



PENINGTON
INSTITUTE

Joint Committee on Law
Enforcement

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

Submission

January 2023

Drugs and the community

Like it or not, drugs are a part of every society.

It would be naive to think otherwise. And cruel to ignore it.

And, while we don't encourage drug use, there are other things that we will always encourage.

Understanding. Openness. Empathy. Communication.

Our default, as a society, has been to pour scorn on those who "use drugs" and judge them harshly by seeing their problems as self-inflicted.

Human beings are complex, and so is this issue. The reasons people use drugs, including alcohol and pharmaceuticals, are countless.

Risky behaviours are part of being human. We need to understand that, not condemn it.

Judging is easy. Helping is a bit more of a challenge.

So, how do we rise to that challenge?

At Penington Institute, we believe in approaching drug use in a safe, considerate and practical way. We seek solutions, not scapegoats. We strive for positive outcomes, not negative stereotypes. We follow evidence and data, but we temper it with compassion and empathy, to create change for the better.

Our focus is on making individuals and families safer and healthier.

Our goal is simple: to help communities and frontline services reduce harm and to make public policy work for the people, not against them.

We won't ever give up on that goal, or the people it exists to serve.

John Ryan
CEO, Penington Institute

Contents

RECOMMENDATIONS..... IV

INTRODUCTION.....1

BACKGROUND1

THE EFFECTIVENESS OF LAW ENFORCEMENT IN REDUCING DEMAND, SUPPLY AND HARM2

AUSTRALIA’S APPROACH TO CANNABIS 2

LAW ENFORCEMENT, ILLICIT DRUG MARKETS, AND THE FENTANYL THREAT 3

FESTIVAL POLICING AND DRUG-DETECTION DOGS 4

LAW ENFORCEMENT AND HARM REDUCTION 5

THE VALUE OF DECRIMINALISATION6

THE USE OF INFRINGEMENTS FOR LOW-LEVEL DRUG OFFENCES 7

REBALANCING THE PILLARS: THE VALUE OF HARM REDUCTION8

NEEDLE AND SYRINGE PROGRAMS (NSPs) 8

COMMUNITY AND SPECIALIST EDUCATION 9

NALOXONE ACCESS 9

PHARMACOTHERAPY 10

CONCLUSION.....11

Recommendations

1. The Australian Government should allow states and territories to determine the most appropriate form of regulation of cannabis for adult personal use, and Commonwealth agencies should prioritise flexibility when coordinating with officials in other jurisdictions.
2. In recognition of prohibition's perverse incentivisation of more harmful drugs, the Australian government should shift resources toward reducing harms associated with problematic use of both novel and existing substances.
3. Law enforcement at all levels should severely curtail the use of drug-detection dogs in public spaces, and police should dramatically decrease their presence at music festivals, with a harm reduction approach replacing the current practice.
4. Police in all Australian states and territories should be provided with overdose education and training and be required to carry naloxone to reduce overdose-related harms.
5. Government drug policy messaging should include encouragement of consumer drug-checking services, and law enforcement should prioritise expansion and coordination of drug-checking services and wastewater analysis programs.
6. The Australian Government should encourage states and territories to implement a model of decriminalisation that established clear thresholds for specific substances, similar to the model recently adopted in the ACT.
7. The Australian Government should encourage states and territories to implement the use of infringement notices for all low-level drug offences.
8. The Australia Government should establish robust funding agreements with states and territories to ensure that NSPs can continue their vital work and maximise their potential as entry points for services that enhance client wellbeing.
9. The Australian Government must invest in efforts to increase knowledge about drug issues both within the community and among the frontline workforce, including by renewing funding for *The Bulletin*, a specialty publication for workers on the frontline of drug issues in Australia.
10. The Australian Government should provide ongoing funding to accelerate and broaden the availability of naloxone and increase naloxone education to all appropriate services.
11. The Australian Government must urgently address obstacles to pharmacotherapy access, including adequate funding to ensure sufficient prescriber and diversification of pharmacotherapy treatment drug options.

Introduction

Penington Institute appreciates the opportunity to provide a submission to the Joint Committee on Law Enforcement's inquiry into *Australia's illicit drug problem: Challenges and opportunities for law enforcement*. Our submission primarily focuses on sections 4 and 5 of the Joint Committee's Terms of Reference:

- The involvement of law enforcement in harm reduction strategies and in efforts to reduce supply and demand, including the effectiveness of its involvement
- The strengths and weaknesses of decriminalisation, including its impact on illicit drug markets and the experiences of other jurisdictions

Background

Australia's *National Drug Strategy* is built on the three pillars of harm minimisation – demand reduction, supply reduction, and harm reduction – to reduce alcohol, tobacco and other drug-related harms amongst individuals, families and the community. However, government spending on services related to the three is typically extremely unbalanced, with law enforcement commanding 66% of the \$1.7 billion in drug-related expenditures in 2009-10, prevention and treatment just over 30%, and harm reduction accounting for a paltry 2%.¹

In the absence of clear outcome measures for the *National Drug Strategy*, it is difficult to draw definitive conclusions about the effectiveness of Australia's approach to illicit drugs. However, ongoing harm caused by illicit drugs suggests that our focus on law enforcement is not working. For example, the drug overdose toll surpassed the road toll in 2014 and continues to rise, with more than 2,000 Australians losing their lives each year.² And harms due to prohibition itself continue, including hundreds of thousands of arrests for low-level drug offences in the past decade that swallow police and court resources while burdening Australians with a criminal record that can continue to reverberate for years.

