung personality and chronic mood swings. It also helps immensely with my sciatic nerve pain.

I lived and worked in California from 2004 until 2011 as a tennis coach, and when the sciatic nerve issue flared up in 2008 I was able to get medical marijuana which helped enormously.

Since returning to Australia I am not able to work as a tennis coach; and I am in emotional or physical pain daily. I am not able to use marijuana now that I am in Australia because it is illegal, extortionate in cost, and I fear what is in it, (i.e. other dangerous drugs etc). I am currently studying at university because I have had to change my career as a tennis coach which has devastated me.

3. The effectiveness of Passive Alert Detection dog operations in minimising drug-related health, social and economic harm.

Policy context

Victoria Police conducts Passive Alert Detection Dog operations 'wherever there is evidence of widespread drug use, related crime and trafficking. This can include street malls, public transport hubs, large scale music events and late night entertainment areas.'⁴² Stated objectives for the program include 'reducing the supply of drugs,... reducing drug use, diverting offenders into treatment, providing a visible response to drug related crime, increasing community perceptions of safety and sending a message that society does not condone drug use.'⁴³ There is no publicly-accessible evaluation of the program's performance against these objectives.

Effects of PAD dog operations

There is no evidence that Passive Alert Detection dog operations make any serious contribution to reducing risk of harm, and substantial evidence that they increase risk of harm. Specifically:

- they detect very small proportions of the prohibited substances present at large events.⁴⁴
- they do very little to deter use of prohibited substances.⁴⁵
- fear of being detected with prohibited substances has been implicated directly in the deaths of young people in Australia. Twenty-three year old James Munro died after taking three ecstasy tablets prior to entering Defqon1 in NSW in 2013. His father Stephen explained to ABC's 7:30 Report 'There was a police presence at the gates and a concern he would be detected.'⁴⁶ The coronial investigation into the death of Gemma Thoms at the Perth Big Day Out 2009 found that 'the deceased started to panic and she became scared of getting caught by the police with the drugs. She was concerned that there were police sniffer dogs in the area that would be able to detect the drugs... The deceased swallowed the remaining 2 tablets in her possession.'⁴⁷

⁴² Victoria Police Drug and Alcohol Strategy Unit, 2008, *Community information bulletin: Passive Alert Detection Dogs*.

⁴³ Victoria Police Drug and Alcohol Strategy Unit, 2008, *Community information bulletin: Passive Alert Detection Dogs*.

⁴⁴ Sophie Hickey et al, 2012, Drug detection dogs in Australia: more bark than bite?, *Drug and Alcohol Review*.

⁴⁵ C.E. Hughes, et al., 2017, The deterrent effects of Australian street-level drug law enforcement on illicit drug offending at outdoor music festivals, *International Journal of Drug Policy*.

⁴⁶ Lisa Whitehead, 2013, Father devastated by son's overdose angered by online marketplace for drugs, ABC News <http://www.abc.net.au/news/2013-10-14/family-devastated-by-drug-death/5021162>

⁴⁷ Dominic Hugh Mulligan (coroner), 2013, Record of investigation into death - Gemma Geraldine THOMS, http://www.coronerscourt.wa.gov.au/_files/Thoms_finding.pdf

- PAD dog operations increase the risk that people will purchase prohibited substances inside festival grounds.⁴⁸
- Fear of being detected has promoted dangerous practices like hiding drugs in body cavities and ‘hasty consumption of drugs’.⁴⁹
- Some people may switch to drugs that are less readily detectable by police and/or drug detection dogs—such as from cannabis to ecstasy, methamphetamine or new psychoactive substances.^{50 51}

Personal experiences of drug detection dog operations in public places

1.

I used to take significant amounts of drugs into festivals, all for personal use but always a little more than I needed just in case. Knowing the risks I would seal everything in balloons and keep everything in the nether regions between my legs. I would wear clean, inconspicuous, residue free clothing. Not once did I ever attract the attention of dogs or police, despite having a plethora of different drugs on me.

Fast forward to 2015, I had stopped taking drugs and therefore had no need to carry them into festivals. I went to Splendour in the Grass in 2015 wearing tie dye pants and a jumper that depicted Bugs Bunny smoking a joint. The dog sniffed me then jumped on me like an excited puppy. I yelled at the dog to stop jumping on me as it was covered in mud. I was then staunch against a wall by an overly aggressive 25ish year old male cop, told that I had to have drugs on me and that I would be searched. I was handed off to another officer who told me multiple times that I had to have drugs on me or had been in contact with them to have been alerted to by the dogs. I didn't and hadn't for at least 6 months by this stage. My clothes were also clean and residue free.

