



Submission

Select Committee into Alternate Approaches to Reducing Illicit Drug and Use and Its Effects on the Community

Cyrenian House – January 2019

Introduction

This document has been prepared by Cyrenian House in response to the call for written submissions issued by the Select Committee into Alternate Approaches to Reducing Illicit Drug and Use and Its Effects on the Community (the Inquiry).

Cyrenian House commends the Committee on commissioning this Inquiry. In recent years successive WA State Governments have grappled with increasing community concern about the impact of illicit drug use, particularly methamphetamine. The response generated, particularly from the 2007 Amphetamine Summit, and through to the most recent Meth Action Plan have resulted in some useful growth in services and understanding of these problems in the community.

What has been missing from the dialogue in recent years however is a mature and responsible debate and analysis of the overall approach to illicit drug use. Good work is being done, however a cold-eyed analysis as to whether our legislative and law enforcement elements are best practice is long overdue. The questions that the Committee has been tasked with responding to are therefore sensible and logical ones.

This submission for Cyrenian House will be brief and to the point and is provided through the lens of a treatment service provider that sees the human cost of illicit drug abuse and dependency every day. We therefore trust that the following thoughts are useful and assist the Committee to make sensible recommendations that serve people with illicit drug problems, their family and friends, and the wider community.

1. Illicit drug laws are important

While it may be expected that an organisation like ours might advocate for legalisation or at least decriminalisation of all illicit drugs this is not our position. Laws that prohibit the possession of the most harmful drugs, including methamphetamines are part of a sensible response to illicit drug use. These laws should be targeted primarily at manufacturers, suppliers and dealers.

2. We should choose the drugs we make illegal rationally

Some drugs should be illegal, and some should not be. This is already the current position in our society. For example, heroin is illegal, but alcohol is not. In addition, all legal drugs apart

from caffeine are subject to some form of regulation and restriction on use. Examples of this include:

- Alcohol for example can only be purchased by those over the age of 18.
- Codeine can only be purchased from a pharmacy once prescribed by any doctor.
- Methadone can only be prescribed by a specially trained doctor
- Dexamphetamine can only be prescribed by a specialist doctor

In summary, we already have a system to regulate the supply of drugs in different ways depending on the substance. The incorrect assumption is that the classification of drugs as either legal (and how legal) or illegal is rational – based on the risks and potential harms of their use. This is not true. The table below provides a more rational ranking of drugs based on harm.

What we choose to make illegal is important because apart from balancing people's personal freedom considerations, we also have finite enforcement resources to apply to the problem of illegal drugs. The more substances we make illegal the less 'enforcement' (e.g. Police, courts, prisons) resources we can apply to each illegal substance; or we need to invest more in enforcement and therefore invest less in other competing public services.

Our recommendations on this point are:

1. that evidence about the actual risk and harm of a substance be used to classify it as legal or illegal
2. that only the most harmful substances are made illegal to maximise the enforcement investment that can be made to reduce their supply and use. Savings made can then be diverted to treatment, prevention and/or other public services and priorities.

We recommend that a full review of the literature on the relative harms of drugs be undertaken to determine which drugs should be subject to prohibition and rigorous enforcement and which drugs should be decriminalised or legalised and proper prevention and treatment investment improved to help people make informed choices about their use.

3. Current property confiscation laws are unfair and counterproductive

The principle of confiscating property obtained through the proceeds of crime is supported. However, the current approach is unfair, counterproductive and inconsistent with the freedoms expected in a liberal democracy.

The current laws enable the State to confiscate property that any reasonable examination of the facts would determine were not acquired from the proceeds of crime. They also place the burden of proof on the accused not the State – which is counter to the principle of innocent until proven guilty.

We consider that the current laws should be reviewed and changed as a matter of priority, utilising the following principles to guide their construction:

- Property owned by a convicted criminal can be confiscated to the extent that the acquisition of this property is the result of criminal activity.

