



Australia's illicit drug problem: Challenges and opportunities for law enforcement

Dear Secretary,

Students for Sensible Drug Policy Australia (SSDP Australia) thanks the Parliament of Australia for the invitation to submit to this Inquiry and supports its decision to investigate the management of illicit drugs in Australia. We (SSDP Australia) would like to comment on the below terms of reference:

- (2) emerging trends and risks, such as new psychoactive substances, adulterated drugs and other new sources of threat;
- (4) the involvement of law enforcement in harm reduction strategies and in efforts to reduce supply and demand, including the effectiveness of its involvement;
- (5) the strengths and weaknesses of decriminalisation, including its impact on illicit drug markets and the experiences of other jurisdictions; and
- (6) other related matters.

Students for Sensible Drug Policy Australia
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Acknowledgement of Country

We acknowledge the traditional custodians of this land, the Aboriginal and Torres Strait Islander peoples of the First Nations. This project has been largely completed on the unceded lands of the Wurundjeri people of the Kulin Nation and the Wallumattagal people of the Eora Nation. We pay our respect to their elders past, present, and emerging. We ask that readers reflect on what it means to profit from living and working on these lands which were taken through processes of colonisation that have been resisted for over 200 years. Australia's colonial drug laws continue to disproportionately impact First Nations peoples, and we believe that drug policy reform can uplift and begin to heal marginalised communities.

Submitted to

Committee Secretary
Parliamentary Joint Committee on Law
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Background

Students for Sensible Drug Policy Australia is Australia's only national youth- and student-led community organisation that empowers and represents young people to bring change to drug policy. Young people are the most likely age group to use illicit drugs,¹ and the most likely to want drug policy reform,² yet they are the least likely to be involved in decision-making about drug-related policies and programs. We represent a grassroots network of students, young people, and their allies working towards meaningful drug policy reform grounded in evidence, compassion, and human rights. Our network is made up of young people and students involved with our national organisation, and our affiliated clubs formed at university campuses around Australia, including the University of Melbourne and La Trobe University in Victoria, and the University of Western Australia and Edith Cowan University in Western Australia. We belong to an international network of young people and students working towards health and human rights-based drug policies.

SSDP Australia neither condemns nor condones drug use. As an organisation, SSDP Australia understands the complexities associated with drug use and policy matters, and is informed by the evidence of what works and does not work, and the expertise of the communities with lived and living experience of AOD use. Students and young people who use drugs face challenges overcoming stigma and discrimination in accessing health, education, and platforms for advocacy. By empowering the collective capacity of students and young people to keep themselves safe and advocate for change, we hope to improve the lives of young people and shift political, policy, and community perspectives.

We recognise that the legacy of our current drug laws is steeped in historical racism and prejudice, and that the harms of drug use and policy responses tend to affect already disadvantaged and marginalised groups disproportionately. We are committed to challenging stigma and discrimination towards drug use and people who use drugs, and creating an inclusive environment that welcomes the participation of all people regardless of their ethnicity, skin colour, national origin, gender identity, sex, affectional or sexual orientation, political affiliation, religious or spiritual beliefs, disability status, neurodivergent status, neuro-pharmacological variance, blood-borne virus status, criminal record, age, parenting or caring status, and psychoactive substance preference.

This submission provides the Committee with a unique perspective from young people with a passionate interest in drug policy.

¹ Australian Institute of Health and Welfare (AIHW) (2020) *National Drug Strategy Household Survey (NDSHS) 2019*. Drug Statistics series no. 32, PHE 270, Canberra AIHW.

² Lancaster C, Ritter A & Matthew-Simmons F (2013) *Young people's opinions on alcohol and other drugs issues*. National Drug and Alcohol Research Centre, University of New South Wales.

Summary of recommendations

1. The Commonwealth Government recommits to its stated commitment to the balanced approach of harm minimisation
2. Law enforcement support the implementation of and access to drug checking/pill testing services and technologies
3. The Australian Government implement enabling legislation and legal frameworks that prevent people from being criminalised for accessing harm reduction services
4. The Australian Government commit to exploring opportunities to cease the use of drug detection dogs and invasive strip searching methods to police the use and possession of low quantities of illicit drugs
5. Law enforcement support the development of a national drug early warning system and actively participate in state and national early warning systems that share information with relevant services and the public
6. Law enforcement support festival and event-based harm reduction programs, and that these programs receive increased funding to promote the health and wellbeing of communities
7. The provision of currently available harm reduction services be expanded to promote the human rights of persons inside correctional facilities
8. Drug information and awareness content developed and delivered by law enforcement agencies should be co-designed with affected communities
9. The Australian Government review roadside drug testing to investigate alternative drug-driving regimes that use impairment limits/thresholds
10. Roadside drug testing is reformed to allow drivers with a valid medical cannabis prescription the same rights as any other prescription medicine
11. The Australian Government commit to depenalisation and decriminalisation of the use and possession of currently illicit drugs for personal use
12. All criminal records for low-level offences related to use and possession are automatically expunged when any illicit drug is depenalised, decriminalised, or legalised
13. The Australian Government work with state governments and affected communities to review existing drug diversion programs
14. The Australian Government engage in community consultation, and adequately fund research to explore models for legalisation in Australia

Reforming illicit drug policy

SSDP Australia believes that the way Australia's *National Drug Strategy 2017-2026* (NDS) allocates funding is unbalanced and counterproductive. The NDS establishes the policy landscape for law enforcement's involvement in addressing illicit drugs in Australia.³ While the three pillars of the NDS - supply reduction, demand reduction, and harm reduction - are intended for a balanced manner of implementation, an estimation of expenditure during 2009/2010 suggested that supply reduction receives around 66% of funding, with demand reduction receiving 21%, and harm reduction only 2%.⁴ Historically, this distribution of expenditure has been despite substantial evidence on the inability of zero tolerance approaches to effectively reduce drug use or drug harms to zero.^{5 6 7} Ostensibly, the NDS adopts a 'harm minimisation' approach,⁸ yet in practice the current priority is intended to prevent drug use, rather than preventing drug harms.⁹ It fails at both.

We are especially concerned that addressing illicit drug use through law enforcement and the criminal system can be counterproductive.¹⁰ In 2016, the consensus among leading drug policy researchers was that "estimating Australia's annual drug law enforcement expenditure is a difficult and inexact science," and though "approximately 70% of all illicit drug offences are cannabis-related, there is no definitive evidence to suggest that 70% of drug law enforcement costs are attributable to cannabis."¹¹ The involvement of the criminal sphere in policing and targeting cannabis is a prime example of why change in policy and practice is needed. In June 2020, the National Drug Research Institute (NDRI) published a ground-breaking report titled, '*Quantifying the Social Costs of Cannabis Use to Australia in 2015/16*'. They calculated that "The largest cost domain for cannabis was the criminal system, comprising police, courts, corrections, and victims

³ Australian Government (2017) 'National Drug Strategy 2017 - 2026,' Australian Government, available online: <https://www.health.gov.au/sites/default/files/national-drug-strategy-2017-2026.pdf>

⁴ Ritter A, McLeod R & Shanahan M (2013) *Monograph No. 24: Government drug policy expenditure in Australia – 2009/10*. DPMP Monograph Series. Sydney: National Drug and Alcohol Research Centre.

