

Submission to the ACT Standing Committee on Health and Community Care

Inquiry into cannabis use.

Terms of Reference

Noting the reported effects on health of cannabis users and the ACT policy of harm minimisation the committee will inquire into and report on:

- 1) the role of legal sanctions in addressing issues of individual cannabis use;
- 2) the impact of the use of Simple Cannabis Offence Notices in responding to individual cannabis use; and
- 3) any other related matter.

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Executive summary

Cannabis is the most widely used illicit drug in Australia. Its use is increasing and the age of first use is decreasing. The total number of recent users of cannabis in Australia amount to about 2.7 million people. Cannabis is easy to very easy to obtain and the price for cannabis “head” is relatively stable while the price for cannabis leaf is declining.

The acceptability of the use of cannabis in Australia is increasing. Support for legalisation of cannabis has marginally increased and support for increased penalties has declined. The majority of the ACT population believe cannabis should be legal.

Law enforcement is an ineffective method of controlling cannabis use. So much so that it could be considered irresponsible of any government to divert more resources to law enforcement strategies. A responsible government needs to seriously consider other options that are outlined in this submission.

Notwithstanding this the SCON system has advantages and reduces social harm over an alternative of strict prohibition.

If education is to be considered as a method of reducing cannabis use then governments must increase resources for research into education strategies that demonstrate reduced drug use.

Guiding principles for the enquiry

Families and Friends for Drug Law Reform urges the committee to endorse the following as its two guiding principles for conduct of its enquiry:

- (a) assessment of factual matters should be based on the best available scrutinised evidence; and
- (b) moral judgements that are likely to affect the assessment of evidence and recommendations should be openly acknowledged.

Cannabis policy goals

Cannabis policies throughout Australia have been developed following the total prohibition model and in the case of South Australia, ACT and Northern Territory have subsequently been modified to reflect models that do less harm. In this partial review of the ACT SCON policy Families and Friends for Drug Law Reform urges the Committee to adopt the following objective goals against which any proposed changes to the ACT’s SCON system could be measured.

1. The policy goals of the cannabis control regime should be realistic, measurable and explicitly stated and should be shown to be effective or be changed.
2. The control regime to be applied to cannabis be appropriate for that drug, the patterns and types of harms caused by or benefits attributed to cannabis. Fact and evidence should be a fundamental base for that control regime.
3. An analysis of any proposed change to the control regime be undertaken to estimate the effect, possibly using a balance sheet approach that compares the expected outcomes so that the change that causes the least harm can be readily identified and chosen. That approach to separate out the moral argument and be based on facts and evidence.
4. The harms caused by the control measures should not outweigh the harms prevented by them.
5. Any change to the control regime should take into account full implementation and enforcement matters including resources required.

Medical effects and health aspects of cannabis

A great deal of effort by society is expended on the debate about the relative harms caused by cannabis. While the negative health aspects of cannabis should not be dismissed lightly neither should we think these aspects can be controlled by law. The variety of laws in place in Australia (as we will see later) make little difference to the uptake or use of the drug.

For its part, Families and Friends for Drug Law Reform believes that the dangers of cannabis are not to be compared to the dangers of other drugs such as heroin. We understand that there has been no death in Australia (or indeed the world) directly attributable to cannabis compared to the hundreds of deaths annually attributed to heroin alone or in company with other drugs such as alcohol, amphetamines and hallucinogens.

Cannabis as a “Gateway” Drug

A major concern about cannabis is that its use could lead to the use of more dangerous drugs. Reviews examining this question in more detail conclude that progression from cannabis to other drugs (or indeed from alcohol to tobacco to cannabis to other drugs) is more likely to be a combination of personality traits combined with the effects of socialisation into the illicit drug culture.

Potency of cannabis

The claims of increasing potency of cannabis – claims of a 10 – 30 fold increase are unsubstantiated. But there appears to be a small increase in THC content largely caused by effective police action which has shifted the production from outdoors to less detectable indoor hydroponic growing.

Does the law make a difference to cannabis use?

Given different states and territories have different cannabis laws, one would expect that **if the laws had an effect on drug use** these differences would show up in the Household Survey data. All research to date has shown that there is no significant difference in use across all jurisdictions.

Where there has been an analysis of the effect of apprehension under different legal systems the data suggest the application of the civil or criminal law do not reduce cannabis use.

The conclusion that one draws from this evidence is that the law in relation to cannabis, has little or no effect on the Australian population’s use of cannabis.

There is growing evidence as shown by increasing usage that more and more people are disregarding the law. Indeed when almost 40 percent of the population have at some stage disregarded the law then the law falls into disrepute.

Simple Cannabis Offence Notices

There have been few, if any, attempts to compare the benefits or otherwise of the ACT SCON system.

The work of the Health Status Monitoring Unit in analysing the ACT data from the National Household Survey shows that there is no significant difference in recent use of cannabis between the ACT and the rest of Australia. Thus the ACT law which includes the SCON system does not cause an increase in usage of cannabis!

There is little published information on the relationship between the police and the effect of the SCON system. However a recent monograph series which compares persons apprehended for cannabis use in SA and WA is instructive. SA has a Cannabis Expiation Notice (CEN) system while WA has a strict prohibition policy.

The CEN system employed in SA has a less negative effect on the relationship between the police and those apprehended for cannabis use. In the strict prohibition model of WA there is a significant loss of trust and an increased fear of the police. But neither of these negative outcomes caused the users to stop or reduce their use of cannabis.

Of those people who were convicted or given expiation notices the WA group were more likely to report negative employment and personal relationship consequences. The difference between WA and SA groups is quite striking.

There was also a significant difference between the groups in terms of accommodation consequences.

The SCON system streamlines police procedures and reduces court time for what would otherwise be a minor criminal matter. The police and the courts do not have infinite resources, certainly they

do not have the resources to apprehend the 17.9 percent of the population that regularly use cannabis.