Given this experience I decided to test it last year at Blues Fest. I tried the inconspicuous clothing and experienced no problems. Later I wore the same jumper as I had to Splendour and magically had a dog alert to me.

I know this is only anecdotal evidence but for me it is enough to know that there is an element of handler influence to which people are identified by drug dogs. To their credit though, the police at Bluesfest were much less aggressive, didn't openly accuse me and were rather courteous. As opposed to the police at Splendour who tried to use the fact that I nearly had an anxiety attack as proof that I must be carrying drugs. The experience I had at Splendour as an innocent festival goer still puts me off even wanting to go to festivals, night clubs, train stations, Brisbane, Sydney, or basically anywhere with a large police force who are openly looking for reasons to stand over somebody. I have little faith in my safety around them.

⁴⁸ C.E. Hughes, et al., 2017 The deterrent effects of Australian street-level drug law enforcement on illicit drug offending at outdoor music festivals, *International Journal of Drug Policy*

⁴⁹ Sophie Hickey et al, 2012, Drug detection dogs in Australia: more bark than bite?, *Drug and Alcohol Review*.

⁵⁰ Sophie Hickey et al, 2012, Drug detection dogs in Australia: more bark than bite?, *Drug and Alcohol Review*.

⁵¹ NSW Ombudsman, 2006, *Review of the Police Powers (Drug Detection Dogs) Act 2001*.

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I just feel distrust and dislike for police when I see them using man's best friend against man. It's hypocrisy to go after Weed/Herb when any adult can go to the bottle or pub and buy a drug that is far more destructive for both the individual and community than Herb.

3.

Dog operations have been carried out in the CBD, directly out the front of my office. With drug dogs only having a 20% success rate, more times than not the detection will be wrong. If I were to be stopped in the mall to be searched, this could have implications for my career – the perception of being seen searched by senior management for example; even when, of course, I would not be in possession of any drugs.

TOR2 The practice of other Australian states and territories and overseas jurisdictions and their approach to drug law reform and how other positive reforms could be adopted into Victorian law.

1. Drug safety testing ('pill testing') and early warning systems

Policy context

In 2013, 2.5% of people (580,000) in Australia reported to the National Drug Strategy Household Survey that they had used ecstasy in the past year. Cocaine use and non-medical meth/amphetamine use were reported at a similar rate – each by 2.1% (480,000 people).^{52 53} Actual prevalence of use is likely to be higher – a recent Australian study found that self-reported drug use was about half the rate indicated by oral drug tests.⁵⁴

Recent innovations in MDMA (ecstasy) synthesis have led to high potency MDMA in pill or crystal forms circulating on global drug markets.⁵⁵ At the same time, many new psychoactive substances have become available in global drug markets in recent years, and at an increasing rate.⁵⁶ In 2014, European Early Warning System Member States made notifications for 101 new psychoactive substances not previously reported.⁵⁷

These new substances are introduced into markets in a variety of ways, either as counterfeit versions of illegal drugs, as adulterants to these drugs, or as new products in their own right.⁵⁸ Many of these new psychoactive substances are sold in forms that are far more potent than 'traditional' psychoactive substances.⁵⁹ Knowledge about the risks of new psychoactive substances is limited, and even less

⁵² Past year drug use, people aged 14 years or older, NSW, 2013. Australian Institute of Health and Welfare, 2014, National Drug Strategy Household Survey detailed report 2013, Australian Government.

⁵³ NSW June 2013 population data from ABS, 2014, 3101.0 Australian Demographic Statistics, TABLE 4. Estimated Resident Population, States and Territories (Number)

⁵⁴ Peter Miller, et al, 2015, 'Drug use in Australian nightlife settings: estimation of prevalence and validity of self-report', *Addiction* (epublication ahead of print, accessed 24/09/15 at <http://www.ncbi.nlm.nih.gov/pubmed/26189494>)

⁵⁵ Helen Pidd, 2014, 'Clubbers warned of overdose risk from super-strength ecstasy,' *The Guardian*, 29 November 2014, accessible at <http://www.theguardian.com/society/2014/nov/28/clubbers-warn-overdose-risk-from-superstrength-ecstasy-mdma>, accessed 12/01/16

⁵⁶ European Monitoring Centre for Drugs and Drug Addiction, 2015, European drug report, accessible at <http://www.emcdda.europa.eu/publications/edr/trends-developments/2015/online/start>

⁵⁷ European Monitoring Centre for Drugs and Drug Addiction, 2015, European drug report, accessible at <http://www.emcdda.europa.eu/publications/edr/trends-developments/2015/online/start>

⁵⁸ Claudio Vidal Gine et al, 2014, 'New psychoactive substances as adulterants of controlled drugs. A worrying phenomenon?', in *Drug Testing and Analysis*, 6, 819-824.