⁵ Wodak A & Moore T (2002) *Modernising Australia's drug policy*. Sydney: University of New South Wales Press.

⁶ Duff C (2004) Drug use as a 'practice of the self': Is there any place for an 'ethics of moderation' in contemporary drug policy?. *International Journal of Drug Policy*, 15(5-6), 385-393.

⁷ Winstock A & Barratt MJ (2016) Zero tolerance for drugs doesn't work. Let's embrace zero harm. *Sydney Morning Herald*, available online: <http://www.smh.com.au/comment/zero-tolerance-for-drugs-doesnt-work-lets-embrace-zero-harm-20161228-gtiukr.html>

⁸ Lancaster K & Ritter A (2014) Examining the construction and representation of drugs as a policy problem in Australia's National Drug Strategy documents 1985–2010. *International Journal of Drug Policy*, 25(1), 81-87.

⁹ Students for Sensible Drug Policy Australia (SSDP Australia) (2020) 'Inquiry into the use of Cannabis in Victoria: Students for Sensible Drug Policy Australia Submission to the inquiry', available online: https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S1392_-_Students_for_Sensible_Drug_Policy_Australia_SSDP_Australia.pdf

¹⁰ Students for Sensible Drug Policy Australia (SSDP Australia) (2020) 'Inquiry into the use of Cannabis in Victoria: Students for Sensible Drug Policy Australia Submission to the inquiry', available online: https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S1392_-_Students_for_Sensible_Drug_Policy_Australia_SSDP_Australia.pdf

¹¹ Nicholas R & Roche A (2016) 'FactCheck: does Australia spend \$1.5 billion a year on drug law enforcement, with 70% due to cannabis?', available online: <https://theconversation.com/factcheck-does-australia-spend-1-5-billion-a-year-on-drug-law-enforcement-with-70-due-to-cannabis-55307>

of crime, with a total import of \$2.4 billion. While the outlay on imprisonment accounted for nearly half of all the crime costs attributable to cannabis, there were estimated impacts on individuals (victims of personal crime) and on households (victims of property crime).¹² Moreover, the Australian Criminal Intelligence Commission's latest *Illicit Drug Data Report 2019–20* shows that Australia's current policies and practices around illicit drugs are failing to significantly reduce the availability of or use of these substances.¹³ Despite this, prohibition continues to be heavily enforced, with variations between jurisdictions and across different substances. The costs of prohibition outweigh the costs of consumption, highlighting how Australia's 'illicit drug problem' is shaped by poor policy.

The financial imbalances of the NDS mean that Australia's drug policy effectively criminalises people who use drugs rather than reducing drug-related harms, and therefore may exaggerate or contribute towards harms.¹⁴ Similarly, the Australian Injecting Drug Users League,^{15 16} Australia's national peer organisation for people who use drugs, believes the current approach of the NDS and continued prohibition of currently illegal drugs creates stigma and discrimination for people who are known to use drugs within the community. When people who use drugs are deemed less worthy and are not listened to or heard by the wider community¹⁷ these communities are alienated from the broader service system, resulting in decreased abilities to manage their overall health.^{18 19} ²⁰ As we discuss in this submission, there are many promising opportunities to address these challenges.

By investing in the currently underfunded and under-resourced pillars of demand reduction and harm reduction, we have the capacity to refocus Australia's drug policy on the health and wellbeing for people who use drugs, their families, and communities, and focus on keeping people who use drugs out of the criminal system while ensuring that appropriate and accessible health and treatment services, drug education, and harm reduction are available to meet current and future demand. This balancing would not only benefit people who use drugs and service providers, but also facilitate the practice of law enforcement by building capacity to focus on higher level criminal activity associated with illicit drug markets and other priorities around community safety.

¹² Whetton S, Tait RJ, Chrzanoswska A, Donnelly N, McEntee A, *et al.* (2020) *Quantifying the Social Costs of Cannabis Use to Australia in 2015/16*, Tait, R.J., Allsop, S. (Eds.). ISBN 978-0-6487367-4-5, Perth, WA, National Drug Research Institute (NDRI), Curtin University.

¹³ Australian Criminal Intelligence Commission (2021) *Illicit Drug Data Report 2019-20*. Commonwealth of Australia: Canberra, available online: https://www.acic.gov.au/sites/default/files/2021-10/IDDR%202019-20_271021_Full_0.pdf

¹⁴ Ritter A, McLeod R & Shanahan M (2013) *Monograph No. 24: Government drug policy expenditure in Australia – 2009/10*. DPMP Monograph Series. Sydney: National Drug and Alcohol Research Centre.

¹⁵ Australian Injecting Drug Users League (AIVL) (2011) *"Why Shouldn't I discriminate against all of them?" A report on stigma and discrimination towards the injecting drug user community*. Canberra, Australia.

¹⁶ Australian Injecting & Illicit Drug Users League (AIVL) (2017) *Stigma and Discrimination as Barriers to Health Service Access for PWUD*. Canberra, Australia, available online: <https://removingbarriers.ashm.org.au/wp-content/uploads/2017/05/ASHM-project-AIVL-Stigma-submission.pdf>

¹⁷ Harm Reduction Australia (HRA) (2022) 'arrests don't catch the biggest criminals', available online: <https://www.harmreductionaustralia.org.au/>

¹⁸ Australian Injecting Drug Users League (AIVL). (2011). "Why Shouldn't I discriminate against all of them?" A report on stigma and discrimination towards the injecting drug user community. Canberra, Australia.

¹⁹ Australian Injecting & Illicit Drug Users League (AIVL). (2017). *Stigma and Discrimination as Barriers to Health Service Access for PWUD*. Canberra, Australia, available online: <https://removingbarriers.ashm.org.au/wp-content/uploads/2017/05/ASHM-project-AIVL-Stigma-submission.pdf>

²⁰ Link BG & Phelan JC (2006) Stigma and its public health implications. *The Lancet*, 367(9509).

Specifically, we make the below recommendation, asserting that:

Recommendation

#1 **The Commonwealth Government recommits to its stated commitment to the balanced approach of harm minimisation**

This recommitment should be demonstrated by:

- A. establishing a Royal Commission of Inquiry into the health, social, economic, and law enforcement costs of drug prohibition;
- B. reconvening the Ministerial Drug and Alcohol Forum, and updating public communications about Forum proceedings on the Forum website;
- C. funding under-resourced lived and living experience community organisations to participate directly in the National Drug Strategy mid-term review;
- D. amending the National Drug Strategy and associated implementation channels to compel state and territory governments to publicly report budgetary allocations to law enforcement, treatment and prevention, and harm reduction annually;
- E. the Ministerial Drug and Alcohol Forum and/or National Cabinet exploring constitutional options for the removal of all criminal penalties for drug use and possession around Australia through Commonwealth legislation;
- F. the Ministerial Drug and Alcohol Forum and/or National Cabinet committing to 10% of budgetary allocations under the National Drug Strategy going to peer-based harm reduction services and community participation; and
- G. establishing a national youth panel for the purposes of engaging and elevating the voices of young people in drug policy, and fostering collaborative relationships between law enforcement and affected communities.

