



Submission to WA Legislative Council Inquiry into Alternate Approaches to Reducing Illicit Drug Use and Its Effects on the Community

Mr Jamnes Danenberg BA (Hons)

Terms of Reference

(1) A Select Committee examining alternate approaches to reducing illicit drug use and its effects on the community is established.

(2) The Select Committee is to inquire into and report on —

(a) other Australian state jurisdictions and international approaches (including Portugal) to reducing harm from illicit drug use, including the relative weighting given to enforcement, health and social interventions;

(b) a comparison of effectiveness and cost to the community of drug related laws between Western Australia and other jurisdictions;

(c) the applicability of alternate approaches to minimising harms from illicit drug use from other jurisdictions to the Western Australian context; and

(d) consider any other relevant matter.

Introduction

I thank the Committee for the opportunity to make a submission to this inquiry examining alternate approaches to reducing illicit drug use and its effects on the community in which I advocate a new approach to Western Australia's drug laws, particularly as they apply to Cannabis.

I was formerly the Co-convenor of Help End Marijuana Prohibition SA (HEMP SA inc) a grass roots, user representative organisation active politically in the pursuit of social justice and drug law reform in South Australia from 1993 to 2003. This submission is provided however in a personal capacity.

Some of this submission has been drawn from an earlier paper previously presented to the Inaugural Australasian Drug Strategy conference 'Getting it Right Together' held in 1999. Despite the time that has elapsed since then the issues highlighted then are still just as relevant today, as the prohibition of Cannabis and other illicit substances is still just as ineffective, counterproductive and damaging to our community and to individual users.

Indeed it is consistently disappointing that despite numerous inquiries, reports and a considerable body of evidence highlighting that the current prohibition of Cannabis is unjustifiable, flawed, expensive, harmful and counterproductive, total prohibition or prohibition with civil penalty approaches have been unchanged and rarely challenged, despite their obvious flaws and failed outcomes across all states and territories in Australia.

In 1979 the South Australian Sackville Royal Commission into the Non-Medical Use of Drugs noted:

"One of the striking features of the Cannabis debate [is] the gap between the evidence and widely held beliefs. [People] often stated that far too little is known about the drug and its effects to warrant reconsideration of current legal prohibitions.

This approach seems to overlook the enormous quantity of scientific information which is available concerning the drug and its effects on users...even a cursory glance at the modern

history of Cannabis shows a repeated pattern of widely believed myths which often fly in the face of the available evidence.

It is apparent that the debate has been more concerned with values and community attitudes, than with the objective ascertainment of facts"

Sackville noted:

"The official record is noteworthy for the lack of complications relating to cannabis, other than criminal proceedings..."

and he concluded:

"The biggest risk to Cannabis users' health, wellbeing and long-term life opportunities, are the consequences of legal proceedings in the criminal justice system".

(Sackville, Hackett, & Nies, 1978, p3).

Nearly forty years later, the Royal Commission's findings are just as relevant. Whilst it is understood that both licit and illicit drug use *can* be problematic, national and international experience has shown that treating drug and alcohol use as criminal issues does not either stop the use from occurring, nor is the most effective way to reduce the harms associated with that drug or substance use for the individuals or the wider community. This *must* be heeded in informing future drugs policy.

The ongoing prohibition of Cannabis flies in the face of evidence gathered from multiple inquiries and substantial research. There has been a fundamental consensus from almost every major government enquiry on the issue of Cannabis as to the need for reform.

Beginning with the British East Indian *Report of Indian Hemp Commission 1893-94* to the La Guardia Report and Schaeffer Commissions' *Marijuana: A Signal of Misunderstanding* (US), The Wootton Report (UK), the Le Dain Commission (Canada), and numerous Australian reports all reached "*strikingly uniform conclusions*": Typically they concluded that '*the long term consumption in moderate doses has no harmful effects' on the user, but that heavy and sustained use carries some risks*'

(Sackville et al, 1979, p2).

It is understood that both licit and illicit drug use can be problematic, both to the individual and society, but as the British medical journal *The Lancet* concluded, the harms associated with Cannabis are far less than those associated with keeping it illegal (The Lancet, November, 1995). Even if Cannabis was as harmful as alcohol or tobacco, which few people would claim, there is still a paucity of evidence to suggest that a tough law and order approach would be the best way to reduce harms faced by users.