We conclude that when compared to a strict prohibition policy the ACT SCON system:

- reduces the social harm inflicted on persons apprehended for cannabis offences,
- reduces the social harm inflicted on the families or partners of persons apprehended for cannabis offences,
- does not contribute to a reduced trust in or increased fear from the ACT police force,
- is a less costly method of administering the prohibition of cannabis.

A change to the SCON system to remove it from the legislation and/or to move to a more strict prohibition policy would increase the social and economic cost. This would have the opposite effect to that which was intended and would be contrary to government's harm minimisation policy.

Other matters

Will lowering the cannabis penalties lead to increased use?

Without undertaking a trial in Australia the validity of the survey results cannot be tested. However we can examine overseas experiences to gauge the possible effects of reducing the cannabis penalties.

The Netherlands has adopted an "Expediency Principle" which allows the state prosecutor to decide whether or not to prosecute certain laws on the basis of whether or not it would be in the public interest to do so. On this basis the guidelines have been introduced and it is these guidelines that determine drug policy. According to the guidelines dealing, possessing or producing small amounts of cannabis do not require investigation, arrest or prosecution. A low priority is also given to investigating retail dealing (ie the Dutch Coffee Shops) but they do not permit advertising conducting business in a provocative manner or dealing in other drugs such as alcohol or other illicit drugs.

Australia's recent use of cannabis is almost four times the rate of that of the Netherlands. Thus the Netherlands drug policy does not appear to contribute to a higher uptake of cannabis. Indeed it appears to have the opposite effect.

It is this separation between the soft and hard drug market that has been attributed as a major factor in the Netherlands success in reducing use and consequences of hard drugs.

Adopting an approach that regulates the sale and use of cannabis similar to the Dutch system has significant advantages:

- It adds a measure of control that is absent in a more rigorous prohibition approach,
- It increases police and court efficiency and at the same time increases the effectiveness,
- It introduces a separation between the soft and hard drug market and contributes to an overall lower drug use and thus reduces the harm from drugs.

Education

We have noted that the law is not a very effective deterrent to cannabis use and many will rush to the claim that more education of young people is needed. This may well be what is needed but **a great deal of research and evaluation is required to find an effective education program that will contribute to reduced drug uptake or reduced harm from drugs.**

Most education programs have been developed on intuition or *a priori logic* and most have failed to produce results.

A recent analysis of youth drug education in the UK showed that 73% of programs showed no change. ie only 27% of studies showed a change. Of those which reduced drug use the size of the benefit was 3.7% and that dissipated over time. However this study did indicate that school education programs that complemented community programs and involved the community had a greater chance of success.

Drug education must also meet the rigorous evidentiary standards for effectiveness. That effectiveness should at least be in terms of reducing the harm from drugs. At most it should show that the education program reduces drug use and drug uptake. If it does not meet the standard then the program should be discontinued or modified to meet the test of effectiveness.

Police resources

Police are the front line for any community problems that arise from drug use and trafficking in addition to having the responsibility of administering the law. They see first hand and need to make on the spot decisions in relation to problematic use of cannabis. They need to decide whether or not to issue a **SCON**, a warning, or to charge for later prosecution. They also may need to decide if medical assistance is needed. Not all police decisions are decisions in relation to law enforcement.

This latter aspect is a social welfare role that police need to perform and they need to be adequately equipped for such a purpose with adequate training and backup resources that they can call upon.

However police resources are not infinite and their resources need to be concentrated in areas of the highest priority. It may come to a question of resources for pursuing a cannabis user or a more serious criminal offence.

Introduction

Cannabis is the most widely used illicit drug in Australia. Its use is increasing and the age of first use is decreasing. The total number of recent users of cannabis in Australia amount to about 2.7 million people. Cannabis is easy to very easy to obtain and the price for cannabis “head” is relatively stable while the price for cannabis leaf is declining.

The acceptability of the use of cannabis in Australia is increasing. Support for legalisation of cannabis has marginally increased and support for increased penalties has declined. The majority of the ACT population believe cannabis should be legal.

This submission will also show that law enforcement is an ineffective method of controlling cannabis use. So much so that it could be considered irresponsible of any government to divert more resources to law enforcement strategies. A responsible government needs to seriously consider other options that are outlined in this submission.

Notwithstanding this the SCON system has advantages and reduces social harm over an alternative of strict prohibition.

If education is to be considered as a method of reducing cannabis use then governments must increase resources for research into education strategies that demonstrate reduced drug use.

About Families and Friends for Drug Law Reform

Families and Friends for Drug Law Reform is interested in this matter because the laws relating to illicit drugs and their implementation can have serious consequences for users, their families and other loved ones. The group does not promote drug use; far from it, it would like to see reduced drug use and reduced harm both from drug use and from the laws that have been implemented in an attempt to reduce or eliminate illicit drug use.

The group does not promote one extreme model over another (ie, total prohibition or control versus complete liberalisation). But it insists that evidence should shape drug policies. The group comprises concerned parents and family and community members many of whom have had painful experience of illicit drugs. It is knowledge gained from this experience that Families and Friends for Drug Law Reform wish to pass on to the Committee.

Emotion clouds the formulation of cannabis policy

Cannabis is regarded by many as a particularly dangerous, even evil, drug. Claims include:

- Its seductive euphoria blinds users to its harms;
- Even weekly use can cause short term memory loss that seriously affects students;
- Chronic cannabis intoxication leads to loss of motivation harming parental, school and other social relations;
- It has long term harmful effects because its main active ingredient THC remains a long time in body tissue;
- It triggers acute psychotic states resembling paranoid schizophrenia which can result in violence, homicide or suicide;
- It delays maturation, lowers the sperm count in males and disturbs the female menstrual cycle;
- It affects the immune system and damages chromosomes causing genetic changes;
- It introduces users to other drugs; it is the major gateway drug; and
- The potency of cannabis is 10 - 30 times greater than it used to be thus contributing to greater problem use and rendering irrelevant the personal experience of middle aged people who may have used the drug when they were young.

Debate on the truth or otherwise of these claims is impeded by distrust about the motives of anyone who may seek to contest them. Those who seem to have a good word for cannabis are often

dismissed as a “liberalisers” or “legalisers” aiming to making it easier to indulge their own drug use.