SSDP Australia would like to make the following recommendations to address the risks associated with unregulated markets, the involvement of law enforcement in harm reduction, the issues with current drug driving laws, and the possibilities around depenalisation, decriminalisation, and legalisation.

Addressing the risks of unregulated markets

Despite the massive—though, ultimately unknowable—funding allocated to enforce illicit drug prohibition, rates of use are increasing.^{21 22} Given that illicit drugs remain readily available and actively sought out by Australians, reform is needed to appropriately address the harms associated with unregulated drug markets. For example, the United Nations Office on Drugs and Crime recently found that Australia has one of the highest rates of MDMA use globally, and it is also one of the most dangerous places to consume it.²³ Their assessment was based on concerns about the composition and purity of MDMA available in Australia and the relatively limited provision of harm reduction services. Furthermore, among a sample of 805 regular psychostimulant users, almost all participants reported that psychostimulants were “easy to very easy” to obtain in Australia.²⁴ This indicates that Australia’s current law enforcement approach to drugs has not effectively deterred people from using drugs, while there has in fact been a significant rise in recent drug usage. In 2019, the National Drug Strategy Household Survey estimated that 3.0% of people aged 14 and over had used 3,4-methylenedioxymethamphetamine (MDMA) over the previous 12 months in Australia, an increase from 2.2% in 2016.²⁵ The AIHW (2020) also reported increases in recent use of other drugs in Australia from 2016 to 2019, such as cocaine (2.5% to 4.2%), hallucinogens (1.0% to 1.6%) and ketamine (0.4% to 0.9%).²⁶

²¹ Australian Institute of Health and Welfare (AIHW) (2016) *National Drug Strategy Household Survey (NDSHS) 2016: detailed findings*. Drug Statistics series no. 31, PHE 214, Canberra AIHW.

²² Australian Institute of Health and Welfare (AIHW) (2020) *National Drug Strategy Household Survey (NDSHS) 2019*. Drug Statistics series no. 32, PHE 270, Canberra AIHW.

²³ United Nations Office of Drugs and Crime (UNODC) (2019) *World Drug Report 2019*, Vienna.

²⁴ Peacock A, Karlsson A, Uporova J, Price O, Chan R, *et al.* (2020) ‘*Australian Drug Trends 2020: Key Findings from the National Ecstasy and Related Drugs Reporting System (EDRS) Interviews*’, National Drug and Alcohol Research Centre, Sydney.

²⁵ Australian Institute of Health and Welfare (AIHW) (2020). *National Drug Strategy Household Survey (NDSHS) 2019*. Drug Statistics series no. 32, PHE 270, Canberra AIHW.

²⁶ Australian Institute of Health and Welfare (AIHW) (2020). *National Drug Strategy Household Survey (NDSHS) 2019*. Drug Statistics series no. 32, PHE 270, Canberra AIHW.

The unregulated nature of Australia's illicit drug market means that there is significant potential for experiencing drug-related harms by people who use drugs, due to the prevalence of new psychoactive substances and the increasing variability of drug purity.^{27 28} Without a regulated drug market, drug consumers are more likely to purchase and consume drugs that have been adulterated and/or contain novel psychoactive substances. These novel substances are likely to carry a greater risk of harm when consumed unexpectedly and when combined with other substances including alcohol and prescribed medications. The reality is that while consumers may adopt best practice harm reduction, they may still experience harm. In absence of a regulated, safer market, consumers should have access to equipment and services to test the content and purity of their substances. Such an approach would align with the principles of Australia's healthcare insurance scheme, Medicare, which provides universal medical services to all people at no or lower costs.²⁹

Without a regulated drug market, the only way for people who use drugs to see if what they are taking is what they think it is and/or whether it contains dangerous substances and thus, determine its level of risk, is to test the contents of their drugs. In the absence of widespread access to integrated drug checking/pill testing services with reliable laboratory-grade equipment,^{30 31} individual reagent testing kits can provide some information about the composition and purity of substances.³² However, the availability of reagents is currently limited, and the kits require training to correctly read the results as they are open to personal interpretation and prone to false readings.³³

²⁷ Bade R, White JM, Nguyen L, Tscharke BJ, Mueller JF, O'Brien JW, Thomas KV & Gerber C. (2020) Determining changes in new psychoactive substance use in Australia by wastewater analysis, *Science of the Total Environment*, 731(1).

²⁸ Canberra Alliance for Harm Minimisation and Advocacy (CAHMA) (2022) CanTEST Health & Drug Checking, available online: <https://www.cahma.org.au/services/cantest/>

²⁹ Healthdirect (2023) 'What is medicare?' available online: <https://www.healthdirect.gov.au/what-is-medicare>

³⁰ Students for Sensible Drug Policy Australia (SSDP Australia) (2021) 'MEDIA RELEASE: 07.04.2021 Students for Sensible Drug Policy Australia supports Coroner's call, demands urgent drug testing services,' available online: https://static1.squarespace.com/static/5cd8df0263e1c10001625c0d/t/606d5774e6b0df7efe3ed3fc/1617778548972/SSDP_Australia_Media_Release_in_support_of_Victorian_Coroner_Report_07_04_2021.pdf

³¹ Hodgens C (2021) 'Coroner calls for urgent drug testing services in Victoria', *Coroners Court Victoria*, available online: <https://www.coronerscourt.vic.gov.au/coroner-calls-urgent-drug-testing-services-victoria>

³² Drug Policy Modelling Program (DPMP) (2017) *Global review of drug checking services operating in 2017*, NDARC.

³³ Peacock A, Gibbs D, Price O, Barratt MJ, Ezard N, Sutherland R, Hill PL, Grigg J, Lenton S, Page R & Salom C (2021) Profile and correlates of colorimetric reagent kit use among people who use ecstasy/MDMA and other illegal stimulants in Australia, *International Journal of Drug Policy*, 97, 103334.