⁵⁹ UNODC, 2013, The challenge of new psychoactive substances, UNODC, accessible at https://www.unodc.org/documents/scientific/NPS_Report.pdf, accessed 12/01/16

information is available about combinations of these substances with other drugs in a single pill or powder.⁶⁰ These are risks that users may not know about and might want to avoid.⁶¹

In a recent survey of Australians aged 16-21, 83% said that they supported 'pill testing (where people can have the contents of their pills tested)', including 70% of people who said they had never used an illicit drug.⁶² A survey of 1,006 Australians aged 18 and above in September 2016 found 57% supported the rollout of 'pill-testing services,' while only 13% opposed. Support was highest among those aged 55 and over.⁶³

What is drug safety testing?

Drug safety testing services (also called 'pill testing' or 'drug checking' services) use chemical analysis to determine the content and purity of samples of illegal drugs, brought to the service by members of the public. Information about the sample is interpreted by on-site experts, and provided to the person who brought it, by experts. The person usually also receives information about the risks of consuming the substances identified in the sample, and a brief intervention to identify and support people away from problematic consumption patterns where necessary.

Drug safety testing services are conducted in a range of settings, including at events where people are known to consume illicit drugs, for example dance parties and music festivals. Illicit drug use is not unique to these settings so services also operate in 'high-street' locations and via mail-in.

What are early warning systems?

Early warning systems circulate information about substances being sold on illicit drug markets, including information gathered through drug safety testing systems. Information is typically shared with other consumers, Emergency Departments and law enforcement. In Portugal, for example, information about the substances present in samples is disseminated to consumers, to the Trans-European Drug Information database and where necessary, to the European Early Warning System. At multiple-day festivals, service staff post alerts around the festival site when particularly dangerous substances, or substances that differ from the claimed contents, are detected in samples.⁶⁴

⁶⁰ Claudio Vidal Gine et al, 2014, 'New psychoactive substances as adulterants of controlled drugs. A worrying phenomenon?', in *Drug Testing and Analysis*, 6, 819-824.

⁶¹ Claudio Vidal Gine et al, 2014, 'New psychoactive substances as adulterants of controlled drugs. A worrying phenomenon?', in *Drug Testing and Analysis*, 6, 819-824.

⁶² Kari Lancaster et al, 2013, Young people's opinions on alcohol and other drugs issues, Australian National Council on Drugs.

⁶³ Calla Wahlquist, 2017, 'Melbourne overdoses 'could have been avoided' if drug testing was available', *The Guardian Australian Edition*, accessible at <https://www.theguardian.com/society/2017/feb/21/melbourne-overdoses-could-have-been-avoided-if-pill-testing-was-available>

⁶⁴ Helena Valente, Daniel Martins, Helen Moura, *Drug check!ng: shedding light on the black market*, conference presentation at Club Health 2015, accessible at <http://www.cph.org.uk/wp-content/uploads/2015/07/Helena-Valente.pdf>, accessed 12/01/16

Sampling directly from consumers through drug safety testing services is more accurate than relying solely on samples from police seizures because seizures may be a misrepresentative subsample of substances on the market,⁶⁵ and are often less adulterated than substances that are actually consumed.⁶⁶

Early warning systems enable real-time monitoring of drug use trends and the emergence of new substances onto illicit markets. They support health care service provision through improving the knowledge base for clinical management of acute and chronic presentations,⁶⁷ as well epidemiological and public health monitoring, and could contribute to better overdose management.

Where do services already operate?

Drug safety testing services and early warning systems operate in many countries around the world.

- The Trans-European Drug Information project (TEDI) comprises Checkit! (Austria), Jellinek (Netherlands), AiLatek (Spain), APDES (Portugal), Saferparty (Switzerland), CePT (Luxembourg), Médecins du Monde (France), co-ordinated by Energy Control (Spain).⁶⁸
- The Netherlands has a drug monitoring system DIMS that sources data from a network of drug checking services across the country.⁶⁹
- A research project in the UK provides drug checking services in nightlife settings.⁷⁰
- The International Drug Testing Service (through Energy Control in Spain), ecstasydata.org in the USA and WEDINOS in Wales operate mail-in drug checking services.^{71 72}

How do drug safety services promote safety?