Families and Friends for Drug Law Reform deplores this unhealthy climate of public debate. Clear thinking and informed appraisal is vital for policy formulation in response to cannabis use. It is the most widely used illicit drug in the Australian community – 40% of the whole population and over half of today’s adolescents have used it.

Guiding principles for the enquiry

In this context Families and Friends for Drug Law Reform urges that the committee endorse the following as its two guiding principles for conduct of its enquiry:

- (a) assessment of factual matters should be based on the best available scrutinised evidence; and
- (b) moral judgements that are likely to affect the assessment of evidence and recommendations should be openly acknowledged.

Best available scrutinised evidence

In order to sift through the many claims and counter claims about cannabis the Committee must ensure that evidence to which it gives credence meet accepted scientific assessment standards. Thus, assertions about cannabis should be accepted only when established by those with sufficient technical competence to judge the matter or, if yet to be established, is accepted by those competent, as a probable consequence.

The practical effect of this is that the Committee should not for example accept an assertion by Families and Friends for Drug Law Reform or anyone else that cannabis is a particular risk factor in car accidents unless this is supported by studies that withstand peer group review. The Committee should seek out qualified evidence – whether in the form of research literature or expert witnesses - if there is insufficient evidence before it.

Moral judgements should be on the table

People’s moral outlook can heavily affect their view on drugs. Some could well hold the moral position that, whether or not it harms them, they should be entitled to use cannabis. Others may believe that the use of cannabis as an intoxicating substance is morally wrong. All need to acknowledge this in terms of what they may recommend rather than hide that stance under untenable assertions about the dangers of cannabis or other factual matters. Drugs is one of those issues where the private moral outlook of legislators has a direct bearing on public policy decisions and thus needs to be openly acknowledged.

The membership of Families and Friends for Drug Law Reform embraces a range of moral positions. The organisation itself takes no particular moral stand for or against drug use. It believes, though, that only public policy decisions that promote the welfare of the individual and society should be taken.

It is out of bitter experience that Families and Friends for Drug Law Reform places the cardinal importance it does on an evidence based approach and the need for acknowledgement of moral positions. All too often those to whom our members have had to turn in times of crisis have adopted moralistic stands that failed to provide important factual information that might have made a difference. As often as not the gaps and distortions became apparent only after the death of a family member or friend.

Cannabis policy goals

It is important to set clear and achievable goals for cannabis policies. It is clear from the variety of policies existing in relation to cannabis in Australia that no clear goals have been defined or evaluated for effectiveness.

Cannabis policies throughout Australia have been developed following the total prohibition model and in the case of South Australia, ACT and Northern Territory have subsequently been modified to reflect models that do less harm. In this partial review of the ACT SCON policy Families and

Friends for Drug Law Reform urges the Committee to adopt the following objective goals against which any proposed changes to the ACT's SCON system could be measured.

For this purpose we draw on the work of David McDonald et al.¹

1. The policy goals of the cannabis control regime should be realistic, measurable and explicitly stated and should be shown to be effective or be changed.
2. The control regime to be applied to cannabis be appropriate for that drug, the patterns and types of harms caused by or benefits attributed to cannabis. Fact and evidence should be a fundamental base for that control regime.
3. An analysis of any proposed change to the control regime be undertaken to estimate the effect, possibly using a balance sheet approach that compares the expected outcomes so that the change that causes the least harm can be readily identified and chosen. That approach to separate out the moral argument and be based on facts and evidence.
4. The harms caused by the control measures should not outweigh the harms prevented by them.
5. Any change to the control regime should take into account full implementation and enforcement matters including resources required.

Medical effects and health aspects of cannabis

A great deal of effort by society is expended on the debate about the relative harms caused by cannabis. While the negative health aspects of cannabis should not be dismissed lightly neither should we think these aspects can be controlled by law. The variety of laws in place in Australia (as we will see later) make little difference to the uptake or use of the drug.

The Committee can readily obtain a bibliography covering the health aspects of cannabis from the Alcohol and other Drugs Council of Australia library. The Committee should also inform itself of the various trials of medical uses of cannabis being undertaken in the UK and USA.

The emotionally charged atmosphere about the adverse medical effects of cannabis means that that the committee must give as much attention to the credentials of the person making an assertion as to the claim itself. Families and Friends for Drug Law Reform does not itself have the expertise required. It does, however, urge that the committee take heed of sources such as the following:

- (a) Report of the House of Lord Select Committee on Science and Technology Chapt. 8 §8.19 (included in Appendix).
- (b) An Independent Inquiry into the Misuse of Drugs Act, chaired by Lady Runciman of Doxford and supported by the Police Foundation².
- (c) Study published in the latter part of last year by the United States Institute of Medicine, assessing the scientific base for the medical use of marijuana. Although this did not focus on the non-medical use its findings on a number of the health effects are relevant to non medical use. For example, it concluded that "A distinctive marijuana withdrawal syndrome has been identified, but it is mild and short-lived." This study was undertaken by a prestigious United States professional organisation and was the subject of thorough peer group review. (An extract is reproduced in the Appendix.)
- (d) A review of the large body of scientific literature in the light of many possible medical risks of cannabis use is found in Lyn Zimmer & John P. Morgan, *Marijuana myths: marijuana facts: a review of the scientific evidence* (The Lindesmith Center, New York & San Francisco, 1997). This concludes that many of the claims about the medical risks of cannabis are seriously exaggerated.

For its part, Families and Friends for Drug Law Reform believes that the dangers of cannabis are not to be compared to the dangers of other drugs such as heroin. We understand that there has been no death in Australia (or indeed the world) directly attributable to cannabis. This is compared to the hundreds of deaths annually attributed to heroin alone or in company with other drugs such as

alcohol, amphetamines and hallucinogens. It appears that the level of cannabis use serious enough to cause problems is in the region of 10% of people who use the drug which is comparable to or less than the levels of harmful consumption of alcohol.