Recommendation

#2

Law enforcement support the implementation of and access to drug checking/pill testing services and technologies

Advocacy organisations and coronial reports from Victoria and New South Wales have called for the establishment of drug checking facilities to reduce the likelihood of more people experiencing harm from unregulated drugs.^{34 35 36 37 38} Despite international evidence that drug checking services are effective at reducing drug-related harm,^{39 40 41} and recent pilots of both mobile and fixed-site services in the ACT, many state and territory governments refuse to entertain drug checking as a viable strategy to reduce drug-related harm.^{42 43 44 45 46} While the CanTEST drug checking service in the ACT is an important pilot and first step towards meaningful policy and service reform,⁴⁷ Australia continues to lag behind other countries - despite once being a world leader in harm reduction. Evaluations of mobile drug checking trials in Australia have indicated that mobile drug checking services facilitate safer choices in young people, many of whom

³⁴ Gregorie P (2019) 'Youth Demands Pill Testing to Stop Deaths: An interview with SSDP's Sofia Devetak'. Sydney Criminal Lawyers, available online: <https://www.sydneycriminallawyers.com.au/blog/youths-demand-pill-testing-to-stop-deaths-an-interview-with-ssdps-sofia-devetak/>

³⁵ Harm Reduction Australia (HRA) (2019) 'Media Release: Pill testing ambassador and community announcement'. *Mailchimp*, available online: <https://mailchi.mp/350223bc99ce/media-announcement-2nd-december-2243025>

³⁶ Grahame H (2019) 'Inquest into the death of six patrons of NSW music festivals,' *Coroners Court NSW*, available online: https://coroners.nsw.gov.au/coroners-court/download.html/documents/findings/2019/Music_Festival_Redacted_findings_in_the_joint_inquest_into_deaths_arising_at_music_festivals_.pdf

³⁷ Henriques-Gomes (2019) 'Australian Students launch national campaign to pressure MP's to allow pill testing'. *The Guardian*, available online: https://www.theguardian.com/australia-news/2019/jan/16/australian-students-launch-national-campaign-to-pressure-mps-to-allow-pill-testing?CMP=share_btn_tw

³⁸ Hodgens C (2021) 'Coroner calls for urgent drug testing services in Victoria' *Coroners Court Victoria*, available online: <https://www.coronerscourt.vic.gov.au/coroner-calls-urgent-drug-testing-services-victoria>

³⁹ Barratt MJ, Bruno R, Ezard N & Ritter A (2018b) Pill testing or drug checking in Australia: Acceptability of service design features. *Drug & Alcohol Review*, 37(2), 226-236.

⁴⁰ Brunt T (2017) 'Drug checking as a harm reduction tool for recreational drug users: opportunities and challenges'. European monitoring system for drugs and drug addiction.

⁴¹ Gine-Vidal C, Vilamala MV, Brunt T & Measham F (2017) The utility of drug checking service as monitoring tools and more'. *International Journal on Drug Policy*, 45, 46-47.

⁴² AAP (2019) 'Health Minister Greg Hunt rejects 'dangerous' pill testing, backs Tasmanian Government stance.' *News.com.au*, available online: <https://www.news.com.au/lifestyle/health/health-minister-greg-hunt-rejects-dangerous-pill-testing-backs-tasmanian-government-stance/news-story/2f04a8c01cbf3ca35b47d1634b4068d6>

⁴³ ACT Government (2020) 'The Festivals Pill Testing Policy,' *ACT Health*.

⁴⁴ Olsen A, Wong G & McDonald D (2019) *ACT Pill Testing Trial 2019: Program Evaluation*. Australian National University: Canberra.

⁴⁵ Priess B & Carey A (2019) 'Government digs in on opposition to pill testing trial'. *The Age*, available online: <https://www.theage.com.au/politics/victoria/government-digs-in-on-opposition-to-pill-testing-trial-20190121-p50sqc.html>

⁴⁶ Vumbaca G, Tzanetis S, McLeod M & Caldicott D (2019) *Report on the 2nd Canberra GTM pill testing service*, Harm Reduction Australia, Canberra.

⁴⁷ ACT Government (2022) 'Pill Testing: CanTEST Health and Drug Checking Service,' *ACT Health*, available online: <https://www.health.act.gov.au/about-our-health-system/population-health/pill-testing>

disposed of their drugs in a bin upon receiving health advice from peer workers and chemists.⁴⁸ Findings from Triple J's 'what's up in your world survey' have also supported this, with 83% of young people indicating that they would use a drug checking service if it was available.⁴⁹

Although drug checking services are currently not accessible to most Australians outside of the ACT, there is growing domestic public support.^{50 51 52 53} In a 2019 Australian Election Study, almost two-third of participants (63.4%) supported the idea of drug checking, compared with one-in-five (21.6%) who did not.⁵⁴ In a study of Australian music festival attendees - a population and context that is often highly regulated due to association with drug use and drug harms, including drug deaths - most respondents (87.1%) indicated that they were likely to use a drug checking service at a festival.⁵⁵

Recommendation

#3 The Australian Government implement enabling legislation and legal frameworks that prevent people from being criminalised for accessing harm reduction services

This includes drug checking services, injecting and drug consumption rooms, and event-based care spaces. Being criminalised has a stigmatising effect, and the actual or perceived presence of law enforcement erodes safety and trust for people who use drugs, creating a barrier to accessing harm reduction services.⁵⁶ With protective legal safeguards in place, people who use drugs may be more likely to use harm reduction services as there will be less fear of prosecution.^{57 58 59}

⁴⁸ Vumbaca G, Tzanetis S, McLeod M and Caldicott D (2019) *Report on the 2nd Canberra GTM Pill Testing Service*, Harm Reduction Australia, Canberra.

⁴⁹ Oztix (2022) 'New Triple J Survey Reveals Overwhelming Support For Pill testing At Festivals,' available online: <https://www.oztix.com.au/news/archive/2018/07/31/new-triple-j-survey-reveals-overwhelming-support-for-pill-testing-at-festivals-themusic/>

⁵⁰ Barratt MJ, Bruno R, Ezard N & Ritter A (2018a) 'Pill testing or drug checking in Australia: acceptability of service design features', *Drug and Alcohol Review*, 37(2), 226-236.

⁵¹ Day N, Criss J, Griffiths B, Gujral SK, John-Leader F, Johnston J & Pit S (2018) 'Music festival attendees' illicit drug use, knowledge and practices regarding drug content and purity: a cross-sectional survey', *Harm Reduction Journal*, 15(1), 1-8.

⁵² Groves A (2018) "'Worth the test?" Pragmatism, pill testing and drug policy in Australia', *Harm Reduction Journal*, 15(12), 1-13.

⁵³ Makkai T, Macleod M, Vumbaca G, Hill P, Caldicott D, Noffs M, Tzanetis S & Hansen F (2018) *Report on Canberra GTM Harm Reduction Service*, Harm Reduction Australia, Canberra.

⁵⁴ McAllister I & Makkai T (2021) 'The effect of public opinion and politics on attitudes towards pill testing: Results from the 2019 Australian Election Study', *Drug and Alcohol Review*, 40(4), 521-529.

⁵⁵ Day N, Criss J, Griffiths B, Gujral SK, John-Leader F, Johnston J & Pit S (2018) 'Music festival attendees' illicit drug use, knowledge and practices regarding drug content and purity: a cross-sectional survey', *Harm Reduction Journal*, 15(1), 1-8.

⁵⁶ Davis CS, Lieberman AJ & O'Kelley-Bangsberg M (2022) Legality of drug checking equipment in the United States: a systematic legal analysis. *Drug and Alcohol Dependence*, 234(1), 109425.

⁵⁷ Barratt MJ, Bruno R, Ezard N & Ritter A (2018a) 'Pill testing or drug checking in Australia: acceptability of service design features', *Drug and Alcohol Review*, 37(2), 226-236.