There is little control over the purity and labelling of prohibited drugs.⁷³ Composition of substances varies widely, making effects unpredictable.⁷⁴ Poor synthesis often leaves by-products and the health

⁶⁵ Monica Barrett, Robin Butterfield, Nadine Ezard, *Improving the monitoring of New Psychoactive Substances (NPS) in Australia*, conference presentation at 2015 APSAAR Congress and IDARS Conference, accessed via the authors.

⁶⁶ Trans European Drug Information (TEDI), 2011, *Factsheet on Drug Checking in Europe*, TEDI. Accessible at https://www.ecstasydata.org/text/2011/2011_tedi_factsheet_on_drug_checking_in_europe.pdf, accessed 12/01/16

⁶⁷ Nadine Ezard, Monica Barrett, Robin Butterfield, *The case for incorporating drug checking into Australia's drug trend monitoring systems*, conference presentation at 2015 APSAAR Congress and IDARS Conference, accessed via the authors.

⁶⁸ See <http://newip.safernightlife.org/drug-checking>

⁶⁹ Brunt, T. M. and R. J. M. Niesink (2011). 'The Drug Information and Monitoring System (DIMS) in the Netherlands: Implementation, results, and international comparison.' *Drug Testing and Analysis* 3(9): 621-634.

⁷⁰ See <https://www.dur.ac.uk/sass/staff/profile/?id=11362>

⁷¹ See <http://energycontrol.org/noticias/528-international.html>

⁷² See <http://www.wedinos.org/>

effects of these are typically unknown.⁷⁵ A traditional market regulation strategy would aim to control the risks in products sold to consumers and increase the consumer's ability to choose good from bad products.⁷⁶ Prohibition makes most forms of market regulation impossible, but drug safety testing is an example of how market forces could be used to encourage suppliers to modify their behaviour and cause less harm.⁷⁷ Drug safety testing achieves this by providing individuals with information about the substances present in the sample they bring to the service, and publicising that information to other consumers. This makes it more difficult for drug dealers to sell unknown, contaminated or unwanted substances.

Drug safety testing services provide consumers with credible information about the risks of consuming particular substances⁷⁸ that is based on what the substances actually are, rather than on consumers' often mistaken beliefs about the contents.⁷⁹ This is of value to illicit drug consumers and therefore acts as an incentive for them to come to the service, meaning that drug safety testing services engage people who are already using illicit drugs but are often hard to reach via other health-based services.⁸⁰

An Australian drug safety testing service operated by Enlighten Harm Reduction between 2000 and 2005 included a secure bin where some consumers chose to dispose of drugs after receiving the results of the test.⁸¹

The service can be a setting for psychosocial interventions to identify and support people away from problematic consumption patterns where necessary. Drug safety testing services can also influence the behaviours of a broader group of consumers via warning systems that disseminate information about

⁷³ Brunt, T. M. and R. J. M. Niesink (2011). 'The Drug Information and Monitoring System (DIMS) in the Netherlands: Implementation, results, and international comparison.' *Drug Testing and Analysis* 3(9): 621-634.

⁷⁴ Australian Crime Commission, 2015, *Illicit drug data report 2013-14*, Australian Crime Commission.

⁷⁵ Claudio Vidal Gine et al, 2014, 'New psychoactive substances as adulterants of controlled drugs. A worrying phenomenon?', in *Drug Testing and Analysis*, 6, 819-824.

⁷⁶ Ritter, A. (2010). "Illicit drugs policy through the lens of regulation." *International Journal of Drug Policy* 21(4): 265-270.

⁷⁷ Ritter, A. (2010). "Illicit drugs policy through the lens of regulation." *International Journal of Drug Policy* 21(4): 265-270.

⁷⁸ Ritter, A. (2010). "Illicit drugs policy through the lens of regulation." *International Journal of Drug Policy* 21(4): 265-270.

⁷⁹ Helena Valente, Daniel Martins, Helen Moura, Drug check!ng: shedding light on the black market, conference presentation at Club Health 2015, accessible at <http://www.cph.org.uk/wp-content/uploads/2015/07/Helena-Valente.pdf>, accessed 12/01/16

⁸⁰ Rainer Schmid, 2013, *Drug testing at music events - A low threshold drug prevention program for young consumers of synthetic drugs*, accessible at <http://www.ewdts.org/data/uploads/vienna/ewdts2013-schmid.pdf>, accessed 12/01/16

⁸¹ Andrew M. Camilleri & David Caldicott, 2005, 'Underground pill testing, down under', in *Forensic Science International*, 151, pg 54.

particularly dangerous samples. Warning notices are posted at festivals, on websites and on social media.⁸²

Implementation under existing Victorian law

Enabling consumers to access services without being arrested

Victoria Police Operating Procedures instruct police that ‘the vicinity of NSPs [needle and syringe program sites] must not be targeted solely for the purpose of enforcing use or possession laws’ and that ‘attending a NSP is insufficient grounds on its own to establish reasonable grounds to search a person under s.82, Drugs, Poisons and Controlled Substances Act 1981.’⁸³ This provides a model for how police could operate in relation to drug safety testing services. Note that needle and syringe program outlets could also be potential sites for co-location of drug checking services, which would entail continuation of normal police practice in the vicinity.