Cannabis as a “Gateway” Drug

A major concern about cannabis is that its use could lead to the use of more dangerous drugs. Simple analysis of the data and applying the following logic shows this to be a false assumption:

- almost 39.3 percent of the Australian population have used cannabis;
- if it was true that cannabis use led to harder drug use then about 39 percent of Australians would have used harder drugs (eg heroin or cocaine);
- only 6.5 percent of Australians have used heroin or cocaine;
- therefore the assumption is false.

Notwithstanding this, there have been a number of reviews examining this question in more detail. The National Drug Strategy monograph 27 is one of those studies and it reached this conclusion:

On the available evidence, the case for a pharmacological explanation [ie that the drug, cannabis, caused users to progress to harder drugs] of the role of cannabis use in progressions to other illicit drug use is weak. A sociological explanation [ie the social circumstances such as greater involvement with a drug using subculture and greater contact with others who have used other illicit drugs] is more plausible than a pharmacological one. The predictive value of cannabis use is more likely to reflect a combination of pre-existing personality and attitudinal traits that predispose the use of other intoxicants; and the effects of socialisation into an illicit drug subculture in which there is an increased availability of, and encouragement to use, other illicit drugs.

The US Institute of Medicine also had this to say in respect of the question about the gateway or stepping stone theory of drug use:

Because it is the most widely used illicit drug, marijuana is predictably the first illicit drug most people encounter. Not surprisingly, most users of other illicit drugs have used marijuana first. In fact, most drug users begin with alcohol and nicotine before marijuana—usually before they are of legal age.

In the sense that marijuana use typically precedes rather than follows initiation of other illicit drug use, it is indeed a “gateway” drug. But because underage smoking and alcohol use typically precede marijuana use, marijuana is not the most common, and is rarely the first, “gateway” to illicit drug use. There is no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs.³

Potency of cannabis

The claims of increasing potency of cannabis – claims of a 10 – 30 fold increase in potency – has fueled the cry for increasing penalties. The claims are unsubstantiated as Hall and Swift report:⁴

...the limited data do not support the claim that there has been a 10 to 30 fold increase in average THC content of cannabis in Australia. Nor do data from New Zealand.

The USA is the only country that has regularly conducted data on the THC content of cannabis plants over the past several decades. Recent data from this source have also failed to show a 10 – 30 fold increase in the THC content of seizures between 1980 and 1998. At most this series shows an increase in THC content from 3.3% in 1980 to 4.4% in 1998.

There are two more plausible alternative explanations for anecdotal reports of increased adverse effects of cannabis use: the availability of more potent forms of cannabis has increased; and changing patterns of cannabis use among Australian cannabis users have increased the prevalence of harmful patterns of cannabis use.

...

It is also a plausible hypothesis that the supply of more potent cannabis products has been encouraged by the success of domestic law enforcement in detecting and destroying large-scale cannabis plantations, creating an incentive for illicit suppliers of cannabis to grow small numbers of cannabis plants with more “heads” (eg by hydroponic cultivation).

Thus we can see a suggestion that prohibition cannabis laws are contributing to increased harm. In much the same way that prohibition of many other substances has contributed to illicit production of more concentrated, more easily smuggled drugs – alcoholic spirit rather than beer, heroin rather than opium.

Cannabis prohibition laws

The move to prohibit cannabis in Australia arose through the Geneva Convention following an international conference in 1925. It required the prohibition of the non-medical use of cannabis, wrongly classifying it by lumping it with narcotics. Although Mexicans in the US frequently used the drug it was virtually unheard of in Australia. Nevertheless the Commonwealth succumbed to international pressure and acted to control its use. Victoria and NSW followed in 1927.

It was not until 1938 that the first appearance of cannabis in Australia was reported as:

a Mexican drug that drives men and women to wildest excesses... distorts moral values and leads to degrading sexual extravagances⁵

During the 1960s cannabis became politicised and Australia’s ignorance of the drug began to be inculcated by overseas propaganda. But it was around this time that use began to increase.

Cannabis is not a drug without harms or benefits, but it is not a narcotic like heroin, nor addictive like tobacco. The dangers attributed to it have been wildly exaggerated, often wrong and often bizarre.

The classifying of cannabis along with narcotics is a position that is weak and questionable, however the UN has defended it vigorously because any change in the drug’s legal standing poses a threat to the integrity of the UN Convention. It is the weakest link in the international drug control regime.⁶ The UN in 1966 was so concerned that it dealt with the question of whether cannabis should be controlled by the treaties by declaring that the problem was “solved and the question answered”. “The subject could no longer appear on the agenda as the ‘question’ of cannabis. There could be no question but that cannabis presented a danger to society.”⁷

The claims against cannabis have turned a full 180 degrees. Criticism has moved from claims of “driving men and women to wildest excesses” to where it is said to result in “dropping out, indolence, lowering of goals” and generally resulting in “amotivational syndrome”.⁸ Exaggerations of the problems associated with cannabis still exist. Much of it is misunderstanding but much more is political. The well-respected New Scientist magazine had this to say:⁹

..the pressing need for an open debate about cannabis is precisely why the WHO was so wrong to bow to political pressure and expunge from a recent report an informative if controversial comparison of the harms caused by different drugs including alcohol.

Of course, ever since the splendidly named Indian Hemp Drugs Commission of 1894, independent panels have been politely saying that the evils of cannabis have been exaggerated – and politicians have been politely ignoring them.

Usage

Cannabis is the most widely used illicit drug in Australia. Its use is increasing and the age of first use is decreasing. Of the Australian population aged 14 years and over, lifetime use increased from 31.1 percent in 1995 to 39.3 percent in 1998. The recent use in the last 12 months increased from 13.2 percent to 17.9 in the same period while the mean age of initiation dropped from 19.1 years to 18.7 years.¹⁰

The following table shows the usage patterns by age:¹¹

Age group	Lifetime use		Recent use	
	Percent of population		Percent of population	
	1995	1998	1995	1998
14-19	35.5	44.6	28.7	34.6
20-29	59.8	63.6	33.5	36.5
30-39	50.7	56.8	13.4	20.2
40-49	23.7	18.0	5.2	11.3
50-59	10.0	18.0	1.5	6.6
60+	1.4	4.0	0.3	1.1

It is clear from the table that recent use has increased in all age groups. The total number of recent users of cannabis in Australia amount to about 2.7 million people.¹²

Attitudes

Acceptability of the use of cannabis in Australia is increasing. It has risen from 23.6 percent in 1995 to 25.6 percent in 1998.¹³ It runs a close third to alcohol and tobacco, both of which have increased in acceptability.