⁵⁸ Betzler F, Helbig J, Viohl L, Ernst F, Roediger L, Gutwinski S, Ströhle A & Köhler S (2021) Drug checking and its potential impact on substance use, *European Addiction Research*, 27(1), 25-32.

⁵⁹ Masterton W, Falzon D, Burton G, Carver H, Wallace B, Aston EV, Sumnall H, Measham F, Gittins R, Craik V & Schofield JA (2022) A realist review of how community-based drug checking services could be designed and implemented to promote engagement of people who use drugs, *International Journal of Environmental Research and Public Health*, 19(19), 11960.

This is particularly important given the historical criminalisation of people who use drugs and the resulting negative interactions many people who use drugs have had with the criminal system.^{60 61}

Recommendation

#4

The Australian Government commit to exploring opportunities to cease the use of drug detection dogs and invasive strip searching methods to police the use and possession of low quantities of illicit drugs

The likelihood of people who use drugs experiencing harm when using or planning to use illicit substances is increased substantially when there is high police presence, drug detection dogs, and the use of strip searching. These practices do not achieve their intended aims. Research has indicated that drug detection dogs do not have deterrent effects on someone's intention to consume illicit drugs and instead may lead to dangerous methods of concealment or panic consumption of substances before entering an event.^{62 63 64 65 66} Strip searching has similarly been associated with increased experiences of harm, including feelings of violation and humiliation, as a direct consequence of policing practices, opposed to as a result of illicit drugs.⁶⁷ These practices damage the relationships between law enforcement and the communities they seek to protect, and young people are disproportionately impacted by these forms of policing, particularly in the context of music festivals and nightlife in some Australian jurisdictions.

⁶⁰ Bardwell G, Boyd J, Tupper KW & Kerr T (2019) "We don't got that kind of time, man. We're trying to get high!": exploring potential use of drug checking technologies among structurally vulnerable people who use drugs, *International Journal of Drug Policy*, 71(1), 125-132.

⁶¹ Kammersgaard T (2019) Harm reduction policing: From drug law enforcement to protection, *Contemporary drug problems*, 46(4), 345-362.

⁶² Dunn M & Degenhardt L (2009) The use of drug detection dogs in Sydney, Australia. *Drug and alcohol review* 28(6), 658-662.

⁶³ Hickey S, Mcilwraith F, Bruno R, Matthews A & Alati R (2012) Drug detection dogs in Australia: More bark than bite? *Drug and Alcohol Review*, 31(6), 778-783.

⁶⁴ Lancaster K, Hughes C & Ritter A (2017) 'Drug dogs unleashed': An historical and political account of drug detection dogs for street-level policing of illicit drugs in New South Wales, Australia. *Australian & New Zealand Journal of Criminology*, 50(3), 360-378.

⁶⁵ Grigg J, Barratt MJ & Lenton S (2018) Drug detection dogs at Australian outdoor music festivals: Deterrent, detection and iatrogenic effects. *International journal of drug policy*, 60, 89-95.

⁶⁶ Malins P (2019) Drug dog affects: Accounting for the broad social, emotional and health impacts of general drug detection dog operations in Australia. *International Journal of Drug Policy*, 67, 63-71.

⁶⁷ Grewcock M & Sentas V (2019) Rethinking strip searches by NSW Police. *Sydney, UNSW Law*.

Recommendation

#5

Law enforcement support the development of a national drug early warning system and actively participate in state and national early warning systems that share information with relevant services and the public

The results from the drug checking services need to be integrated into a national publicly-accessible drug early warning system.^{68 69} Integrating results into an early warning system increases the reach of information across social networks, and internationally, warnings from drug checking services have been found to contribute to decreased drug overdose fatalities and hospital presentation rates.^{70 71} SSDP Australia believes that law enforcement will play a key role in contributing to early warning systems, and therefore in reducing drug-related harms experienced by Australians.

The involvement of law enforcement in harm reduction

SSDP Australia have identified additional opportunities for law enforcement and the criminal justice system to engage with harm reduction and shift current policing practices to best protect and uphold the wellbeing of communities.

⁶⁸ Students for Sensible Drug Policy Australia (SSDP Australia) (2021) 'MEDIA RELEASE: 07.04.2021 Students for Sensible Drug Policy Australia supports Coroner's call, demands urgent drug testing services,' available online: https://static1.squarespace.com/static/5cd8df0263e1c10001625c0d/t/606d5774e6b0df7efe3ed3fc/1617778548972/SSDP_Australia_Media_Release_in_support_of_Victorian_Coroner_Report_07_04_2021.pdf

⁶⁹ Hodgens C (2021) 'Coroner calls for urgent drug testing services in Victoria' *Coroners Court Victoria*, available online: <https://www.coronerscourt.vic.gov.au/coroner-calls-urgent-drug-testing-services-victoria>

⁷⁰ Brunt T (2017) 'Drug checking as a harm reduction tool for recreational drug users: opportunities and challenges', *European Monitoring Centre for Drugs and Drug Addiction*, Lisbon.

⁷¹ Hondebrink L, Nugteren-van Lonkhuyzen JJ, Van Der Gouwe D & Brunt TM (2015) Monitoring new psychoactive substances (NPS) in The Netherlands: data from the drug market and the Poisons Information Centre, *Drug and Alcohol Dependence*, 147(1), 109-115.

Recommendation

#6

Law enforcement support festival and event-based harm reduction programs, and that these programs receive increased funding to promote the health and wellbeing of communities

We further recommend that:

- A. all Australian states and territory governments should provide appropriate funding and support for increasing access to peer-led harm reduction education and support services for festivals and events;⁷² and
- B. law enforcement should maintain reasonable distance from harm reduction services operating at music festivals and in nightlife areas to promote service access, and should not be located at the entry of services unless formally requested.⁷³
- C. Law enforcement should direct event patrons who are suspected to be at risk of harm towards available harm reduction services, and should never evict potentially at-risk patrons from events to avoid exacerbating harms⁷⁴

Recommendation

#7

The provision of currently available harm reduction services be expanded to promote the human rights of persons inside correctional facilities

We recommend that:

- A. needle and syringe programs are established inside correctional facilities to reduce the likelihood of blood-borne virus transmission, damaged veins, and the development of chronic health issues amongst prisoners;⁷⁵ and

⁷² Students for Sensible Drug Policy Australia (SSDP Australia) (2020) 'Submission in support of the proposed amendments to the Poisons Standard (Medicines) to reschedule MDMA and Psilocybin', available online: https://static1.squarespace.com/static/5cd8df0263e1c10001625c0d/t/6052ae80eeba7a1925bb5c02/1616037329994/SSDP%27s_submission_in_support_of_rescheduling_MDMA_and_Psilocybin.PDF

⁷³ Students for Sensible Drug Policy Australia (SSDP Australia) (2022) 'Submission to Liquor & Gaming NSW: Exploring liquor licensing reform options', available online: <https://www.ssdp.org.au/advocacy>

⁷⁴ Students for Sensible Drug Policy Australia (SSDP Australia) (2022) 'Submission to Liquor & Gaming NSW: Exploring liquor licensing reform options', available online: <https://www.ssdp.org.au/advocacy>

⁷⁵ Students for Sensible Drug Policy Australia University of Melbourne (SSDP UniMelb) (2022b) 'Submission to the Inquiry into the impact of illicit drugs being traded online,' available online: <https://www.ssdp.org.au/advocacy>

- B. harm reduction ‘care packages’, including take-home naloxone, are provided to people who have been incarcerated upon release to avoid unexpected overdoses.⁷⁶

Recommendation

#8

Drug information and awareness content developed and delivered by law enforcement agencies should be co-designed with affected communities

This will help ensure that content is meaningful to target audiences, and will help improve the perceived trustworthiness of drug-related content delivered by law enforcement and other government agencies.