Internationally the tide has turned and there are now numerous jurisdictions that have moved away from a prohibitionist approach treating drug use as a criminal justice problem and towards treating drug use primarily from a health perspective. These include Holland, Portugal, Uruguay, Canada and an ever-increasing number of American states that have legalised Cannabis for medical & therapeutic and personal use.

This submission will contend that an alternative approach to our drug laws is long overdue and desperately needed in WA. This inquiry is a critically important first step in re-examine the evidence base that form the basis of the laws around illicit drugs. Fundamental to this is defining what are the criteria for effective drug policies and what outcomes we seek to achieve from such policies.

We do not have to re-invent the wheel however; this has already been done in the ***Legislative Options for Cannabis***, Monograph No 26 produced by the Australian Institute of Criminology and published by the Australian Government. As this report has long been unavailable online the Committee may not have had an opportunity to familiarise themselves with its contents.

While it is no longer available via the original Government website, it has been archived online through the Wayback Machine and can be **viewed in full to assist your inquiry which I would urge this Committee to do.**

<https://web.archive.org/web/20050617084114/http://www.health.gov.au:80/internet/wcms/publishing.nsf/Content/health-pubs-drug-cannabis-cannabis.htm>

Critically Analysing our Drug Policies.

This Committee's examination and critical re-evaluation of our states drug policies is long overdue. Our legal system and laws must be research and evidence based, and be in sync with community expectations and have the support of the broader community.

In 1989 the Parliamentary Joint Committee on the National Crime Authority found:

"Over the past two decades in Australia we have devoted increased resources to drug law enforcement, we have increased penalties for drug trafficking and we have accepted increasing inroads on our civil liberties as part of our battle to curb the drug trade. All the evidence shows, however, not only that our law enforcement agencies have not succeeded in preventing the supply of illegal drugs to Australian markets, but that it is unrealistic to expect them to do so".

It is clear that relying on the criminal law and police as a mechanism for reducing the harms associated with Cannabis use for individuals and the wider community has failed. It's time for a new approach going beyond prohibition. In particular, any reforms should overcome the previous failings of the *"policy debate which lacks precision and intellectual vigour, and whose outcomes depend more on rhetoric and emotion than on logical argument and empirical data"* (McDonald, et al, 1994, p3).

To ensure rational drug policy effective and workable laws it is therefore essential to have a set of criteria for evaluating differing legal options (McDonald, et al, 1994, pp 4-8). The Australian Institute of Criminology have refined and clarified suggestions originally put forward by Kleiman and Saiger in 1992.

They noted:

Given the importance which is assigned to setting clear goals for any major social policy, it is surprising how infrequently discussion of drug policy is preceded by a precise specification of what the policy is intended to achieve. Too often, goals are either global (e.g. to reduce drug use) or unattainable (e.g. to

eliminate drug use), and as such they allow for many interpretations.

Similarly, goals are often stated in such a way that they could be achieved through a number of quite contradictory strategies and at vastly different costs. This report starts from the proposition that it is important to know what are the requirements for rational drug policy in general, and what are the objectives of cannabis policy specifically. In this context, it is important to address the issue of drug policy as well as drug legislation. The link between policy, legislation and implementation is important and must be factored into these considerations.

The development of policy and legislation relating to cannabis should take into account the following issues:

- 1. Arguments that apply to the most appropriate control regime for one drug need not - and often do not - apply to others.***
- 2. Drug policy should be drafted to take account of the different patterns and types of harms caused by specific drugs.***
- 3. The details of control regimes are crucial determinants of their outcomes. Such details should not be left undefined.***
- 4. Any analysis of control regimes should attempt to estimate their effects on both consumption levels and patterns of use.***
- 5. Control regimes should not be considered in isolation from the problems of implementation and enforcement.***
- 6. Arguments about the consequences of drug use should be separated from arguments about morals.***
- 7. Options should be evaluated on the basis of evidence of damage.***

8. Any policy should recognise the changing nature of the drug problem and be able to change with it. Additionally, all policies should be reviewed periodically to ensure that they are still relevant to the current circumstances.