Meeting duty of care and protecting services from civil liability claims

In addition to potential violations of criminal law, any organisation intending to commence operation of a drug checking service should also consider civil liability. This issue has been addressed in a report prepared for the Australian Government Department of Health, in relation to colourmetric reagent testing kits. It is equally relevant here and is therefore reproduced in its entirety below.

Concerns have been raised that the manufacture, distribution and use of ecstasy testing kits could potentially lead to huge problems with civil liability in the event of adverse reactions occurring after consumption of tablets which have been tested. Concerns were also raised by police drug and alcohol coordinators about whether a police force which agreed to testing kits being used as a harm reduction strategy would also incur liability. At this stage it has not been possible to obtain a legal opinion on these questions and it is likely that no definitive answer to this question can be given until an actual case has been decided.

In order to attribute liability it would be necessary to establish that there had been a breach of duty of care or an act of negligence on the part of the manufacturer or distributor of the test, the tester, or the organisation which agreed to the use of the tests as a harm reduction measure. Manufacturers, marketers and distributors of these kits would need to be careful in what they claim the test kits will indicate as a matter of duty of care. Duty of care is a jurisdictional issue and jurisdictions would need to seek their own advice as to the potential legal liability.

It is also necessary to establish a causal link between the testing kit and the adverse effect resulting from taking the tested drug. Among other questions at issue are what the test results

⁸² Trans European Drug Information (TEDI), 2011, *Factsheet on Drug Checking in Europe*, TEDI. Accessible at https://www.ecstasydata.org/text/2011/2011_tedi_factsheet_on_drug_checking_in_europe.pdf, accessed 12/01/16

⁸³ Department of Human Services, 2001, *Victorian Needle and Syringe Program Operating Policy and Guidelines*, State Government Victoria.

mean, what is implied by a particular reaction, what information was provided to the user, and whether the user would have taken the tablet if it had not been tested.

...DanceSafe [USA] has adopted standard procedures for testing and information giving which represent an attempt to limit liability in the event of an adverse event. These procedures include never stating or implying that any pill is safe to use or that the user will be alright if they take it.⁸⁴

Enabling service staff to handle prohibited substances for analysis

Under the Victorian *Drugs, Poisons and Controlled Substances Act 1981*, section 97 (1) enables the Chief Commissioner of Police to 'declare a facility to be a declared testing facility.'⁸⁵ This enables supply of prohibited substances to that facility for 'profiling, analytical testing and research.'⁸⁶ This provision could be used to enable the operation of drug safety testing services as declared testing facilities.

Implementation under new laws

The Sydney Medically Supervised Injecting Centre is a place where people can inject drugs under the supervision of medical staff. NSW *Drugs Misuse & Trafficking Act 1985* Part 2a - Medically Supervised Injecting Centres, Division 4 exempts users of the centre from liability for possession of, administering or attempting to administer a small quantity of a prohibited drug.⁸⁷ The Division also exempts 'persons engaged in conduct of licensed injecting centre' from offences prescribed by the Act⁸⁸ and from 'civil liability in connection with conduct of licensed injecting centre'.⁸⁹ This provides an example of an enabling legislative framework that could be adapted to enable the operation of drug safety testing services.

Personal perspectives on drug safety testing services

1.

My son Daniel died at a music festival in 2012. He called me the night he died. 'Mum' he said, 'I have no idea what I have taken. It's nothing I have taken before'. Daniel didn't want to die, but he did that night. My world fell apart.

My name is Adriana Buccianti. I'm a parent, a grandparent, a social worker and a life coach. I believe that when it comes to drugs, everyone is motivated by the same thing. You want people you love to be safe.