Roadside drug testing (RDT)

Current drug driving laws pose a significant challenge in considering any reform of currently illicit drugs, including medicalisation (e.g., of cannabis). Issues with Victoria’s current laws were examined in the 2018 Victorian Law Reform, Road and Community Safety Committee’s *Inquiry into Drug Law Reform*. In testimony to the Committee, Senior Lecturer in Law at Monash University, Dr Kate Seear, indicated that the Road Safety Act 1986 will only be effective from a road safety perspective if it targets ‘people who are actually impaired at the time of driving.’⁷⁷

The Director of the Drug Policy Modelling Program (DPMP) Professor Alison Ritter was also critical of Australia’s zero tolerance approach, stating: “...if this is about road safety, and we need to assess impairment or the likelihood of a risk of causing an accident or having an accident, and the presence of drugs in a bodily fluid, whether that is saliva or blood, is not associated inevitably with having an accident...It makes a mockery of road safety laws.”⁷⁸

⁷⁶ Students for Sensible Drug Policy Australia University of Melbourne (SSDP UniMelb) (2022a) ‘Submission to the Inquiry into children of incarcerated parents’ available online: https://parliament.vic.gov.au/images/stories/committees/SCLSI/Children_Imprisoned_Parents/Submissions/023_Students_for_Sensible_drug_Policy_Unimelb_Redacted.pdf

⁷⁷ Parliament of Victoria (2018) ‘Inquiry into drug law reform’ *Law Reform, Road and Community Safety Committee*, p.253, available online: https://www.parliament.vic.gov.au/images/stories/committees/lrrcsc/Drugs_/Report/LRRCSC_58-03_Full_Report_Text.pdf

⁷⁸ Parliament of Victoria (2018) ‘Inquiry into drug law reform’ *Law Reform, Road and Community Safety Committee*, p.253, available online: https://www.parliament.vic.gov.au/images/stories/committees/lrrcsc/Drugs_/Report/LRRCSC_58-03_Full_Report_Text.pdf

Recommendation

#9 The Australian Government review roadside drug testing to investigate alternative drug-driving regimes that use impairment limits/thresholds

Research has shown that while there is some limited evidence of impairment after recent use, cannabis can remain in a person's system and be detected long after it produces any impairment effect.⁷⁹ This 'punishment without proof of impairment' has led some academics and people who use drugs to question whether these laws are based on moral attitudes to drug use rather than an evidence-based relationship to risk.^{80 81}

While the challenge of applying scientific rigour in establishing drug driving laws that are a better parallel to our drink driving laws is a significant one, Norway has attempted this. In 2012 their drug driving laws were updated and established impairment limits for drug driving offences. Commonly known as "per se" limits, they are based on expert medical opinion and a review of published literature.⁸²

Broad public support for the roadside drug testing (RDT) program may persist due to the public inaccurately perceiving it as equivalent to drunk driving laws. There may also be little sympathy in the community for people apprehended for drug driving as drug use itself is criminalised and stigmatised. Shifting to a depenalisation, decriminalisation, or a more regulated model for any currently illegal drugs, without fixing the RDT program's current flaws, could create more tension between law enforcement and communities, as people who use drugs could be perceived as being treated unjustly by zero tolerance drug driving laws.

⁷⁹ Brands B, Mann RE, Wickens CM, Sproule B, Stoduto G, *et al.* (2019) Acute and residual effects of smoked cannabis: Impact on driving speed and lateral control, heart rate, and self-reported drug effects, *Drug and Alcohol Dependence*, 205, 107641.

⁸⁰ Quilter J & McNamara L (2017) 'Zero tolerance' drug driving laws in Australia: A gap between rationale and form? *International Journal For Crime, Justice and Social Democracy*, 6(3), 47-71.

⁸¹ Wilson L (2011) Perceptions of Legitimacy and Strategies of Resistance: Melbourne Illicit Drug Users and Random Roadside Drug Testing, *Current Issues in Criminal Justice*, 23(2), 183-201.

⁸² Vindenes V, Jordbru D, Knapskog A-B, Kvan E, Mathisrud G, Slordal L & Moreland J (2011) Impairment based legislative limits for driving under the influence of non-alcohol drugs in Norway. *Forensic science international*, 219(1-3), 1-11.

Recommendation

#10

Roadside drug testing is reformed to allow drivers with a valid medical cannabis prescription the same rights as any other prescription medicine

Roadside drug testing practices should be consistent across all medications, and therefore require reform so that medicinal cannabis users are not impacted by outdated policy. This reform should be extended to any other currently illicit substances that may be medicalised and thereby made available by prescription in the future.

Depenalisation, decriminalisation, and legalisation

SSDP Australia strongly believes that to undo and repair the harms caused by drug prohibition, all Australian governments and agencies need to seriously commit to depenalisation and decriminalisation of minor drug offences. Methods of de facto depenalisation are already utilised across Australia, particularly with respect to diversionary schemes. Moving away from the criminalisation of drugs and targeting of people who use drugs can help to foster stronger relationships between communities and law enforcement. It also facilitates the reinvestment of funds and resources within law enforcement agencies - so that law enforcement may target higher-level supply and criminal activity associated with the illicit drug trade - and across organisations and sectors - with a shift from targeted policing practices to education and support services that operate to reduce the harms experienced by people who use drugs, their families, and wider communities. With reform, there is also a greater potential to explore both the harms *and benefits* of currently illicit drugs, and therefore to ensure that Australia's healthcare is best equipped to support our communities.