9. Policy should be made in light of the costs of control as well as the benefits.

10. The goals of drug policy should be realistic.

11. Discussion of policy options should include a specification of which harms they are intended to reduce.

12. Discussion of cannabis policy (and drug policy generally) should recognise the existence of multiple and sometimes contradictory goals.

13. Policies to discourage cannabis use should be shown to be effective or be changed.

14. The harms caused by the control regimes themselves should not outweigh the harms prevented by them.

The application of these principles in a given situation should lead to the development of explicit policy goals relating to cannabis.

It is likely that priority will need to be assigned between the available goals, as they are frequently inconsistent. Nevertheless, the explicit specification of the goals which policy and legislation are intended to achieve is essential if they are to be properly articulated and evaluated.

(McDonald, et al, 1994, pp4-9)

There are also a number of other Australian Government funded and published research that compare and contrast varying legal options for illicit drug policy and I would recommend these are also considered in detail by the committee in their deliberations.

Perhaps the most relevant of these reports is the *Social Impacts of the Cannabis Expiation Notice Scheme in South Australia Report* presented to the Ministerial Council on Drug Strategy in May 1998.

Comparing the Effectiveness and Cost of Drug Laws

This extensive report compared the SA Cannabis Expiation Notice (CEN) scheme – effectively a "prohibition with civil penalty" system with 'on-the-spot fines' to Western Australia's "total prohibition" approach. The report concluded that SA's laws were more appropriate, were more cost effective and had less of a social impact than the "prohibitionist" laws in WA.

The report compares the outcomes of SA's CEN system compared to a total prohibition approach and while the reports' authors did not directly compare all of the results in the study, I have tabled the outcomes side by side below. When presented in this way, the significant differences in legal approaches becomes obvious. Interestingly, despite (or because of) WA's more punitive laws, WA came out higher on every single indice measured. While these statistics are clearly dated, the results are incontrovertible proof that prohibition simply doesn't achieve its stated goals of reducing Cannabis use. It is clearly also more harmful to individuals and the broader community and was shown to be more expensive to enforce too.

Comparing Cannabis Usage Rates Between Total Prohibition and a Decriminalisation regimes in WA & SA

Cannabis Usage	WA	SA
Ever used Cannabis	37%	33%
Used Cannabis recently	16%	12%
Used Cannabis on a weekly basis	21%	12%
Used Cannabis on a monthly basis	33%	20%
Young people used Cannabis	26%	23%
Used Cannabis in a car	23%	10%

Comparing Attitudes and Social Impacts across States

Attitudes to Law/Enforcement	WA	SA
Thought it was ok to use Cannabis	29%	27%
Approach to Police		
- Less Trustful	49%	18%
- More Fearful	43%	15%
Negative Outcomes from a 'Bust'		
Negative Employment Consequences	32%	2%
Negative Housing Consequences	16%	0%
Negative Relationship Consequences	??	?

WA's tougher "total prohibition" laws demonstrably did not deter people from trying or using Cannabis. They also bred disrespect for, and distrust in the Police and the law in general and had far more negative social impacts for users.

Source: Derived from Makkai & McAllister. *Marijuana in Australia: Patterns and Attitudes*, NDS Monograph No31. 1997, pp49-59) *Social Impacts of the Cannabis Expiation Notice Scheme in South Australia*, 1998, Ali, et al., pp22-25).

Prohibitionist, zero-tolerance, 'War on Drugs' approaches have consistently failed to reduce either supply or demand for illicit drugs, harms related to, and crime associated with, illicit drugs, particularly Cannabis. Drug law reformers, academics, social scientists and practitioners in the D&A field have instead recognised treating drug use as from a health perspective is far more effective, sensible and helpful. Central to this is removing the criminal sanctions for personal use, possession and cultivation of Cannabis.

It is axiomatic the best way to stop the harms from illicit drug use is to make them licit – ie to regulate and normalising the currently illicit market for Cannabis, rather than to leave it to the black market to control. This will have positive outcomes for individual users, and society on the whole, whilst minimising the negative effects of

prohibition-based policies on users, the criminal justice system and the wider community.