Support for legalisation of cannabis has marginally increased from 28.5 percent in 1995 to 29.6 percent in 1998. Support for increased penalties has declined over the same period from 62.5 percent to 59.1 percent.¹⁴

By comparison in the ACT a majority of the population (56.2 percent) thought cannabis should be legal. Of the remainder only 14.5 percent felt that it should be a criminal offence that attracted a criminal record.

Availability and price

The National Drug and Alcohol Research Centre (NDARC) in its Annual Drug Trends conference¹⁵ reported that for 1998 for Sydney, Melbourne and Adelaide the price for cannabis had decreased slightly and following the trend from 1997 cannabis was rated as “easy to very easy to obtain”. The potency was rated as high.¹⁶

The Australian Illicit drug report advises that:

*Most jurisdictions reported that the price for cannabis “head” remained relatively stable and the price for cannabis leaf continued to decline, although there are differences between jurisdictions.*¹⁷

The *Drug related health in the ACT* report, through its analysis of unpublished data from the National Household Survey, dispels any myths that might exist about drug dealers lurking around schoolyards and selling cannabis to school children. The majority of persons who use cannabis obtain it from friends or acquaintance (79.2 percent in the ACT and 85.6 percent in Australia). But it does point to a difference between the ACT and Australia, possibly attributable to the different ACT laws. Only 2.9 percent obtain cannabis from street dealers in the ACT while 5.4 percent of Australians obtain it from street dealers. Further, 11.8 percent of users in the ACT grow it while only 3.6 percent of Australians grow it.¹⁸

Law enforcement efforts

In 1998-99 there were over 58,000 cannabis offences recorded in Australia which amounts to about 70 percent of all illicit drug related offences. This represents a reduction of 10.1 percent over the offences in 1997-98 and a reduction of almost 36 percent over offences in 1995-96.¹⁹

Running against this declining trend are the states of NSW, Queensland and Victoria with slight increases in offences ranging from 1.8 percent to 2.8 percent.

The ACT, which uses the SCON system, has the lowest rate of cannabis offences per 100,000 of population (76.77 in 1998-99) and South Australia, which uses the CEN system has the highest

(802.99 in 1998-99).²⁰ The SA CEN system appears to have resulted in a net widening effect for cannabis offenders. This has more to do with police practices than any increased use of the drug. Police in various states often claim that simple cannabis use is not pursued, however during 1998-99, 81 percent of cannabis arrests in Australia were of cannabis consumers with only 19 percent of cannabis providers. In the ACT it is about 70 percent for consumers and 30 percent for providers.²¹ In respect of domestically grown crops, police are experiencing a decrease in detection of outdoor crops of cannabis because growers are planting several smaller crops over extended distances or are resorting to cultivation of hydroponic crops. Of the imported crops the majority of seizures have originated from Papua New Guinea.²²

Does the law make a difference to cannabis use?

The Committee will be aware that different states and territories have different cannabis laws. Given this, one would expect that **if the laws had an effect on drug use** these differences would show up in the Household Survey data.

Makkai and McAllister²³ found in respect of data for the years 1985 to 1995:

The overall conclusion that can be drawn is that the use of marijuana is relatively similar across the states and these patterns are consistent even when we control for age and sex.

This is confirmed by the latest Household Survey 1998 data that were collected from a larger sample size and analysed by ACT Health:²⁴

there was no significant difference in the rate of people in the ACT and Australia who had used cannabis in the last 12 months (standardised rate: 93.0 per 1,000 population in the Act compared to 91.2 per 1,000 nationally). There was no significant difference when comparing ACT males with their Australian counterparts, nor was there a difference between ACT and Australian females' usage of cannabis in the last 12 months.

The two groups of convicted cannabis users from SA and WA were asked about the impact of the CEN or conviction on their drug use. The authors report:

There were no significant differences between the groups regarding impact of the CEN or conviction on respondents subsequent drug use. Both the CEN and the cannabis conviction appeared to have little impact on subsequent use..... The vast majority of each group said that if they were caught again they would not stop using the drug. These data suggest the application of the civil or criminal law did not reduce the cannabis use of the vast majority of this sample.²⁵

Conclusion

The conclusion that one draws from this evidence is that the law in relation to cannabis, has little or no effect on the Australian population's use of cannabis. This then addresses the Committee's first item in its terms of reference: that legal sanctions have little effect in addressing issues of individual cannabis use.

There is growing evidence as shown by increasing usage that more and more people are disregarding the law. Indeed when almost 40 percent of the population have at some stage disregarded the law then the law falls into disrepute

Simple Cannabis Offence Notices

There have been few, if any, attempts to compare the benefits or otherwise of the ACT SCON system. There are some that would argue that the SCON has not deterred or has in fact promoted cannabis use. There are others who would argue the opposite.

The work of the Health Status Monitoring Unit in analysing the ACT data from the National Household Survey moves the debate toward analysis of factual data. It shows that there is no significant difference in recent use of cannabis between the ACT and the rest of Australia. Thus the differences in the laws between the various states and territories makes no difference to usage rates. Thus the ACT law which includes the SCON system does not cause an increase in usage of cannabis!

In the context of harm minimisation an examination of the other social effects of the SCON is required. That is, does it cause more or less social harm.

We note in passing that fewer in the ACT are aware of the full legal implications in relation to cannabis and thus more believe that it is legal to possess small quantities (54.3 percent in the ACT compared with 16.8 percent for Australia).²⁶ But it is significant that over three times as many cannabis users in the ACT grow their own than for Australia (11.8 percent for the ACT and 3.6 percent for Australia).²⁷ In effect there is a small separation of the soft and hard drug market in the ACT.