In the context of significant ongoing investment in law enforcement efforts to manage illicit drugs, it is timely to consider whether there might be more effective ways to spend federal tax dollars. In this submission Penington Institute identifies some of the main elements of drug policy where the current, prohibition-based law enforcement model falls short of achieving an effective response to community needs. A rebalancing of the three pillars is overdue, with much greater emphasis on harm reduction. In some cases, such as carrying naloxone and coordinating with drug-checking services, this means active embrace of harm reduction by police and law enforcement agencies. In other cases, such as shifting toward decriminalisation of low-level drug offences and depolicing music festivals, harm reduction requires recognition that long-existing laws and practices are counterproductive and must be reformed. While we recognise the indispensable role of law enforcement in community safety, proven evidence-based harm reduction tools remain severely underfunded relative to policing, presenting a powerful opportunity for more humane and effective drug policy.

The effectiveness of law enforcement in reducing demand, supply and harm

Australia's approach to cannabis

Cannabis law reform has dramatically accelerated across the globe in the last decade, with various jurisdictions in North America, Latin America, Europe and even South-East Asia relaxing their position on cannabis prohibition. Australia, however, continues to lag behind, with the majority of states and territories still criminalising individuals for personal cannabis use or possession.

The global shift toward prudent regulation of cannabis represents an acknowledgement of the harms of a prohibitionist approach. In December 2022, Penington Institute released the *Cannabis in Australia 2022* report,³ which provides a national overview of the management, control and impact of cannabis in Australia. Drawing on published peer-reviewed research, as well as interviews with close to 100 experts, the report highlights the costs – both economic and social – of cannabis criminalisation to our communities.

With more than \$1.7 billion spent in 2015-2016 on law enforcement relating to cannabis, significant resources are being allocated to cannabis control. When the costs of personal and household crime related to cannabis are included – activity that is likely linked to the criminalisation and over-policing of cannabis – the total cost of cannabis-related crime in 2015-16 was \$2.4 billion.⁴ This figure encompasses several categories of police resources that could be better diverted to addressing violent crime, including under-resourced categories such as family violence and sexual assault.

The overrepresentation of marginalised groups in the criminal justice system is also exacerbated under the current system. Criminalisation of cannabis results in unequal treatment: First Nations people, people of colour, and those from lower socioeconomic backgrounds are more likely to be penalised for minor drug offences. While all states and territories in Australia have implemented some form of police diversion scheme for minor consumer cannabis offences, police discretion has resulted in people of colour, Indigenous peoples and poor people being disproportionately funnelled into the criminal justice system rather than offered diversionary processes.⁵ For example, data from NSW show that police are far less likely to divert Aboriginal and Torres Strait Islander people found in possession of a small amount of cannabis: 83% were proceeded against through the courts during the period 2013 to 2017, compared with 52% for the non-Indigenous population. Police were four times more likely to issue a cannabis caution to non-Indigenous people: 40% of non-Indigenous people received a caution, compared with only 11% of Indigenous Australians.⁶

Exposure to the criminal justice system stemming from cannabis offences can also have implications that are grossly disproportionate to the offence committed, particularly for the marginalised groups noted above. Due to discrimination and stigma, formal contact with the criminal justice system can lead to difficulties with employment, education, relationships, parenting and housing.⁷ A conviction can also have implications for people's ability to travel freely, and can exacerbate family violence and mental health or other health problems.⁸ Any time spent in custody – even a short period on remand – can be traumatic and disruptive to pro-social networks; remand increases the likelihood of a sentence of imprisonment being imposed, and ultimately increases the risk of reoffending.⁹

While decriminalisation of cannabis use or possession presents many benefits, including keeping vulnerable people out of the criminal justice system, a legal, regulated adult-use cannabis market

presents additional benefits that decriminalisation does not. Regulated supply provides certainty and transparency in the composition and quality of cannabis. It keeps people away from contact with criminals who operate in the black market and erodes criminal networks. It frees up police time and resources, allowing them to focus on other, more serious offending. And by providing opportunities for taxation, legalisation can generate funding for prevention and treatment efforts. For these reasons, Penington Institute believes Australia must adapt its current approach to cannabis regulation and move toward a legalised, regulated adult personal-use market.