As Legislative Options notes: we must separate the arguments about morals from the arguments about the efficacy of policy. This is not a contribution to any moral debate about cannabis and whether it is 'right' or 'wrong'. We must face facts **and the fact is that prohibition of Cannabis serves to actively promote, not prevent, Cannabis use in Australia.**

The prohibition of Cannabis hasn't prevented anyone from using Cannabis. Nor have "prohibition with civil penalty" approaches such as SA has, made much difference to usage rates. South Australia's rate of Cannabis use is not significantly different from the rest of Australia (Makkai & McAllister, 1997, p54). Arguments that SA's decriminalisation of Cannabis use and possession in 1987 "opened the floodgates" were hysterical, misleading and unsubstantiated. Even though 41% of South Australians thought cannabis was legal (Makkai & McAllister, 1997, p85), SA's reported cannabis user rates were lower than some other states with a total prohibition approach with harsh and draconian penalties. The Social Impacts of Cannabis report demonstrate this clearly (Ali, Christie, Lenton, Hawks, Sutton, Hall, & Allsop, 1998; Makkai & McAllister, 1997, pp49-59) Compared to the "total prohibition model in WA, people in SA were less likely to have been offered Cannabis, less likely to have tried it, less likely to have used in the last twelve months and less likely to use in a vehicle (Makkai & McAllister, 1997, pp50-52, 55).

A dilemma therefore for those advocating tougher law enforcement. Cannabis usage rates do not correlate well to intensity of enforcement or legal sanction at all. Comparison of the control regimes in SA and WA or internationally between the Netherlands and the US are perhaps the clearest indications of this. (Ali et al, 1998; Australian Institute of Criminology, 1992)

When it comes to Cannabis, the evidence shows "liberal" models of controlling drug use don't increase rates of experimentation, whilst repressive models don't deter or prevent experimentation.

A 1985 study conducted by the Foundation for the Scientific Study of Alcohol and Drug Use at the request of the Netherlands Ministry of Welfare, Health and Cultural Affairs confirms that cannabis use went down after the Dutch so-called 'legalisation'. The study showed occasional use fell from 10% of 17-18 y.o.s to 6% between 1976-1985. (van de Wijngaart, 1990, pp 667-678)

The Dutch policy of "normalisation" demonstrated *"it is possible to relax some restrictions on [cannabis] use without increasing the rate of use, with savings to law enforcement and with positive outcomes for drug users and society"* (Australian Institute of Criminology, 1992, p23).

In the US, despite ever increasing funding to the range of US\$20-\$50Billion, increasingly draconian legislation and law enforcement tactics, teenage use continued to rise.

The Australian Institute of Criminology (AIC) noted:

"Arguably, the intensive American interdiction campaign against Cannabis has created both a worse domestic enforcement problem and more severe health risks for users"(AIC, 1992, p11). Despite US policy failing abjectly to control cannabis use, they *"have vigorously pursued the notion that their approach to drug policy is the only correct one"* (AIC, 1992, p16).

If a "tough" law enforcement focus has failed overseas, have Australian control regimes been any more successful? The clear answer is no. Differing regimes throughout Australia have similar usage rates with few significant differences between "total prohibition" regimes and the "prohibition with civil penalty" approaches that are used in SA, ACT and the NT.

In SA, the number of users did not increase significantly following decriminalisation, as Police acknowledged (The Advertiser, 1993) yet due to a net-widening effect, expiation notices rose from 6,200 in 1987/88, to 16,300 in 1995/96, an almost a threefold increase (Ali, et al, 1998, p15).

Over half of these were not expiated and the recipients defaulted into the court system and received a criminal convictions (Ali, et al, 1998,

pp15-18). Decriminalisation unfortunately failed in its original intentions to free up police and court time and not to criminalise small scale cannabis users/growers with over 37,470 criminal convictions in one four year period from 1991/92 to 1995/96 alone (Ali, et al, 1998, pp15-18, 37).

When we examine the current legal approach of either total prohibition, or prohibition with civil penalty to Cannabis throughout Australia, the Australian Institute of Criminology has clearly demonstrated they do not satisfy many of these criteria:

"The total prohibition policy...has clearly not achieved its intended goal of substantially reducing Cannabis consumption. This is despite an increasing amount of resources directed towards achieving this goal. ... Cannabis policy has not been separated from other drugs, arguments about the consequences of drug use have not been separated from arguments about morals; the goals of the "war on drugs" are unrealistic; it appears the harms caused by the control regimes outweighs the harms caused by the drug itself" (McDonald, et al, 1994, p.xi).