Stigma towards drug use - and the people who engage in it - is pervasive.⁸³ Research shows that stigma often results in people who use drugs becoming less likely to actively reach out for support and to seek help.⁸⁴ Deliberate projects have been designed by leading drug and alcohol agencies to correct the cultural myths about people who use drugs and to quash the stigma and

⁸³ Australian Alcohol and Drug Foundation (ADF) (2018) Stigma and people who use drugs, available online: <https://adf.org.au/insights/stigma-people-who-use-drugs/>

⁸⁴ Lancaster K, Seear K & Ritter A (2018) *Monograph No. 26: Reducing stigma and discrimination for people experiencing problematic alcohol and other drug use*. DPMP Monograph Series. Sydney: National Drug and Alcohol Research Centre.

discrimination associated with illicit drug use within the community.⁸⁵ This is largely in response to people who use drugs having stated over the course of time that they have not received professional and caring help when attempting to access medical services, mental health support and other allied-health clinics.^{86 87} Similarly, a study conducted by the National Drug and Research Centre found that stigma was perceived as a barrier to asking for assistance for frequent and heavier drug use, particularly in younger age groups.⁸⁸ By exploring depenalisation, decriminalisation, and other regulatory models, we suspect that there would be less stereotyping and condescending attitudes amongst the Australian public towards people who use drugs. Its association with criminal activity would be reduced and people affected by drug use would be more willing to take responsibility for their own health and welfare, being more comfortable to open up about what is going on for them under compassionate reform.⁸⁹

Recommendation

#11

The Australian Government commit to depenalisation and decriminalisation of the use and possession of currently illicit drugs for personal use

In 2022, the SSDP University of Melbourne campus team (SSDP UniMelb) submitted to the *Victorian Parliamentary inquiry into children affected by parental Incarceration* and recommended that Victoria's criminal system move toward a model of drug decriminalisation. The team argued that decriminalisation decreases the likelihood of children and their parents suffering the long term consequences of a parents' incarceration, including tenuous family relationships and mental health issues.⁹⁰ Our national organisation supports this assertion and we suggest that by removing the criminal penalties associated with possessing small quantities of currently illegal drugs, significant improvements can be made to the livelihoods of people who use drugs and their families. International research indicates that people incarcerated for drug-related, non-violent charges are

⁸⁵ Alcohol and Drug Foundation (ADF) (2020), *The Power of Words: Having conversations about alcohol and other drugs: A quick guide*: <https://adf.org.au/resources/power-words/#:~:text=The%20Power%20of%20Words%20practical,use%20alcohol%20and%20other%20drugs.>

⁸⁶ Australian Injecting Drug Users League (AIVL) (2011) *“Why Shouldn't I discriminate against all of them?” A report on stigma and discrimination towards the injecting drug user community*. Canberra, Australia.

⁸⁷ Australian Injecting & Illicit Drug Users League (AIVL) (2017). *Stigma and Discrimination as Barriers to Health Service Access for PWUD*. Canberra, Australia, available online: <https://removingbarriers.ashm.org.au/wp-content/uploads/2017/05/ASHM-project-AIVL-Stigma-submission.pdf>

⁸⁸ Lancaster C, Ritter A & Matthew-Simmons F (2013) *Young people's opinions on alcohol and other drugs issues*. National Drug and Alcohol Research Centre, University of New South Wales.

⁸⁹ Students for Sensible Drug Policy Australia (SSDP Australia) (2020) 'Inquiry into the use of Cannabis in Victoria: Students for Sensible Drug Policy Australia Submission to the inquiry' available online: https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S1392_-_Students_for_Sensible_Drug_Policy_Australia_SSDP_Australia.pdf

⁹⁰ Students for Sensible Drug Policy Australia University of Melbourne (SSDP UniMelb) (2022a) 'Submission to the Inquiry into children of incarcerated parents' available online: https://parliament.vic.gov.au/images/stories/committees/SCLSI/Children_Imprisoned_Parents/Submissions/023_Students_for_Sensible_drug_Policy_Unimelb_Redacted.pdf

more likely to be parents than those who are incarcerated for violent crimes.⁹¹ Thus, the criminalisation of drugs is directly connected to the incarceration of parents and the negative impact this has on their children and communities.⁹²

These reforms therefore have the potential to repair strained relationships between law enforcement and communities, which is particularly relevant for marginalised and heavily policed populations such as our First Nations communities. To avoid the preventable harms of incarceration and other involvement with the criminal system to many Australians who otherwise are not involved in organised crime syndicates or intentional unlawful acts, a model of drug decriminalisation, similar to what has currently been implemented in the ACT, should be strongly considered across the country.⁹³

Recommendation

#12

All criminal records for low-level offences related to use and possession are automatically expunged when any illicit drug is depenalised, decriminalised, or legalised

Recommendation

#13

The Australian Government work with state governments and affected communities to review existing drug diversion programs

SSDP Australia believes that the criminalisation of drugs is detrimental, and a health-based approach focussing on diversion and decriminalisation shows much more promising outcomes for society as a whole, compared to the current status quo.⁹⁴ We want to see commitment to the practice and review of different approaches to divert people who use drugs away from the criminal system and towards relevant health, education, and social services. With young people

⁹¹ Sentencing Advisory Council (2020) 'Most Serious Offences for Victorian Prisoners', available online: <https://www.sentencingcouncil.vic.gov.au/sentencing-statistics/most-serious-offences-for-victorian-prisoner>

⁹² Students for Sensible Drug Policy Australia University of Melbourne (SSDP UniMelb) (2022a) 'Submission to the Inquiry into children of incarcerated parents' available online: https://parliament.vic.gov.au/images/stories/committees/SCLSI/Children_Imprisoned_Parents/Submissions/023_Students_for_Sensible_drug_Policy_Unimelb_Redacted.pdf

⁹³ Australian Associated Press (2022) 'ACT becomes first Australian jurisdiction to decriminalise illicit drugs in small quantities' *The Guardian*, available online: <https://www.theguardian.com/australia-news/2022/oct/20/act-becomes-first-australian-jurisdiction-to-decriminalise-illicit-drugs-in-small-quantities>

⁹⁴ Students for Sensible Drug Policy Australia University of Melbourne (SSDP UniMelb) (2022b) 'Submission to the Inquiry into the impact of illicit drugs being traded online,' available online: <https://www.ssdp.org.au/advocacy>

highly represented in first time drug offence statistics,⁹⁵ it is critical to recognise the stigma and criminogenic impacts associated with interactions with the criminal system. Processing young people through the criminal system can do more harm than good, and methods that divert young people from the system should always be prioritised.^{96 97} Moreover, a detailed review of Australian cannabis diversion programs conducted in 2017 demonstrated that processing offenders through the criminal system provided no benefit in reducing subsequent criminal offending compared to those who received a caution or diversion.⁹⁸ The cautioning programs were also found to be significantly more cost-effective than prevailing methods of punishment.

While these programs offer a successful alternative to a strict criminal approach they have also been criticised for an ad-hoc application of their use.⁹⁹ A recent review of Australian drug diversion programs highlighted that in Victoria, about 65% of people apprehended for use and possession received access to a diversion program.¹⁰⁰ Among the listed barriers to access were narrow criteria for the schemes, cultural factors, and where different police area commands may have had a higher reluctance to use diversion schemes. One stakeholder noted that “there is more diversion in affluent suburbs than in poorer suburbs.”¹⁰¹ With high rates of First Nations youth incarceration, this brings into question whether these schemes should be overhauled to provide more support to young Indigenous Australians and other vulnerable groups.¹⁰²

Recommendation

#14

The Australian Government engage in community consultation, and adequately fund research to explore models for legalisation in Australia

⁹⁵ Crime Statistics Agency (2019) Use and possession offences by drug type in Victoria, available online: <https://www.crimestatistics.vic.gov.au/media-centre/media-releases/use-and-possession-offences-by-drug-type-in-victoria#-content>

⁹⁶ Jordan L & Farrell J (2013) Juvenile Justice Diversion in Victoria: A Blank Canvas?. *Current Issues in Criminal Justice*, 24(3), 419-437.