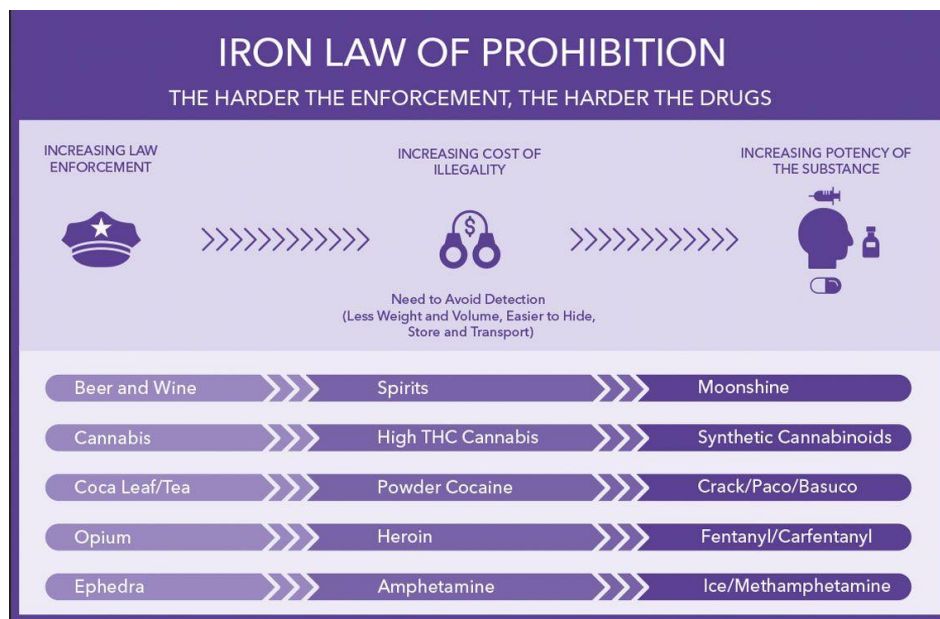
Overall, cannabis prohibition is more harmful than the substance itself. Australia must follow international jurisdictions and explore systems of effective adult-use cannabis regulation.

RECOMMENDATION:
 The Australian Government should allow states and territories to determine the most appropriate form of regulation of cannabis for adult personal use, and Commonwealth agencies should prioritise flexibility when coordinating with officials in other jurisdictions.

Law enforcement, illicit drug markets, and the fentanyl threat

As drug laws and their enforcement become tougher, illicit substances tend to become more harmful and more varied. The ‘iron law of prohibition’ demonstrates that ‘the harder the enforcement, the harder the drugs’:¹⁰ over time, a prohibition approach results in more types of new psychoactive substances and higher potencies (see Figure 1). For example, the number of opioid new psychoactive substances, including fentanyl analogues, has grown from one substance registered by the United Nations Office of Drugs and Crime in 2009 to 56 in 2019 to 87 in 2020, such that they are now regarded as the fastest-growing and most harmful group of all new psychoactive substances.¹¹

Figure 1: The impact of prohibition on the development of more harmful high-potency drugs¹²



Penington Institute believes that worrying trends and changes in illicit drugs markets present a serious challenge to law enforcement, but also offer the opportunity to incorporate a more health-led approach to drug use. Specifically, an international trend toward increasing harms from illicit fentanyl – a substance whose spread is a textbook example of the iron law of prohibition – suggests that shifting to a focus on health rather than prohibition is more important than ever.

Australia is beginning to see troubling trends in fentanyl misuse; the supply, production and distribution of illicit drugs containing fentanyl is an issue that Australian law enforcement and public health services must begin to address. Evidence of increasing fentanyl harms in Australia is seen in Penington Institute's *Australia's Annual Overdose Report 2022*: overdose deaths involving fentanyl (along with two other synthetic opioids, pethidine and tramadol) have increased by 1,275% since 2006. Particularly in rural and regional areas of Australia, overdose deaths involving synthetic opioids including fentanyl have steadily increased, from 8 in 2008 to 70 in 2020.¹³

The fact that Australia historically follows US drug-market patterns suggests that the risk of fentanyl-related harm is growing. We can no longer sit by and ignore the potential threat that fentanyl represents to our communities; we must prepare for the worst if Australian trends follow those in the North American markets.

While funding and resources for law enforcement efforts to disrupt the supply and distribution of illicit fentanyl are necessary, so too is equal investment in harm reduction resources and education that limit the vulnerability of Australia to a shockwave of fentanyl harm. Three tools are particularly crucial: drug-checking services, access to naloxone, and pharmacotherapy – all of which are crucial components of the harm reduction toolbox that should be the lodestar of Australian drug policy (see further description below).

RECOMMENDATION:

In recognition of prohibition's perverse incentivisation of more harmful drugs, the Australian government should shift resources toward reducing harms associated with problematic use of both novel and existing substances.

Festival policing and drug-detection dogs

With respect to the effectiveness of law enforcement at supply and demand reduction, one police strategy that has proven especially controversial is the visible, often intimidating presence of police at music festivals and in other public recreational spaces. The aggressiveness of police strategies in these spaces is embodied in the deployment of drug-sniffing dogs. Law enforcement officials point to the need to deter drug use as a safety measure at festivals and other public events, and highlight the supposed effectiveness of trained drug-detection dogs.¹⁴ However, from a harm reduction perspective, the costs and benefits of the policy do not appear to be favourable. An overwhelming majority of arrests made are for simple drug possession rather than trafficking, with all the attendant costs and complications for affected individuals.¹⁵ Alerts by drug-detection dogs result in hundreds of strip searches each year that are characterised as traumatic and dehumanising by those subjected to them – many of whom are not even found to possess drugs, given the contested accuracy of dog alerts.¹⁶

Not only do drug-detection dogs and other overaggressive police tactics fail to deter the vast majority of people from using drugs within festival settings, but they may also *increase* the likelihood of high-risk behaviours among attendees.¹⁷ Recent research has reconfirmed the phenomenon of panic consumption, in which people ingest drugs in greater quantity or at greater speed than intended due to the presence of police and sniffer dogs.¹⁸ Further, a visible police presence within festival settings can deter people from seeking help: a recent survey of more than 1,000 festival attendees found the ‘fear of getting in trouble with police’ was the most common reason for failing to seek assistance for drug-related issues.¹⁹ Given these demonstrated individual and public health harms and the debatable benefits accrued from arrests for simple drug possession, the use of drug detection dogs and other ‘proactive’ police tactics within festival settings should be abandoned and a shift toward depolicing implemented, replaced by renewed focus on border controls and other nodes of trafficking activity.