The current laws on Cannabis have failed by every criterion. Cannabis is overwhelmingly the most used illicit drug, with literally millions of Australians having tried, used, or currently using Cannabis. By the mid 1990's it'd been estimated that 30-50% of adult Australians had tried it (Bowman & Sanson-Fisher, 1994, p9) Now that figure is greater still, with usage rates higher amongst younger people again. Back in 1993 the NCADA Australian household Survey determined that **83.5%** of 20-24y.o. males and about 60% of 20-24y.o.females had tried Cannabis- equivalent to approximately seven out of every ten people (Donnelly & Hall, 1994, p7). If this is prohibition succeeding how would you define failure?

The "prohibition with civil penalties" approach of on-the-spot fines, although cost effective and easier to administer, when compared to total prohibition approaches, is clearly not appropriate for Australian circumstances either and is little better in terms of social impacts than a total prohibition approach.

Community values have changed since 1979, however. Surveys have consistently shown an ever-increasing number of people do not believe Cannabis should be illegal. Public opinion does not support punitive sanctions, nor aggressive law enforcement aimed at Cannabis users or growers. Whilst figures vary, the 1995 survey *Public Perceptions of Cannabis Legislation*, found:

"with regard to growing , possessing and using cannabis, approximately three quarters of the total sample do not believe they should be regarded as criminal activities". (Bowman & Sanson-Fisher, 1994, p39)

I have not had an opportunity to provide more up to date statistics however I'm sure the Committee will find support is as strong, if not stronger, for an approach that prioritises treating drug use as a health issue and not a criminal justice problem.

Treating Cannabis users as criminals not only hasn't reduced use, but is counterproductive, expensive and maximises the harms that users face and directly contradicts our stated national aim of an evidence-based harm minimisation approach. It is a hypocritical and futile strategy that encourages corruption, tramples over civil liberties and human rights, contributes to the world's second biggest industry (the illicit trade in drugs) and has created a multi-billion dollar black market for Cannabis in Australia that is unregulated, untaxed and unsupervised.

In contrast to the American model, Australia's National Drug Strategy was been "widely acclaimed" internationally as a world leader for it's adoption of a harm minimisation framework with it's *"overarching goal to minimise the harmful effects of drugs and drug use in Australian society"*. (MCDS, 1993; in McDonald, et al, 1994, p1)

However, a dilemma existed:

"Harm reduction (in any meaningful definition) is incompatible with prohibition" (Redfern Legal Centre, 1996, p5)

What the Parliamentary Joint Committee on the National Crime Authority found in 1989 is just as relevant today:

"...it seems harm minimisation means different things to different people. It is clear from the thrust of the campaign that at an official level [it] means reducing the use of drugs...An alternative interpretation, based on an acceptance of certain levels of drug use in Australian society, would emphasise the need to minimise the harm which users may do to themselves as a result of their drug use. Such an interpretation implies rather different policies to those being pursued at present. It would suggest for example, that a policy should put primary emphasis on safe use, rather than deterring use."
(Australian Institute of Criminology, 1992, p59)

The Redfern Legal Centre in its Drug Law Reform Project 's report *Beyond Prohibition* (1996) concurs:

"We accept and acknowledge the fact that drug use will never be eliminated, even if we do not approve of it and must evolve effective ways of making it safer and reducing the harms associated with it".
(Redfern Legal Centre, 1996, p8)

The claim that the medical and psychological effects of Cannabis are so "dangerous and harmful" that we must not change the Cannabis laws, has increasingly been seen to be unsupportable, particularly in light of the known effects of tobacco and alcohol. Nor does the "gateway theory" stand up to scrutiny (Donnelly & Hall 1994, pp59-64; Fox & Matthews, 1992, p178).

A Model Of Regulated Availability.

I advocate instead a shift towards a regulated model of availability based around harm minimisation principles and consistent with the 14 point criteria for a good drug policy, as recommended by the Sackville Royal Commission, the Australian Institute of Criminology in the Monograph *Legislative Options for Cannabis in Australia* (1994), and by other reports including the SA Legislative Council Select Committee in 1996 and the Redfern Legal Centre's Drug Law Reform Project (1996) and other subsequent reports.