⁸⁴ Sue Henry-Edwards, et al, 2005, *Drug testing kits: detailed discussion paper on social, health and legal issues*, Australian Government Department of Health and Aging

⁸⁵ http://www.austlii.edu.au/au/legis/vic/consol_act/dpacs1981422/s97.html

⁸⁶ http://www.austlii.edu.au/au/legis/vic/consol_act/dpacs1981422/s98.html

⁸⁷ http://www.austlii.edu.au/au/legis/nsw/consol_act/dmata1985256/s36n.html

⁸⁸ http://www.austlii.edu.au/au/legis/nsw/consol_act/dmata1985256/s36o.html

⁸⁹ http://www.austlii.edu.au/au/legis/nsw/consol_act/dmata1985256/s36p.html

Our governments are making it impossible to find out what's in illegal drugs. And at the music festivals like the one where Daniel died, swarms of police with dogs are searching people. It's all about making people scared.

But drug use goes on. It's just more dangerous than before. People are taking drugs when they have no idea what's in them, sometimes with deadly consequences.

In many countries around the world, for up to 20 years now, governments have made that possible. They have 'pill testing' services with precise laboratory equipment and trained counsellors. People can find out exactly what's in the stuff they bought, and just how risky it is to take.

At these services there are secure bins where people who have got the results of a test often choose to throw away their drugs. At a recent festival in the UK, a quarter of people who came to the pill testing service decided to throw away their drugs when they got the results.

Last year I teamed up with Unharm to launch a petition for pill testing services in Australia. Nearly 40,000 have got behind the campaign

I can't get my son back but I want to make sure no-one else has to go through what I did. We have got to get real about promoting safety and responsibility, and taking responsibility means making an informed choice. That's why I support pill testing.

2.

My daughter is 18 and when her and her friends were 16 years old, her friends started taking e tablets. It's really common sense, to test what they are made from. As a mother, I would have great peace of mind if they knew what dangerous rubbish was in them,. They wouldn't take them then, they aren't stupid. So many young lives could be saved, they have had them already for a few years in Europe, and imagine how many lives were saved.

I feel really upset for the ones who have already died. How many more have to die before the government realizes it has a duty of care to protect all young people. Empower the young ones with the testing and give them the knowledge to know what's in them.

I'm just lucky none of her friends died yet. They still take them. They are good kids, they don't deserve to die when they have all their life ahead of them.

2. Decriminalisation of drug use and personal possession

A 2012 review by UK drug policy organisation Release documented what they called a 'quiet revolution' in movement towards the decriminalisation or depenalisation of possession and use of drugs in 21 countries around the world, including Australia.⁹⁰ The authors identified a 'growing recognition of the

⁹⁰ A. Rosmarin and N. Eastwood, 2012, A quiet revolution: drug decriminalisation policies in practice across the globe, Release.

failures of the criminalisation approach' including 'mounting evidence of the devastating consequences for individuals associated with the criminal justice response to drugs – stigmatisation, employment decline, public health harm'.⁹¹ While cautioning that 'decriminalisation is not a panacea for all of the problems associated with problematic drug use' the review concluded that

*Decriminalisation does appear to direct more drug users into treatment, reduce criminal justice costs, and shield many drug users from the devastating impact of a criminal conviction. A decriminalisation approach coupled with investment in harm reduction and treatment services can have a positive impact on both individual drug users and society as a whole.*⁹²

In 2001, Portugal decriminalised use, acquisition and possession of all illicit drugs when conducted for personal use. It also expanded and improved prevention, treatment, harm reduction and social reintegration programs. This means that

*while it is no longer a criminal offence to possess drugs for personal use, it is still an administrative violation, punishable by penalties such as fines or community service. The specific penalty to be applied is decided by 'Commissions for the Dissuasion of Drug Addiction', which are regional panels made up of legal, health and social work professionals. In reality, the vast majority of those referred to the commissions by the police have their cases 'suspended', effectively meaning they receive no penalty. People who are dependent on drugs are encouraged to seek treatment, but are rarely sanctioned if they choose not to – the commissions' aim is for people to enter treatment voluntarily; they do not attempt to force them to do so.*⁹³

Since 2001, drug-related deaths in Portugal have declined, from approximately 80 in 2001, to 16 in 2012.⁹⁴ Portugal has experienced reduced problematic drug use, reduced drug use by adolescents, fewer people arrested and incarcerated for drugs, more people receiving drug treatment, and reduced incidence of new HIV/AIDS cases among people who inject drugs. 'Past year' drug use among people aged 15-64 was also lower in 2011 than in 2001.⁹⁵

Personal perspectives on decriminalising drug use and personal possession

1.

I would smile for 6 months! Free up the legal system and policing. Save money, time and allows people to do what they are going to do anyway. I would use drugs again, in moderation like responsible adults do,

⁹¹ A. Rosmarin and N. Eastwood, 2012, A quiet revolution: drug decriminalisation policies in practice across the globe, Release.