RECOMMENDATION:

Law enforcement at all levels should severely curtail the use of drug-detection dogs in public spaces, and police should dramatically decrease their presence at music festivals, with a harm reduction approach replacing the current practice.

Law enforcement and harm reduction

Naloxone

Drug law enforcement operations typically focus on reducing trafficker activity and consumer possession, but there is scope for a more effective role for police in reducing the harms associated with illicit drug use, particularly the use of opioids such as heroin.

A particularly important contribution can be achieved by providing all Australian police with training in the administration of naloxone and requiring them to carry naloxone while on duty. In July 2021, the Western Australia Police Force began a twelve-month trial in which police from select stations in Perth and Bunbury carried naloxone while on duty. As police are often the first on-scene where an overdose has occurred, this initiative gives them the opportunity to take action to save lives and reduce the harm associated with opioid use.

While Western Australia is the first Australian state to trial naloxone being carried by police, this model has been adopted around the world, including in Canada,²⁰ the United Kingdom²¹ and the United States.²² In New York state, where police have been carrying naloxone since 2014, police arrived before paramedics in 86% of suspected overdose cases between 2015 and 2020, and were able to administer naloxone appropriately. Of those given naloxone by police, nearly 88% survived a suspected overdose.²³ This effort provides a vivid example of law enforcement appropriately incorporating a health-led harm reduction approach that quite literally saves lives.

Drug-checking services

While law enforcement has an essential role to play in the detection of new and potentially harmful substances and adulterated drugs, some harmful substances are bound to elude detection and make their way to the drug market. Because of this, Pennington Institute believes all states and territories should establish drug-checking services where members of the public can anonymously submit

substances for testing. Not only are drug-checking services an important harm reduction strategy, but data collected within these services about adulterants can be shared between government health departments and law enforcement, enabling more efficient and timely alerts to the general public. Findings from a network of drug-checking services could also be integrated with the wastewater analysis program managed by the Australian Criminal Intelligence Commission to facilitate more nimble and effective law enforcement responses to supply and consumption trends. Promoting drug-checking services simultaneously mitigates a serious challenge to public health and presents an opportunity for law enforcement to obtain more granular and useful data.

RECOMMENDATIONS:

Police in all Australian states and territories should be provided with overdose education and training and be required to carry naloxone to reduce overdose-related harms.

Government drug policy messaging should include encouragement of consumer drug-checking services, and law enforcement should prioritise expansion and coordination of drug-checking services and wastewater analysis programs.

The value of decriminalisation

It is widely recognised that ‘tough on drugs’ approaches and harsh penalties have little deterrent effect on levels of drug use in the community and in fact generate significant harms,²⁴ with punitive drug laws tending to have greater impacts on disadvantaged groups in the community.²⁵ Approaches to drug decriminalisation vary across the world. Many countries, including Denmark, Italy, Portugal and Spain, have decriminalised all illicit substances. Others, such as Israel, Switzerland and Jamaica have only decriminalised cannabis.²⁶

While a detailed analysis of the varieties of decriminalisation models implemented across the globe is beyond the scope of this submission, the underlying philosophy of these approaches is highly relevant: a shift away from criminal justice-led responses to drug use in order to reduce the significant harms imposed by prohibition on people who use drugs, their families and communities.

Several health-related benefits to drug decriminalisation have been widely documented. First, drug decriminalisation has been observed to reduce the stigma around drug use, which can lessen barriers to seeking health care and support not only for drug use, but also other physical and mental health problems. For example, research that evaluated 20 countries’ drug policies found that people living in nations that formerly had prohibition-based policies were more likely to seek help for their drug use once government drug policy shifted toward decriminalisation.²⁷ The greater demand for drug treatment services following drug decriminalisation observed in the literature illustrates a key benefit of decriminalisation policies for improved individual and public health – though only if decriminalisation is accompanied by greater investment by government in drug treatment and harm reduction to assist those seeking support.

The relaxation of prohibitionist drug policies has also led to debates about impacts on drug markets and trends in drug use. The literature often emphasises that drug prohibition has not had the desired impact of weakening the growth of drug markets; rather, it has led to the emergence of parallel drug economies operated through organised criminal networks,²⁸ ultimately contributing to drug market violence.²⁹

Alternative arguments suggest that reducing penalties for drug use will increase demand for drugs and, therefore, organised crime's drug profits, but this hypothesis is highly contested.³⁰ Since the complete eradication of an underground illicit drug market is unrealistic, researchers of the drug economy have converged with harm reduction advocates in proposing that enforcement should focus on reducing the associated harms of drugs and the overall size of the market, rather than eliminating it entirely.³¹

Another benefit of decriminalisation accrues from the social effects of policing shifts that follow decriminalisation. Researchers have found that pursuit of 'tough on drugs' strategies tends to exacerbate distrust between police and communities.³² This is particularly the case for marginalised communities, which in Australia also are disproportionately impacted by arrests for minor drug crimes (see cannabis section). Limiting these alienating encounters opens the possibility of more cooperative relationships between police and communities and improved ability to investigate more serious crimes, as does freeing up the significant time and monetary resources currently dedicated to enforcing low-level drug offences.