It may be that misunderstanding about the law along with the SCON system that has contributed to the small separation between the street dealer (who is likely to carry other drugs) and the cannabis user.

SCON and Police

There is little published information on the relationship between the police and the effect of the SCON system. However a recent monograph series which compares SA and WA is instructive. SA has an expiation notice system while WA has a strict prohibition policy.

To compare infringement to conviction an equal number of persons from each state who had received a CEN or a conviction for cannabis use were interviewed. There were no differences between the two groups in respect of their attitudes to the law in general, cannabis laws in particular and the role of the police. Most saw themselves as “largely law abiding” and had respect for the police as law enforcers in general but both groups shared a lack of support for punitive drug laws.

When apprehended, 36 percent of the WA group said police had a search warrant and 49 percent of the WA group were in a private dwelling or property while for the SA group only 8 percent said police had a search warrant and only 19 percent were in a private dwelling.

Both groups reported that they were “friendly, respectful and co-operative” toward police when apprehended but 49 percent of the WA group compared with only 18 percent of the SA group said they became less trusting of police and 43 percent of the WA group compared to only 15 percent of the SA group were more fearful of the police as a result.

Thus the CEN system employed in SA has a less negative effect on the relationship between the police and those apprehended for cannabis use. In the strict prohibition model of WA there is a significant loss of trust and an increased fear of the police.²⁸ But neither of these negative outcomes caused the users to stop or reduce their use of cannabis.

Negative social consequences of strict prohibition

Of those people who were convicted or given expiation notices the WA group were more likely to report negative employment consequences. The difference is quite striking – 32 percent identified at least one negative employment consequence with 16 percent of these being sacked for the offence while only 1.7 percent reported such a negative consequence in SA.

On the matter of personal relationships only 5 percent of the SA group reported negative relationship consequences compared to 20 percent of the WA group.

There was also a significant difference between the groups in terms of accommodation consequences. None of the SA group reported negative accommodation consequences while 16 percent of the WA group reported such negative consequences.

Are there any unintended consequences of the SCON

From the analysis of the data from the National Household Survey it is clear that many in the ACT are not aware of the legal status of cannabis, whether that be possession, growing or use. However that misunderstanding has no effect on relative use when compared to other states and territories.

Some consequences of the SCON could be net widening (ie increased apprehension rates because of the ease of issuing a SCON) and that it makes it easier for a user to become known to police. There may well have been some net widening in the early days of the SCON system, as there was (and still is) in SA with their introduction of the CEN system, but current evidence indicates that ACT

has a lower rate of apprehension for cannabis than for other states²⁹ even though the use of cannabis is the same. Thus we can conclude that there is no net widening caused by the ACT SCON system.

Benefits of SCON

The SCON system streamlines police procedures and reduces court time for what would otherwise be a minor criminal matter. The police and the courts do not have infinite resources, certainly they do not have the resources to apprehend the 17.9 percent of the population that regularly use cannabis.

Conclusion

Noting that we had earlier concluded that the severity of the law (either as a threat or following apprehension) has no effect on cannabis use, we conclude that when compared to a strict prohibition policy the ACT SCON system:

- reduces the social harm inflicted on persons apprehended for cannabis offences,
- reduces the social harm inflicted on the families or partners of persons apprehended for cannabis offences,
- does not contribute to a reduced trust in or increased fear from the ACT police force,
- is a less costly method of administering the prohibition of cannabis.

A change to the SCON system to remove it from the legislation and/or to move to a more strict prohibition policy would increase the social and economic cost. This would have the opposite effect to that which was intended and would be contrary to government’s harm minimisation policy.

Other matters

Will lowering the cannabis penalties lead to increased use?

The Committee will have noted that the law in any Australian state or territory has little effect on whether cannabis use is higher or lower. Some work has been undertaken on cannabis policy options by McDonald et al.³⁰ However the effect of reducing the penalties has not been effectively studied in Australia.

One study, undertaken by Mert Daryl and Kenneth Clements of the University of Western Australia’s Economic Research Centre, claimed that cannabis use would rise by 13 percent.

However that report, which was largely an economic report, does not stand up to close scrutiny when compared with the more reliable National Household Survey and thus must be viewed with some scepticism. It was in part, based on a small sample of first year university students and thus has a limited and perhaps biased sample as its basis for the claim. The relevant National Household Survey data as analysed by the Health Status Monitoring Unit is reproduced below:³¹

Table 12: Percentage of responses to question; “If cannabis were legal to use, would you...”, ACT and Australia, 1998

Intended behaviour	ACT	Australia
Not use it, even if it were legal and available	76.6	79.4
Try it	4.1	5.2
Use it about as often as I do now	12.8	9.9
Use it more often than I do now	1.6	0.9
Use it less often than I do now	1.1	0.6
Don’t know	2.6	2.9
Don’t know/not stated	1.1	1.2

89.3 percent of the population would not change from their current usage or no usage patterns, while a net 5.5 percent said in the survey that they would use it more. Given the sample size of the National Household survey it is extremely unlikely that a 13 percent increase would come within

the statistical confidence interval. Thus on this evidence alone we must dismiss the claim as unsubstantiated.

Without undertaking a trial in Australia the validity of the survey results cannot be tested. However we can examine overseas experiences to gauge the possible effects of reducing the cannabis penalties.

The Netherlands for example is either held up as the drug capital of the world or as having the most enlightened drug policies of any country. It is however best to examine the evidence and make judgements based on the evidence.

The Netherlands has adopted an “Expediency Principle” which allows the state prosecutor to decide whether or not to prosecute certain laws on the basis of whether or not it would be in the public interest to do so. On this basis the guidelines have been introduced and it is these guidelines that determine drug policy. According to the guidelines dealing, possessing or producing small amounts of cannabis do not require investigation, arrest or prosecution. A low priority is also given to investigating retail dealing (ie the Dutch Coffee Shops) but they do not permit advertising conducting business in a provocative manner or dealing in other drugs such as alcohol or other illicit drugs.