⁹² A. Rosmarin and N. Eastwood, 2012, A quiet revolution: drug decriminalisation policies in practice across the globe, Release.

⁹³ Drug Policy Alliance, 2014, *Drug Decriminalization in Portugal: A Health-Centered Approach*, DPA.

⁹⁴ Hughes, C. E. and Stevens, A., 2012, 'A resounding success or a disastrous failure: Re-examining the interpretation of evidence on the Portuguese decriminalisation of illicit drugs', *Drug and Alcohol Review*, vol. 31, pp. 101-113.

⁹⁵ Drug Policy Alliance, 2014, *Drug Decriminalization in Portugal: A Health-Centered Approach*, DPA.

similar to drinking. Leave the responsibility on the adult, we don't need to be supervised or ostracised by the government.

2.

If drugs were "decriminalised" I would live in less fear of the police, resulting in less anxiety. But decriminalisation still suggests organised crime control the cultivation/manufacture, distribution and sale of drugs...this not appropriate.

3.

If drug use was decriminalised I would feel less isolated from society and would find it much easier to discuss my drug use and seek help if I develop a problem.

4.

Drug use should not be a criminal offence [but] in regard to Cannabis, [decriminalisation of use] would be merely a continuation of prohibitionist laws. [Even if there is decriminalisation of drug use] the "drug" that I paid good money for is still confiscated and I am still fined if I get caught with "drugs" in my possession. It means there is still NO clean supply for me to rely on - so I still have to go to the (unsafe) "illicit" market whether it be for recreational or medicinal use. Rather than decriminalising it, Cannabis should be fully legalised = no fine, no destruction or confiscation of your supply.

5.

International evidence has proven that a pivot from the criminalisation of drug use, to be treated as a health and social issue saves lives, and creates a more equitable society. It would be reassuring for me to know that lives are being saved, arrest rates are reduced, and money saved reinvested into the community (via social and justice reinvestment).The overwhelming relief would be that drug use is no longer stigmatised and marginalised. An honest society creates a more fair, and equal society.

3. Legal, regulated supply of currently-prohibited substances

Prohibition seriously curtails the regulatory options for government to control drug markets, contributing to regulatory failure. Given the size, persistence and harms of illicit drug markets, there is a clear need for effective regulation to support safe and healthy communities.

As a universal strategy to promote safety among drug users, effective regulation of drug production and sale would enable product quality control, access to less risky forms of drugs, better regulation of sales practices and reduced exposure to criminality. The table below uses the example of alcohol market regulation, in comparison with illegal drugs, to indicate the additional regulatory options that are open to governments in the absence of complete prohibition.

	Alcohol	Illegal drugs
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<p>Legislative regulations</p>	<ul style="list-style-type: none"> ● Licensing of production and sales ● Prohibition of unlicensed sale ● Commercial practices of licensed premises ● Offences and duties of licensees ● Disciplinary procedures and penalties ● Who may consume and access alcohol ● Where alcohol may or may not be consumed and/or possessed⁹⁶ ● Recording of supply ● Advertising of products ● Labelling of products ● Permitted ingredients, additives and processing aids ● Location of outlets ● Opening times of outlets ● Licensing of stills ● Alcohol excise ● Wine equalisation tax ● Export levy and fees ● Export licenses ● Export permits 	<ul style="list-style-type: none"> ● Prohibition of production, importation, sale and supply ● Prohibition of consumption
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⁹⁶ Trifonoff, Allan, et al., 2010, *Liquor Licensing Legislation in Australia*, National Centre for Education and Training on Addiction (NCETA)..

	<ul style="list-style-type: none"> ● Exported product registration 	
Non-legislative market regulations	<ul style="list-style-type: none"> ● Liquor Accords ● Advertising codes 	

Legal regulation of recreational cannabis

In addition to the benefits outlined above, a properly regulated, legal recreational cannabis market would reduce law enforcement costs and generate tax revenue. In 2004/05, public sector outlays attributable to illicit drugs, together with revenue losses, amounted to almost \$2.7 billion.⁹⁷ In the same year, tax revenue from alcohol and tobacco exceeded the social costs attributable to alcohol and tobacco use. In 2015, the Australian Government Parliamentary Budget Office calculated that a 10% Goods and Services Tax on Cannabis sales in a legal market would generate tax revenue of more than \$300 million per year, and that legalisation would reduce costs to the Australian Federal Police and Australian Border Force by approximately \$100 million per year.⁹⁸

Personal perspective on legal regulation of recreational cannabis

1.