Similarly, decriminalisation largely removes the rationale for another practice that alienates police from young people: the use of drug-sniffing dogs and strip searches, particularly at music festivals.

Australia's states and territories feature various applications of drug decriminalisation approaches. Notable examples are police diversion schemes, which exist in most states and territories, and penalty notices in states such as South Australia and New South Wales. However, these responses to low-level drug possession and/or personal drug use are often contingent on police discretion, which can lead to uneven application. A model of decriminalisation that establishes clear thresholds for specific substances, like the model recently adopted in the ACT, is required across all states and territories in Australia to ensure all people are treated equitably and proportionately for minor drug law violations.

The use of infringements for low-level drug offences

South Australia, the Australian Capital Territory and the Northern Territory have successfully used infringements rather than criminal penalties for low-level cannabis offences for more than three decades. A key feature of these policies is expiation fees that allow a person to avoid a criminal record and the social harms that often arise as a consequence of conviction.³³ In further recognition of the advantages of keeping people out of the criminal justice system and the value of a harm reduction approach, NSW recently adopted an infringement scheme for small amounts of all illicit drugs.³⁴

The use of infringements for people found with small amounts of illicit substances has benefits for both the individual and the criminal justice system. For the individual, an infringement response offers:

- A reprieve from the stigma of criminalisation that accompanies entry into the criminal justice system.
- Avoiding the practical consequences of a criminal conviction, such as negative effects on employment, education, relationships or travel opportunities.
- Avoiding a diversionary health intervention for people who do not have a drug dependence issue.

For the criminal justice system, the use of infringements offers additional benefits:

- Due to their immediacy, infringements are potentially more effective at deterring future drug offending than lengthy court processes.
- Infringements are less costly than prosecuting people in that they are quick and simple, saving time and money for both police and courts.
- Money saved by adopting an infringement system can be reallocated to other ways of responding to drug-related offending and drug dependence, both within the criminal justice system (such as court-based support programs) and in the harm reduction and drug treatment sectors.

The clear benefits of infringement schemes for cannabis in relevant jurisdictions suggest that Australia should move toward nationwide application of infringement notices for all drugs, while taking steps to identify and address any unintended consequences by trialling infringement notices in multiple jurisdictions.

RECOMMENDATIONS:
The Australian Government should encourage states and territories to implement a model of decriminalisation that establishes clear thresholds for specific substances, similar to the model recently adopted in the ACT.
The Australian Government should encourage states and territories to implement the use of infringement notices for all low-level drug offences.

Rebalancing the pillars: the value of harm reduction

While there are significant policy gains to be made from shifts in law enforcement practices, the most urgent task in drug policy is to rebalance government expenditure across the three pillars of harm minimisation. Spending remains heavily skewed towards law enforcement efforts aimed at controlling drug use, compared with minimal investment in evidence-based harm reduction initiatives. There are multiple forms of harm reduction that have a proven track record of improving individual and public health but remain severely underfunded or absent, even as billions are spent on the outdated prohibition model.

Needle and syringe programs (NSPs)

NSPs are one of the most successful and cost-effective public health investments in Australia's history. Since 1986, NSPs have played a vital role in reducing the spread of blood-borne viruses, both among people who inject drugs and in the wider community, by providing sterile injecting equipment. As a public health service, NSPs develop relationships with clients, offering meaningful engagement to support clients seeking to manage their drug use. They provide health information and increase service engagement among people who use drugs by offering referrals to other health services including those relating to mental health, drug and alcohol treatment, and hepatitis C treatment. NSPs are often the only point of regular engagement for their clients – including some of Australia's most marginalised people – making their role in service provision and referral crucial. By preventing health-care costs

associated with blood-borne disease, NSPs have demonstrated their cost-effectiveness, with a return on investment of \$1.3-5.5 for every dollar invested.³⁵

Despite the clear health benefits that NSPs provide, however, their funding mostly comes from the states and is inadequate. Ensuring that NSPs have sufficient resources by establishing robust Commonwealth-state funding agreements will maximise the health, social, and economic benefits they provide. Combined with pharmacotherapy (see below) and mental health services, NSPs can serve as a foundational element of the holistic care that is ultimately necessary to allow people with substance use issues to thrive.

Community and specialist education

Increased funding of the harm reduction sector more broadly would also assist in the development and implementation of community education campaigns targeting the harms associated with some forms of drug use. Community education efforts can assist in preventing or delaying the uptake of drug use among young people, and they can help raise awareness of the harms associated with drug use and encourage help-seeking behaviours. Despite these benefits, investment in community education campaigns in Australia is lacking. For example, despite the recent increase in the use of performance and image-enhancing drugs (PIEDs) such as steroids across Australia, government support for community education strategies aimed at preventing the harms associated with such drug use is lacking. Notably, a handful of Victorian-based health services have begun peer-based, community education focussed on the harms associated with PIED use; however, these are isolated efforts that are predominantly unfunded. Another example is one of Penington Institute's flagship initiatives, International Overdose Awareness Day, which receives no public funding despite its dramatic success as a locus of remembrance and community education throughout both Australia and the world. Government funding is required to ensure community education programs are implemented promptly in response to changing patterns of drug use in Australia.