The Committee will also be aware that the Dutch allow cannabis to be sold in coffee shops in small quantities, but with very tight regulation. The following table compares cannabis use in the Netherlands with Australia and the USA. (The full table is reproduced in the Appendix.)

	LIFETIME 1998 (1997 for the Netherlands)	PAST YEAR 1998 (1997 for the Netherlands)
<i>Marijuana</i>		
Netherlands (ages 12 years and over)	15.6	4.5
US (ages 12 years and over)	34.1	8.8
Australia (ages 14 and over)	39.3	17.9

The Committee will see from the table that Australia’s recent use of cannabis is almost four times the rate of that of the Netherlands. Thus the Netherlands drug policy does not appear to contribute to a higher uptake of cannabis. Indeed it appears to have the opposite effect.

It is this separation between the soft and hard drug market that has been attributed as a major factor in the Netherlands success in reducing use and consequences of hard drugs.

The other factor which Professor Franz Trautmann, a recent visiting Dutch drug and alcohol expert, referred to is the attempt by the Dutch to take the mystery and excitement out of use of illicit drugs by young people. He stated that they were trying to make the use of illicit drugs “as boring as possible”. The Dutch approach has positive outcomes with, for example cannabis, where its usage is only 25 percent of that of Australia. Dutch young people also see heroin use as a choice of losers and not an attractive thing to do. For example heroin is used regularly by only 0.1 percent of Dutch people while Australian has a recent usage rate of 0.7 percent.³²

Conclusion

Adopting an approach that regulates the sale and use of cannabis similar to the Dutch system has significant advantages:

- It adds a measure of control that is absent in a more rigorous prohibition approach,
- It increases police and court efficiency and at the same time increases the effectiveness,
- It introduces a separation between the soft and hard drug market and contributes to an overall lower drug use and thus reduces the harm from drugs.

Education

We have noted that the law is not a very effective deterrent to cannabis use and many will rush to the claim that more education of young people is needed. This may well be what is needed and a

great deal of research and evaluation is required to find an effective education program that will contribute to reduced drug uptake or reduced harm from drugs.

Most education programs have been developed on intuition or *a priori logic* and most have failed to produce results.

A major study of the Drug Awareness and Resistance Education (DARE) program in the USA, a program whereby police provide the school education, has shown that far from reducing drug uptake, children exposed to the program show increased drug uptake. (See Appendix)

A recent analysis of youth drug education in the UK³³ showed that 73% of programs showed no change. ie only 27% of studies showed a change. Of those which reduced drug use the size of the benefit was 3.7% and that dissipated over time. However this study did indicate that school education programs that complemented community programs and involved the community had a greater chance of success.

In 1989 a study of the Life Education program in Australia concluded that the program, at best did not reduce drug use but could possibly have increased drug use. Life Education has since revised their program but there has been no published report of any evaluation of the changed program.

One program that had been developed, trialed and evaluated that showed a reduction in cannabis uptake by young people is described in Monograph series No 22.³⁴ It identifies several key assumptions concerning the probable causes of adolescent drug use and subsequently developed a model of intervention based on research findings. That model was implemented and evaluated.

Outcome indicators were explicitly identified and hypotheses were developed that could test the efficacy of the intervention program. The author reports the outcomes as follows:

The most important findings from this research are those concerned with the ability of the intervention group, in comparison with the nonintervention group, to show reduced levels of drug use across a number of drug use categories. With the exception of analgesic use, significant findings regarding reduced levels of use were recorded for the major drugs used in adolescence (alcohol, tobacco and marijuana). Program participants also held attitudes that, in comparison with nonintervention group subjects, showed greater opposition to pro-drug use beliefs and to the use of substances that were considered health threatening. The study has also shown that attitudes to drug use and drug use behaviour changes can be maintained for several years. In comparison with nonintervention group subjects the intervention group reported a reduced incidence of illegal drug use, particularly with regard to the use of marijuana.³⁵

The author was contacted recently to determine if the program that showed such potential in the research stage was ever implemented and with what result. The author advised that the program was never implemented, because of the cost and because it was a program that did not produce quick results.

Conclusion

Drug education must also meet the rigorous evidentiary standards for effectiveness. That effectiveness should at least be in terms of reducing the harm from drugs. At most it should show that the education program reduces drug use and drug uptake. If it does not meet the standard then the program should be discontinued or modified to meet the test of effectiveness.

Police resources

Police are the front line for any community problems that arise from drug use and trafficking in addition to having the responsibility of administering the law. They see first hand and need to make on the spot decisions in relation to problematic use of cannabis. They need to decide whether or not to issue a SCON, a warning, or to charge for later prosecution. They also may need to decide if medical assistance is needed. Not all police decisions are decisions in relation to law enforcement.

This latter aspect is a social welfare role that police need to perform and they need to be adequately equipped for such a purpose with adequate training and backup resources that they can call upon. The death in recent years of a person with a mental illness is a case in point where police through no

fault of the officer concerned was thrust into a situation where his skills and knowledge were inadequate for the circumstances with tragic consequences.

However police resources are not infinite and their resources need to be concentrated in areas of the highest priority. It may come to a question of resources for pursuing a cannabis user or a more serious criminal offence.

It has been reported in the press of the consideration of removal of the SCON from the ACT legislation and replacing it with a personal lecture by the police sergeant, possibly in front of the offender's parents. Attractive as this seems at first reading, close examination reveals the problems:

1. First there is the question of police resources. In an Assembly with very tight annual budget additional funds would need to be sought for the additional police effort. The beat police officer would have to apprehend the offender and take him/her to the police station, call and arrange for the parents to be present and then for the sergeant to be present and deliver the lecture. This will add significantly to the cost of policing, if we are to assume that all other tasks performed by these police officers are necessary and will continue to be performed. Considering also that 93 people in every 1,000 in the ACT regularly use cannabis the cost and misdirection of police resources has the potential to get out of hand.
2. Secondly there is the question of whether or not this approach will have any effect. Given that the law is not a major determinant in the use of cannabis and apprehension also is not a determinant it is doubtful that this approach will be more than a "feel good" approach but in practical terms a waste of resources.
3. Thirdly, if police see this as a waste of their resource the system is likely to fall into disuse.