A regulated availability model acknowledges that people, and young people in particular, will continue to use Cannabis. It moves beyond seeing Cannabis users as criminal, sick or deviant, assumptions that underlie much of our current policy. It is an acknowledgement that

"Tough on drugs" just isn't a realistic, necessary, or desirable strategy for Cannabis. It's time we cease basing our drug policies around unattainable and meaningless slogans like a "drug-free Australia" and "zero tolerance for illegal drugs".

As the American group, Common Sense for Drug Policy
<http://www.csdp.org> note:

"This political rhetoric is intended to give voters the impression that politicians are controlling drugs when in fact the policies that follow from the rhetoric result in an abdication of control. Simplistic drug war rhetoric masks the inability of our political leaders to face up to the complex social and health issues that surround drug use. Such political posturing is a rejection of responsibility for controlling the drug market and reducing drug-related harm, and leaves the real control in the hands of narco-traffickers and drug dealers."

"Rather than facing the failure of the drug war, the U.S. government expands the failed strategy [but] we do not have to continue down this path... There are alternatives, many with widespread public and professional support. In light of this we ask you to consider: how can our nation do better? "

The Redfern Legal Centre provided a practical and workable example of a regulated availability model that takes into account the criteria determined by the Australian Institute of Criminology.

Central to their model is the controlled availability of Cannabis.

It would be legal to consume Cannabis and to possess [Cannabis] for personal use. It would be legal to grow up to 10 plants for personal use and [gratuitous distribution]¹. Commercial growers would be licensed to supply Cannabis to Cannabis "Kafes" or shops. These shops would be established for retail sales of Cannabis, both for consumption on the premises and for take-away consumption to adults. A range of products from rolled joints to edible products such

¹ Technological advances since this was originally suggested including the widespread adoption of indoor growing using artificial light and advances in horticultural techniques may suggest a limit of up to six female plants is more inline with community expectations in 2018.

as biscuits might be available, together with smoking implements designed to reduce the level of harm associated with smoking cannabis products (eg vaporisers)

Other retailers would be licensed to sell take-away products. Cannabis seeds and information about home cultivation would also be available. Commercial suppliers would be required to label their products with consumer information concerning weight, THC content, recommended dosage and approved health warnings.

Profits earned from the commercial manufacture and supply of Cannabis would be taxed.

Revenues from taxes and licences would be used to administer the regulatory system and to provide education and treatment services through services funded by the Health Department.

Sales to people under 18 and unlicensed (ie untaxed) sales would be illegal.

Advertising and marketing of Cannabis products would be restricted to a minimum necessary (eg brand identification). It might include a statement inside and outside that "Cannabis is sold here".

Cannabis smoking would be banned in places where tobacco smoking is banned.

A realistic education campaign about the hazards of using Cannabis and concentrating on safe Cannabis use, "dope-driving". the effects of both short term and chronic use, and the use of Cannabis and alcohol together, would be carried out at regular intervals.

It would remain an offence to drive whilst impaired by Cannabis and/or other drugs including alcohol.

(Redfern Legal Centre, 1996, pp32-33)

The Redfern Legal Centre model is a feasible and internally consistent model of controlled availability with numerous advantages to consumers, law enforcement and society as a whole.

Whilst prohibitionists have previously claimed our international treaty obligations prevent us from adopting such a model, the International Narcotics Control Board note that "none of the conventions requires a party to convict or punish drug abusers [for possession, purchase or cultivation for personal use]..." (McDonald, et al, 1994, p31).

Even the conservative Williams Commission commented that the spirit and intention of the treaties were "*a secondary matter in the sense that Australia must first decide what is the correct domestic policy, then shape its international course accordingly*" (McDonald, et al, 1994, p33).

Advantages of a Regulated Availability Approach

One of the most significant consequences of this model would be the separation of markets between Cannabis and other drugs with more serious health implications and addictive potential. This effect has been empirically demonstrated in the Netherlands, successfully isolating Cannabis users from those who sell other drugs in particular heroin.

Removing criminal sanctions against use, possession and small scale cultivation would see a significant reduction in crime levels as the every day activities of hundreds of thousands of primarily young Australians would be removed from criminal status.