Similarly, informational resources for specialists in drug policy are also severely underfunded. For instance, another of Penington Institute's annual projects, *Australia's Annual Overdose Report*, receives no public (or private) support, despite its prominence as the authoritative reference for information about overdoses in Australia.

A striking example is the expiration of funding for Penington's monthly publication *The Bulletin*, which provides a vast range of insights regarding substances and best practices for engaging people who use drugs to frontline workers across the NSP and treatment space. is currently on hiatus following the expiration of its funding in December 2022. A unique publication, *The Bulletin* offers a platform for frontline workers to connect and share their experience and knowledge while also serving as a resource for the whole community. Unfortunately, *The Bulletin* is currently on hiatus following the expiration of its funding in December 2022, depriving its devoted, highly engaged audience of a relatively low-cost forum for crucial knowledge about the ever-evolving drug space.

Naloxone access

Opioids – both illicit and pharmaceutical – were the most common drug type involved in unintentional drug-induced deaths in 2020.³⁶ The opioid-overdose reversal drug naloxone is therefore another vital harm reduction tool that must become more widely accessible. In early 2022, the Australian Government invested \$19.4 million over four years to deliver the Take Home Naloxone Program. The

program makes naloxone freely available without a prescription to all people at risk of, or who might witness, an opioid overdose through participating pharmacies and other sites such as alcohol and drug treatment services or NSPs. The pilot Take Home Naloxone Program that commenced in 2019 saved an estimated three lives per day,³⁷ making the federal government's investment in broadening the program a welcome one. Nonetheless, more can be done by governments at both a federal and state level to increase awareness about naloxone and make it available in as many environments as possible.

Pharmacotherapy

Opioid pharmacotherapy involves replacing the dangerous, unmanaged use of illicit or pharmaceutical opioids with careful, clinician-managed dosing of longer-acting opioids in order to reduce the opioid cravings that can lead to harmful behaviours. Pharmacotherapy is considered the gold standard of treatment for opioid dependence, and has been found to reduce mortality dramatically and mitigate a variety of health and social harms, including crime associated with drug use.³⁸

As of mid-2021, over 47,000 Australians were clients of pharmacotherapy services,³⁹ but this accounts for only half the estimated population of opioid-dependent Australians.⁴⁰ Multiple barriers to greater uptake and retention persist, including stigma by doctors, pharmacists, and the public; a growing deficiency of prescribers and dosing points, particularly in regional and rural Australia; and the dispensing fees clients must pay each time they visit a clinic or pharmacy, which for many people account for 20% or more of their monthly income.⁴¹

Access to pharmacotherapy is fundamental to reducing opioid-related harms. Pennington Institute has previously called for the Australian Government to remedy the treatment barrier posed by dispensing fees.⁴² In addition, the government should explore options to increase the number of prescribers, including by revising Medicare reimbursements for drug treatment. Providing the resources to eliminate obstacles to pharmacotherapy is one of the most humane and cost-effective drug policy options available to the Commonwealth.

In addition to reinvigorating the current pharmacotherapy regime, the government should embrace policy innovation by encouraging pilot programs for additional pharmacotherapy drugs, such as hydromorphone and slow-release oral morphine. Evidence from such services operating in other countries shows the value of expanding pharmacotherapy drug options in order to treat people with severe, treatment-resistant dependence on opioids and other drugs. For example, Canadian research with people who have long-term histories of heroin injecting found that hydromorphone, a legal opioid painkiller used to treat moderate to severe pain, successfully reduced both heroin and crack cocaine use, as well as other criminal activity.⁴³ Compared with methadone alone, hydromorphone treatment resulted in declines in mortality – as well as savings of up to \$140,000 per person from reduced involvement in crime.⁴⁴

In sum, harm reduction services play a pivotal role in promoting the health and wellbeing of people who use drugs and the broader community. They help reduce the strain on the treatment sector by providing health information and connecting people with services that conduct screening and early intervention. For people seeking to address problematic drug use, adequately funded services can ensure the provision of holistic care that maximises people’s potential to thrive. We recommend that funding be rebalanced from traditional, prohibition-based, police-led supply and demand reduction toward multiple forms of harm reduction for people who use drugs. Ensuring that harm reduction services are properly funded will that people and communities remain as safe and healthy as possible across Australia.

RECOMMENDATIONS:

The Australian Government should establish robust funding agreements with states and territories to ensure that NSPs can continue their vital work and maximise their potential as entry points for services that enhance client wellbeing.

The Australian Government must invest in efforts to increase knowledge about drug issues both within the community and among the frontline workforce, including by renewing funding for *The Bulletin*, a specialty publication for workers on the frontline of drug issues in Australia.

The Australian Government should provide ongoing funding to accelerate and broaden the availability of naloxone and increase naloxone education to all appropriate services.

The Australian Government must urgently address obstacles to pharmacotherapy access, including adequate funding to ensure sufficient prescriber and diversification of pharmacotherapy treatment drug options.