I am 36 years old, a university educated professional working in emergency health and a daily user of cannabis for 20 years. Having lived in places where the sale of cannabis was either fully legalised or quasi-legal I am confident that legalising the cannabis market will have no effect on my use. As things stand, cannabis of various types is a phone call away. I have never not been able to get it and the legalistic threat I face purchasing it is no deterrent. The entire efforts of the war on cannabis over the past several decades amounts to at best a mild inconvenience at times – I may have to make a second phone call, the quality may not be where I want it to be – although both of these scenarios are unusual.

The main difference if cannabis markets were fully legalised is the money I spend would be taxed, and not end up in the hands of organised criminal organisations. Also, as a middle class white person who uses personal amounts the chance of getting caught is very low, but if it were to happen I would lose my job I would go from someone who pays \$60,000 a year in tax to someone who is a financial drain on the Australian tax system. The idea that treating me harshly would lead to some greater good - that people would be so discouraged by witnessing my punishment and impoverishment and public shaming that they would become drug free and lead longer and more productive lives and that collectively Australia would be better off - is not based in reality.

⁹⁷ Lapsley, Helen, et al., 2008, The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05, Commonwealth of Australia.

⁹⁸ Parliamentary Budget Office, 2015, *Legalising marijuana*, Parliament of Australia.

2.

If recreational cannabis were legalised I would be jumping for joy! No more fear, paranoia or worry. I would be able to get a supply of clean cannabis OR i could GROW my own and know exactly what was used on it in the growing phase. It would put an end to many of my mental/ emotional issues and see me live out my days in peace of mind.

3.

I welcome the move with open arms for the freedom of adults to choose the path they wish. I'm sure the government could make a pretty penny by taxing cannabis as they do smokes and alcohol. I rarely smoke but if it was legalised I would partake as a responsible adult as I do when I have a beer or two.

4.

I would live a more spiritually fuller life free from fear and institutionalised prejudice. My own personal experiences with Cannabis is that it helps in prayer and meditation as well as in contemplation and introspection. Cannabis can help to dissolve the ego. Cannabis helps one in many ways to appreciate and revere life and face personal challenges.

5.

I would be overjoyed [if recreational cannabis was legally available]. Cannabis helps me relax, study and be creative. With legalisation the availability of known ratios of THC/CBD would greatly enhance the used experience. Under the tax, control, regulate, educate model it would also be great to see the tax from the sale of cannabis reinvested in the social determinants of health, the demand pillar of drug strategy including drug education, early intervention treatment, counselling services; and the harm reduction pillar of drug strategy.

6.

If the recreational cannabis market were legalised I would stop buying off my dealer and instead funnel my money back into the government so it can be used to better society. I would also feel more integrated in society as my hobby is no longer something that gets hunted down and persecuted.

Heroin assisted treatment

Treatment with fully supervised self-administered injectable heroin has been trialled successfully in Switzerland, the Netherlands, Spain, Germany, Canada and England. Compared with oral methadone substitution, 'treatment with heroin brings about additional reductions in illicit heroin use,' and therefore also 'a greater reduction in the costs of criminal procedures and imprisonment as a result of associated criminal behaviour.'⁹⁹ Evaluation of the Swiss program observed that access to treatment

⁹⁹ Strang, John, et al., 2012, *EMCDDA Insights No. 11: New heroin-assisted treatment Recent evidence and current practices of supervised injectable heroin treatment in Europe and beyond*, European Monitoring Centre for Drugs and Drug Addiction.

with heroin enabled long term, problematic users 'to move away from the damaging illegal environment and pattern of life and... engage in productive and healthier lifestyles.'¹⁰⁰

Personal perspective on heroin-assisted treatment

The mother of my son was a heroin addict, so I have had firsthand experience in dealing with this addiction. Heroin is a pain reliever and she used it to shut out her childhood having been sexually molested by a relative at age 10 in Serbia. She is off heroin now but only after a long and hazardous road were we able to achieve this. Most of the time medical staff looked down on her and also the hospitals so the stigma is patently obvious. How helpful it would have been had she been able to register as a heroin addict and receive legal heroin and slowly weaned off the addiction instead of constant detox centres and rehabilitation services which seem to offer only band aid solutions.

¹⁰⁰ Taylor, Stuart, et al., 2016, 'Prohibition, privilege and the drug apartheid: The failure of drug policy reform to address the underlying fallacies of drug prohibition,' in *Criminology and Criminal Justice*, pp1-18.