⁹⁷ Students for Sensible Drug Policy Australia (SSDP Australia) (2020) 'Inquiry into the use of Cannabis in Victoria: Students for Sensible Drug Policy Australia Submission to the inquiry' available online: https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S1392_-_Students_for_Sensible_Drug_Policy_Australia_SSDP_Australia.pdf

⁹⁸ Shanahan M, Hughes C & McSweeney T (2017) *Police diversion for cannabis offences: Assessing outcomes and cost-effectiveness*. Trends & issues in crime and criminal justice no. 532. Canberra: Australian Institute of Criminology.

⁹⁹ Little H & Karp T (2012) Sentencing Children and Young People in Victoria, Sentencing Advisory Council, Melbourne.

¹⁰⁰ Hughes C, Seear K, Ritter A & Mazerolle L (2019) *Criminal Justice Responses Relating to Personal Use and Possession of Illicit Drugs: the Reach of Australian Drug Diversion Programs and Barriers and Facilitators to Expansion*. (Drug Policy Modelling Program Monograph Series). National Drug and Alcohol Research Centre, University of NSW: Sydney.

¹⁰¹ Hughes C, Seear K, Ritter A & Mazerolle L (2019) *Criminal Justice Responses Relating to Personal Use and Possession of Illicit Drugs: the Reach of Australian Drug Diversion Programs and Barriers and Facilitators to Expansion*. (Drug Policy Modelling Program Monograph Series). National Drug and Alcohol Research Centre, University of NSW: Sydney.

¹⁰² Allard T, Stewart A, Chrzanowski A, Ogilvie J, Birks D & Little S (2010) *Police Diversion of Young Offenders and Indigenous Over-Representation*, Trends & Issues in Crime and Criminal Justice, No 390, Australian Institute of Criminology.

We believe that the role of law enforcement should be in supporting healthy and safe communities by targeting illicit drug markets, and facilitating access to relevant education and support services. Prohibition is not succeeding in its goal of reducing supply, and those who want to use currently illicit drugs are already using them.¹⁰³ Under Australia's current policy, this means that people who use drugs face additional harms from criminalisation and stigmatisation. Depenalisation and decriminalisation mark important steps towards refocusing attention on the dangers associated with the illicit drug trade and criminal activity, thereby moving away from the risks and harms understood to be caused by drug prohibition. These measures, however, do not target supply, and in absence of regulated markets that facilitate the safer supply of currently illicit drugs, there remain significant challenges in both enforcing the criminal activity associated with drugs, and fostering community health and wellbeing. There is growing public support for legalisation of certain substances among the Australian public,^{104 105} and among affected communities, including students and young people,¹⁰⁶ families,¹⁰⁷ and health professionals.¹⁰⁸ We therefore strongly recommend further consideration and community consultation, and investment into research to assist in informing the development of appropriate models for the legalisation of currently illicit drugs in Australia.

Concluding remarks

We believe that health and welfare should be centralised in any regulatory or legislative response towards the illicit drugs. Drug criminalisation has proven ineffective at reducing harm to people who use drugs, their families, and wider communities, and has instead exacerbated harm and fostered strained relationships between law enforcement and affected communities. There are many opportunities for reducing the strain on both the criminal and health systems that can positively contribute towards more suitable policy and practice for managing currently illicit drugs in Australia.

¹⁰³ Students for Sensible Drug Policy Australia (SSDP Australia) (2020) 'Inquiry into the use of Cannabis in Victoria: Students for Sensible Drug Policy Australia Submission to the inquiry' available online: https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S1392_-_Students_for_Sensible_Drug_Policy_Australia_SSDP_Australia.pdf

¹⁰⁴ Unharm (2021) 'Drug use and drug regulation survey', Unharm, Sydney.

¹⁰⁵ Australian Institute of Health and Welfare (AIHW) (2020). *National Drug Strategy Household Survey (NDSHS) 2019*. Drug Statistics series no. 32, PHE 270, Canberra AIHW.

¹⁰⁶ Stronach O & Farah B (2022) 'Community Survey on Drug Policy: Research Report', Students for Sensible Drug Policy Australia, available online: <https://static1.squarespace.com/static/5cd8df0263e1c10001625c0d/t/632a79391a159d5eae10e2df/1663727948204/SSDPAus+Community+Survey+2022+Research+Report+20220908.pdf>

¹⁰⁷ Span C (2022) 'Time for change' report: Voices to be heard survey', Family Drug Support, Melbourne, available online: <https://internationalfdsday.fds.org.au/time-for-change-report-2022>.

¹⁰⁸ Harm Reduction Australia (HRA) (2022) 'Biennial Survey: Summary Report', HRA, Sydney, available online: https://www.harmreductionaustralia.org.au/wp-content/uploads/2022/05/HRA-2021_22-Survey-Summary-Report-final-1.pdf

SSDP Australia also fully endorses the submissions to this Inquiry made by the Australian Injecting & Illicit Drug Users League (AIVL), Harm Reduction Australia (HRA), and the Australian Alcohol and other Drugs Council (AADC), including AIVL's recommendations to:

- increase investment in voluntary drug checking and early warning networks, promoting local partnerships between police, organisations of people who use drugs, and health authorities;
- consider decriminalisation of personal use and possession of illicit drugs, centred on diversion towards education and health care when needed, including a review of the thresholds for trafficking offences, and police training to accompany reform that includes engagement with organisations of people who use drugs;
- review progress against the National Drug Strategy considering the evidence presented to this Inquiry, and rebalance funding across the three pillars of harm minimisation to ensure adequate funding for harm reduction activities involving the community of people who use drugs and adequate funding to meet the need for treatment services in the community; and
- consider models of legalisation, regulation, and taxation of illicit drugs to reduce harms to individuals and the community, based on dialogue with key stakeholders including people who use drugs.

We also support the AADC's recommendations that law enforcement agencies:

- provide in principle support for harm reduction interventions with demonstrated public health efficacy;
- reduce the use of actions which target individual people who use drugs;
- more consistently use diversionary measures where minor drug offences are encountered; and
- ensure that all officers are provided with Naloxone and overdose training as part of standard procedures and equipment.

We are grateful to the Committee for their efforts in setting up this Inquiry and respect the complex challenges confronting this type of policy reform. We recognise that mainstream understandings and skewed media dialogue can present barriers to change. We hope the Committee will carefully consider the evidence presented to the Inquiry and that the final report will be able to help shape inspired policy change in the future.

SSDP Australia would welcome the opportunity to elaborate on this written submission and provide a verbal presentation to inquiry committee members.

Yours sincerely,



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