Conclusion

Law enforcement certainly has a role to play in reducing the supply and distribution of illicit drugs, especially at the level of large-scale organised criminal enterprises. Nonetheless, Australia must explore and prioritise health-led responses to illicit drug use rather than conceptualising drug use as a primarily criminal issue. Penington Institute believes that if Australia continues to maintain a ‘tough on drugs’ stance, this will inevitably lead to increased drug-related harm and ongoing damage to communities, while also unnecessarily burdening the criminal justice system, including law enforcement, courts and prisons. A rebalancing of the pillars is overdue, and we hope this Committee’s valuable work will accelerate the necessary transition in drug policy.

¹ 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.

² Penington Institute. (2022). [Australia’s Annual Overdose Report 2022](#). Melbourne: Penington Institute.

³ Penington Institute. (2022). [Cannabis in Australia 2022: Technical report](#). Melbourne: Penington Institute.

⁴ Whetton, S., Tait, R.J., Chrzanowska, A. et al. (2020). *Quantifying the social costs of cannabis use to Australia in 2015/16*. Perth: NDRI.

⁵ Simmons, A. (2009, June 25). ‘Over-policing to blame’ for Indigenous prison rates.’ *ABC News*.

<https://www.abc.net.au/news/2009-06-25/over-policing-to-blame-for-indigenous-prison-rates/1332486>

-
- ⁶ Data compiled for *The Guardian Australia* news by the Bureau of Crime Statistics and Research. Available at: <https://www.theguardian.com/australia-news/2020/jun/10/nsw-police-pursue-80-of-indigenous-people-caught-with-cannabis-through-courts>.
- ⁷ See, for example, Lenton, S., Bennett, M. and Heale, P. (1999). *The social impact of a minor cannabis offence under strict prohibition – The case of Western Australia*. National Centre for Research into the Prevention of Drug Abuse; Lenton, S., Grigg, J., Scott, J., Barratt, M. and Eleftheriadis, D. (2015). The social supply of cannabis among young people in Australia. *Trends and Issues in Crime and Criminal Justice*, 503: 1-6.
- ⁸ Douglas, B. and Stephens, L. (2018). *We all pay the price: Our drug laws are tearing apart our social fabric, as well as harming drug users and their families*. Canberra: Australia21 Limited, p. 4.
- ⁹ Heaton, P., Mayson, S. and Stevenson, M. (2017). The downstream consequences of misdemeanor pretrial detention. *Stanford Law Review*, 69(3), 714-716.
- ¹⁰ Global Commission on Drug Policy. (2018). [Regulation: The responsible control of drugs](#). Geneva, Switzerland: Global Commission on Drug Policy.
- ¹¹ United Nations Office on Drugs and Crime. (2022). *World Drug Report 2022*, [booklet 1](#), p. 29.
- ¹² Global Commission on Drug Policy. (2018). [Regulation: The responsible control of drugs](#). Geneva, Switzerland: Global Commission on Drug Policy.
- ¹³ Penington Institute. (2022). [Australia's Annual Overdose Report 2022](#). Melbourne: Penington Institute.
- ¹⁴ Redfern Legal Centre. (2019, September 5). 'Abuse of power needs to stop': Why drug dogs and strip searches just don't work. <https://rlc.org.au/news-and-media/rlc-media/abuse-power-needs-stop-why-drug-dogs-and-strip-searches-just-dont-work>
- ¹⁵ Sentas, V, and Grewcock, M. (2019, August 23). 'Unlawful strip searches are on the rise in NSW and police aren't being held accountable.' *The Conversation*. <https://theconversation.com/unlawful-strip-searches-are-on-the-rise-in-nsw-and-police-arent-being-held-accountable-121986>
- ¹⁶ Stephens, P. (2018, December 3). 'Are drug sniffer dogs incorrect 75 per cent of the time?' *ABC News*. <https://www.abc.net.au/news/2018-12-03/fact-check-are-drug-dogs-incorrect-75-pc-of-the-time/10568410>
- ¹⁷ Grigg, J., Barratt, M.J., and Lenton, S. (2018). Drug detection dogs at Australian outdoor music festivals: Deterrent, detection and iatrogenic effects. *International Journal of Drug Policy*, 60, 89-95.
- ¹⁸ Grigg, J., Barratt, M. J. and Lenton, S. (2022). Drug policing down under: An investigation of panic consumption, internal concealment, and the use of drug amnesty bins among a sample of Australian festivalgoers. *International Journal of Drug Policy*, 106.
- ¹⁹ Page, R., Healey, A., Siefried, K.J., Harrod, M.E., Franklin, E., Peacock, A., Barratt, M.J. and Brett, J. (2022), Barriers to help-seeking among music festival attendees in New South Wales, Australia. *Drug Alcohol Review*, 41: 1322-1330.
- ²⁰ Service de police de la Ville de Montreal. (2021, January 13). SPVM and naloxone: first positive results [Press release]. <https://spvm.qc.ca/fr/Actualites/Details/14945>
- ²¹ Thompson, T. (2017, February 17). [Police Scotland first in UK to issue all officers with naloxone](#). *Police Professional*. <https://www.policeprofessional.com/news/report-recommends-compulsory-naloxone-training-at-police-scotland/>
- ²² Pourtaher, E., Payne, E.R., Fera, N. et al. (2022). Naloxone administration by law enforcement officers in New York State (2015-2020). *Harm Reduction Journal*, 19(102).
- ²³ Pourtaher, E., Payne, E.R., Fera, N. et al. (2022). Naloxone administration by law enforcement officers in New York State (2015-2020). *Harm Reduction Journal*, 19(102).
- ²⁴ Global Commission on Drug Policy. (2016). [Advancing drug policy reform: A new approach to decriminalization](#). Geneva, Switzerland: Global Commission on Drug Policy.
- ²⁵ Csete, J., Kamarulzaman, A., Kazatchkine, M., Altice, F., Balicki, M., Buxton, J. and Goulão, J. (2016). Public health and international drug policy. *The Lancet*, 387(10026), 1427-1480; Turnbull, P. J. (2009). The great cannabis classification debacle: What are the likely consequences for policing cannabis possession offences in England and Wales? *Drug and Alcohol Review*, 28(2), 202-209.
- ²⁶ Release Legal Emergency & Drug Services. *Drug Decriminalisation Across the World*. Talking Drugs. <https://www.talkingdrugs.org/drug-decriminalisation>