Users able to safely and legally grow their own, or purchase from taxed and regulated shops, users would no longer be tempted to resort to criminality to fund expensive habits. The incentives to induce newcomers for purely financial gain would be reduced. Nor would young people be economically forced to on-sell Cannabis to friends to support their own purchases as so often happens.

The incidence of home invasions and other property crime could also be significantly affected, as home growers would have the same legal protection all citizens otherwise enjoy and wouldn't be averse to seeking help from police at the first opportunity, if subject to such (currently unreportable) crimes. It's also likely fewer people would risk serious criminal charges for home invasion offences, if Cannabis could be purchased legally similarly to alcohol.

A decrease in black market sales and increased home growing would also reduce financial burdens of users from the lower end of the socio economic scale who currently can spend a substantial part of their income on Cannabis. Increasing disposable household income would likely have other beneficial social impacts as well including health and overall wellbeing.

The removal of legal sanctions against paraphernalia like pipes, 'bongs' and vaporisers would be another harm reduction measure that would reduce the need to share implements and hence benefit users health, by reducing the risk of transmission of communicable disease like hepatitis, influenza and the common cold. It is counterproductive and untenable that while syringes are legal (for very sensible harm reducing reasons), implements for Cannabis consumption are not.

Regulating the availability of Cannabis would also remove any stigma or fear of users accessing appropriate health care facilities without any legal concerns (Redfern Legal Centre 1996, p11).

Credible, open and factual drug education and information could and would be given at point of sale, and is more likely be believed coming from peers, user representative groups and drug education services, rather than the police and courts.

Access to medical marijuana for patients with debilitating and serious conditions can also be ensured with a minimum of legislative interference.

A regulated availability approach would also break the nexus between soft and hard drugs which has been a key component of the Amsterdam model and has proven successful in that regard. (AIC, 1992, p23). Regulatory and police supervision of Kafes would ensure no hard drugs are used or sold on the premises. Age limits can be enforced, dosages can be quantified and quality controlled and health education and harm minimisation information can be distributed direct to users (AIC, 1992, p 21; Redfern Legal Centre pp 32-34).

Regulating the availability of Cannabis in this manner would reduce significantly, but not eliminate, the black market's size and profits. Economic modelling of this scenario is difficult however due to a lack of reliable data.

Of significant benefit would be a reduction in the opportunities for corruption at all levels, by impacting on what Justice James Wood considered was the single largest cause of corruption; money from the sale of illicit drugs. Establishing legal channels of production and distribution would re-direct billions from the black market to the legitimate economy and permit closer scrutiny of the industry.

Removing law enforcement from the role of moral guardians enforcing unpopular and widely flouted laws will allow a vast redirection of resources and funding into other areas as well as increasing health, welfare and education spending.

Given that many drug crimes dealt with by police concern simple possession offences of Cannabis, it would also free up police resources to permit them to tackle more serious and violent crime and make our community a safer place. A greater respect for police force in community and improving police-community relations especially amongst youth would be other positive outcomes.

Under this model police would retain "ample legal power to control offensive or anti-social behaviour which might accompany drug use. Appropriate community policing strategies would address community concerns about unacceptable behaviour in public places by people under the influence of illicit drugs" (Redfern Legal Centre, 1996, p12)

The overall impact would include less paperwork all round and more time to enforce and detect more serious and violent crimes.

It also resolves ethical dilemmas surrounding law enforcement in cases of medical and therapeutic use of Cannabis. Law enforcement cannot and should not be forced into intruding into the doctor/patient relationship, nor should it usurp the role of doctors in deciding what is and isn't appropriate medical treatment for serious, debilitating or life threatening conditions.

Conclusion:

We are now at a crossroads in Australian drug policy with drug law reform increasingly on the agenda. Legislation to legalise Cannabis is now before the Federal Parliament as well as the ACT Assembly. It is likely that there will be continuing pressure for reform in other states as well.

A regulated availability model fulfils the criteria for a good drug policy mentioned previously and achieves multiple goals: It will provide a greater level of harm reduction for users of Cannabis by removing them from one of the biggest harms; the laws themselves. It will also benefit society as a whole by reducing overall levels of crime, and take Cannabis use out of the sphere of criminal control. By removing obstacles to Cannabis users seeking treatment or advice for problematic use it will minimise also the number who experience problems related to their drug use. It is not a "silver bullet" solution, but on balance, a rational and tolerant alternative to move beyond discredited and failed prohibitionist policies.