Appendix 1 - Drug Use in The Netherlands Compared to Australia and the United States

Lifetime and Past Year Prevalence of Substance Use in the National Household Surveys: 1998

	LIFETIME 1998*	PAST YEAR 1998
<i>Tobacco</i>		
Australia**	65.4	26.4
US**	72.8	33.1
Netherlands**	67.9	38.1
<i>Alcohol</i>		
Australia	89.6	80.7
US	83.7	65.9
Netherlands	90.2	82.5
<i>Marijuana</i>		
Australia	39.3	17.9
US	34.1	8.8
Netherlands	15.6	4.5
<i>Stimulants</i>		
Australia	8.7	3.6
US	4.5	0.7
Netherlands	1.9	0.3
<i>Cocaine</i>		
Australia	4.3	1.4
US	10.9	1.8
Netherlands	2.1	0.6
<i>Hallucinogens</i>		
Australia	10.0	3
US	10.2	1.7
Netherlands	1.8	0.3
<i>Heroin</i>		
Australia	2.2	0.7
US	1.1	0.1
Netherlands	0.3	0.1
<i>Inhalants</i>		
Australia	3.9	0.8
US	5.8	0.9
Netherlands	0.5	0.1
<i>Ecstasy</i>		
Australia	4.7	2.4
US	1.5	***
Netherlands	1.9	0.7

Note Australian figures are for ages 14 and over, whereas US and Netherlands are for ages 12 and over. Australian and US data are for 1998; Netherlands is 1997.

* 1997 for the Netherlands

** All forms of tobacco

*** Cigarettes only

**** Past Year US Ecstasy not published

Source data compiles by Jane Maxwell, TCADA, Texas State University, USA.

20 March 2000

Appendix 2 - Does DARE work?

Extract from DRCNet Library (www.drcnet.org)

No. All the major research on the effectiveness of DARE shows that it has no impact on the rate of drug use by children who go through DARE training. These reports include:

- 1991 Kentucky study - National Institute on Drug Abuse - "No statistically significant differences"
- 1990 Canadian Government study "DARE had no significant effect on the use of...marijuana, acid, heroin, crack, glue and PCP"
- 1993 Research Triangle Institute - National Institute of Justice - Statistical analysis of all DARE research, which says DARE has "a limited to essentially non-existent effect" on drug use.
- The final edition of the largest evaluation of the DARE program has concluded that the Anti-Drug program does not reduce drug use, and in at least category of pot, the DARE graduates smoked more frequently than the control. The report concluded: "The DARE program's limited effect on adolescent drug use contrasts with the program's popularity and prevalence. An important implication is that DARE could be taking the place of other, more beneficial drug education programs that kids could be receiving". How Effective is DARE, American Journal of Public Health Sept 1994 p1399

Among the notable quotations from researchers: * "Its well established that DARE doesn't work" Gilbert Botvin - Cornell Medical Center * "Research shows that, no, DARE hasn't been effective in reducing drug use" William Modzeleski, Top Drug education official at the Department of Education

* "I think the program should be entirely scrapped and redeveloped anew." Dr. William Hansen, who helped design the original DARE

Appendix 3 - Risks Associated with Medical use of Marijuana

Extract from: Institute of Medicine, *Executive summary, Marijuana and Medicine Assessing the Science Base* (National Academy Press, Washington, D.C. 1999) available at www.nap.edu

Physiological Risks

Marijuana is not a completely benign substance. It is a powerful drug with a variety of effects. However, except for the harms associated with smoking, the adverse effects of marijuana use are within the range of effects tolerated for other medications. The harmful effects to individuals from the perspective of possible medical use of marijuana are not necessarily the same as the harmful physical effects of drug abuse. When interpreting studies purporting to show the harmful effects of marijuana, it is important to keep in mind that the majority of those studies are based on *smoked* marijuana, and cannabinoid effects cannot be separated from the effects of inhaling smoke of burning plant material and contaminants.

For most people, the primary adverse effect of *acute* marijuana use is diminished psychomotor performance. It is, therefore, inadvisable to operate any vehicle or potentially dangerous equipment while under the influence of marijuana, THC, or any cannabinoid drug with comparable effects. In addition, a minority of marijuana users experience dysphoria, or unpleasant feelings. Finally, the short-term immunosuppressive effects are not well established but, if they exist, are not likely great enough to preclude a legitimate medical use.

The *chronic* effects of marijuana are of greater concern for medical use and fall into two categories: the effects of chronic smoking, and the effects of THC. Marijuana smoking is associated with abnormalities of cells lining the human respiratory tract. Marijuana smoke, like tobacco smoke, is associated with increased risk of cancer, lung damage, and poor pregnancy outcomes. Although cellular, genetic, and human studies all suggest that marijuana smoke is an important risk factor for the development of respiratory cancer, proof that habitual marijuana smoking does or does not cause cancer awaits the results of well-designed studies.

CONCLUSION: Numerous studies suggest that marijuana smoke is an important risk factor in the development of respiratory disease.

RECOMMENDATION 4: Studies to define the individual health risks of smoking marijuana should be conducted, particularly among populations in which marijuana use is prevalent.

Marijuana Dependence and Withdrawal

A second concern associated with chronic marijuana use is dependence on the psychoactive effects of THC. Although few marijuana users develop dependence, some do. Risk factors for marijuana dependence are similar to those for other forms of substance abuse. In particular, antisocial personality and conduct disorders are closely associated with substance abuse.

CONCLUSION: A distinctive marijuana withdrawal syndrome has been identified, but it is mild and short-lived. The syndrome includes restlessness, irritability, mild agitation, insomnia, sleep EEG disturbance, nausea, and cramping.

Endnotes

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