-
- ²⁷ Benfer, I., Zahnow, R., Barratt, M. J., Maier, L., Winstock, A. and Ferris, J. (2018). The impact of drug policy liberalisation on willingness to seek help for problem drug use: A comparison of 20 countries. *International Journal of Drug Policy*, 56, 162-175.
- ²⁸ Caulkins, J. P. and Reuter, P. (2010). How drug enforcement affects drug prices. *Crime and Justice*, 39(1), 213-271.
- ²⁹ Werb, D., Rowell, G., Guyatt, G., Kerr, T., Montaner, J. and Wood, E. (2011). Effect of drug law enforcement on drug market violence: A systematic review. *International Journal of Drug Policy*, 22(2), 87-94.
- ³⁰ Stevens, A., Hughes, C. E., Hulme, S. and Cassidy, R. (2019). Depenalisation, diversion and decriminalisation: A realist review and programme theory of alternatives to criminalisation for simple drug possession. *European Journal of Criminology*, 19(1), 29-54.
- ³¹ Caulkins, J. P. and Reuter, P. (2010). How drug enforcement affects drug prices. *Crime and Justice*, 39(1), 213-271.
- ³² Caulkins, J. P. and Reuter, P. (2017). Dealing more effectively and humanely with illegal drugs. *Crime and Justice*, 46(1), 95-158.
- ³³ Hughes, C., Seear, K., Ritter, A. and Mazerolle, L. (2019). Monograph No. 27: 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. *DPMP Monograph Series*. Sydney: NDARC.
- ³⁴ See [Criminal Procedure Act 1986 \(NSW\)](#) Pt 3.
- ³⁵ Kwon, J. A., Anderson, J., Kerr, C. C., Thein, H. H., Zhang, L., Iversen, J., Dore, G. J., Kaldor, J. M., Law, M. G., Maher, L. and Wilson, D. P. (2012). Estimating the cost-effectiveness of needle-syringe programs in Australia. *AIDS (London, England)*, 26(17), 2201–2210.
- ³⁶ Penington Institute. (2022). [Australia's Annual Overdose Report 2022](#). Melbourne: Penington Institute.
- ³⁷ University of Queensland. (2022). [Evaluation of the Pharmaceutical Benefits Scheme subsidised take home naloxone pilot](#). Queensland: University of Queensland.
- ³⁸ Ma, J., Bao, Y.P., Wang, R.J. et al. (2019). Effects of medication-assisted treatment on mortality among opioid users: a systematic review and meta-analysis. *Molecular Psychiatry*, 24(12), 1868-1883; Santo, T., Clark, B., Hickman, M. et al. (2021). Association of opioid agonist treatment with all-cause mortality and specific causes of death among people with opioid dependence: A systematic review and meta-analysis. *JAMA Psychiatry*, 78(9), 979-993.
- ³⁹ The total number of opioid pharmacotherapy clients in 2021 is underestimated, due to a lack of available data for Queensland. For comparison, there were 53,316 opioid pharmacotherapy clients in Australia in 2020. See further, Australian Institute of Health and Welfare (2022). National Opioid Pharmacotherapy Statistics Annual Data Collection. Canberra: AIHW, Table S1.
- ⁴⁰ Whetton, S., Tait, R. J., Chrzanowska, A. et al. (2020). *Quantifying the Social Costs of Pharmaceutical Opioid Misuse and Illicit Opioid Use to Australia in 2015/16*. Perth: NDRI.
- ⁴¹ Zahra, E., Chen, R., Nielson, S. et al. (2022). Examining the cost and impact of dosing fees among clients in opioid agonist treatment: Results from a cross-sectional survey of Australian treatment clients. *Drug and Alcohol Review*, 41(4), 841-850.
- ⁴² Penington Institute. (2015). [Chronic Unfairness](#). Melbourne: Penington Institute.
- ⁴³ Oviedo-Joekes, E., Guh, D., Brissette, S. et al. (2016). Hydromorphone Compared with Diacetylmorphine for Long-term Opioid Dependence: A Randomized Clinical Trial. *JAMA Psychiatry*, 73(5), 447-455.
- ⁴⁴ Sinden, S. (2018). Injectable hydromorphone for individuals with severe opioid use disorder could save lives and money. *Province Health Care*. <http://www.providencehealthcare.org/news/20180327/injectable-hydromorphone-individuals-severe-opioid-use-disorder-could-save-lives-and>