Accordingly I urge the Committee to boldly advocate for a regulated availability approach to Cannabis that satisfies the criteria for an effective, rational, harm reducing drug policy that respects human rights, individual freedom and the right to self-determination.

Any such reform must prioritise a health and welfare approach to substance use across the board. Law enforcement has demonstrably failed abjectly to control Cannabis use and to reduce the harms associated with it's use. I hope the Committee's final report will reflect the overwhelming body of evidence that Western Australia's current legislative approach to Cannabis fails any cost benefit analysis and maximises harm rather than reduces it for individual users and the community as a whole.

Bibliography

The Advertiser, October 9th, 1993.

The Advertiser, May 20th, 1996 p3.

Ali, R., Christie, P, Lenton, S, Hawks, D., Sutton, A., Hall, W. & Allsop S., (1998) The Social Impacts of the Cannabis Expiation Notice Scheme in South Australia, National Drug Strategy Committee, Department of Health and Family Services, Canberra

The Australian, 1/4/99, p5

Australian Institute of Criminology, (1992), Comparative Analysis of Illicit Drug Strategy, Prepared for the Ministerial Council on Drug Strategy, National campaign Against Drug Abuse Monograph No 18, Australian Government Publishing Service, Canberra

Bowman, J. & Sanson-Fisher, R. (1994) Public Perceptions of Cannabis Legislation in Australia, Prepared for the National Taskforce on Cannabis. National Drug Strategy Monograph Series No. 28. Canberra: Australian Government Publishing Service, Canberra

Common Sense for Drug Policy website <http://www.csdp.org>

Commonwealth Department of Health and Family Services. (1996) National Drug Strategy Household Survey Report, 1995, Australian Government Publishing Service, Canberra,

Donnelly, N. & Hall, W., (1994) Patterns of Cannabis Use in Australia, Prepared for the National Taskforce on Cannabis. National Drug Strategy Monograph Series No. 27. Canberra: Australian Government Publishing Service, Canberra

Fox, R. & Matthews, I., (1992), Drugs Policy: Fact, Fiction and the Future, Federation Press, Sydney.

Makkai, T & McAllister, I., Marijuana in Australia: Patterns and Attitudes, (1997), Prepared for the National Taskforce on Cannabis. National Drug Strategy Monograph Series No. 31. Canberra: Australian Government Publishing Service, Canberra

McDonald, D., Moore, R., Norberry, J., Wardlaw, G., & Ballenden, N., (1994) Legislative Options for Cannabis in Australia, Prepared for the National Taskforce on Cannabis. National Drug Strategy Monograph Series No. 26. Canberra: Australian Government Publishing Service, Canberra

Redfern Legal Centre, (1996), *Beyond Prohibition: Report of the Redfern Legal Centre Drug Law Reform Project*, RLC, Sydney.

Sackville, R., Hackett, E & Nies, R., (1978) *Royal Commission into the Non-Medical Use of Drugs in South Australia, Cannabis: A Discussion Paper*, South Australian Government.

The Lancet, November, 1995

van de Wijngaart, G.F. (1990) *The Dutch Approach: Normalisation of Drug Problems* in *Journal Of Drug Issues*, 20 (4), 667-678.)

Wodak, A. & Owens, R., (1996), *Drug Prohibition: A Call for Change*, University of New South Wales Press, Sydney

References:

Social Impacts of Cannabis Studies National Drug Strategy Monograph series published by the Drug and Alcohol Services Council (Adelaide, South Australia) and the National Centre for Research into the Prevention of Drug Abuse, Curtin University of Technology (Perth, Western Australia).

Monograph 34 - *The Social Impacts of the Cannabis Expiation Notice Scheme.*

Monograph 35 - *Cannabis Offences under the Cannabis Expiation Notice Scheme in South Australia.*

Monograph 36 - *Infringement versus Conviction: the Social Impact of a Minor Cannabis Offence under a Civil Penalties System and Strict Prohibition in Two Australian States.*

Monograph 37 - *Effects of Cannabis Expiation Notice Scheme on Level and Patterns of Cannabis Use in South Australia: Evidence from the National Drug Strategy Household Surveys 1985-1995.*