- The State is required to apply to the Courts to have the property confiscated after the person has been convicted of the relevant crime.
- The State must specify what property is sought and what proportion of that property is sought.
- The property sought (or proportion thereof) must have been directly acquired from the proceeds of crime.
- The State (applicant) has the burden of proving the property was obtained through proceeds of crime. The threshold for this burden could be the same as for civil matters e.g. 'balance of probabilities'.
- The definition for property subject to potential confiscation should be 'that the property, or portion thereof was acquired as a direct result of the crime committed and could not have reasonably been acquired otherwise by the offender'.
- An appropriate appeal mechanism should be place for any confiscation that is ordered.

In summary, people should not profit from crime, however the overzealous pursuit of property from people accused of drug crimes is an overreach and an affront to our democratic values as a society.

4. Those with problems should be dealt with from a health perspective

While suppliers of illicit drugs such as methamphetamines should face the full force or robust drug laws, those with actual drug problems should be treated from a health perspective.

Drug addiction is a punishment in of itself. The people we see in treatment already have chaotic lives, and have already lost jobs, homes, family and friends. No one wants to have problems with alcohol and illicit drugs. Punishing use in a criminal way is therefore not rational, necessary, or ethical. The prohibition of the most harmful drugs does however send a message that these substances are so harmful that our society cannot sanction their use under any circumstances.

Adequate investment in treatment. While treatment services are not strictly part of the current Inquiry, the point is still worth making that no response to illicit drugs can ignore the potential impact on, or adequacy of treatment services. WA is blessed with a professional and generally well-balanced alcohol and another drug treatment sector. Services are not currently adequate however to meet the need that is in the community, and continued further investment is worthwhile.

5. Prison programs are vital and are currently underdone

Most people in prison in Western Australia have problems with alcohol and or illicit drugs. Further, much of the crime committed that results in imprisonment is either directly or indirectly drug related. Prison is a very good place for treatment to be delivered, but at present such treatment is inadequate and very poorly resourced in WA.

The current Government is to be commended for facilitating the development of the Therapeutic Community at Wandoo Rehabilitation Prison. This facilitate is operated by Cyrenian House in partnership with the Department of Justice. Despite this positive step, in general, alcohol and other drug programs in prisons in WA are under-resourced and poorly integrated with other prison-based services and community services. This means most

prisoners do not get good treatment in prison, nor do they continue into treatment and support on exit.

This situation could be addressed with a modest investment in additional therapeutic community style units in WA prisons and a further modest investment in community-based treatment, which would allow more prisoners to be released on parole with a realistic expectation that they would still be participation in intensive alcohol and other drug treatment. Current access to community-based residential treatment is limited by overall bed numbers and the poor integration of prison and post release programs.

Another real gap is access to treatment and support for those on remand. Some people can be held in remand for significant periods and the lack of even a set of basis rolling group alcohol and drug programs at Hakea Prison is an issue that should be addressed.

6. Research on effective medications for illicit drug use should be encouraged

Relapse prevention medication such as naltrexone, acamprosate, and baclofen are important and useful tools in the armoury of those treating people with alcohol and illicit drug problems. They are rarely effective on their own, but in combination with psychosocial interventions they can be very useful. Also, vitally important are the current medications we must substitute illicit opiate use for administration of a less harmful substance such as methadone or buprenorphine.

What we do not have at all presently however is any approved and effective medicines to help people with methamphetamine/amphetamine problems. Naltrexone, which is approved for alcohol, and opiate dependence, has shown some promise with amphetamines. But the results are in general less than overwhelming. Debate and research has also investigated the utility of dexamphetamine and other legal stimulants to be used in the similar way that methadone is used for opiate addiction.

More work is needed to determine what medicines help people with methamphetamine addiction. Working with people with meth problems is very challenging and doing without any pharmacological tools in the toolbox makes it even harder. This is a quite dismal situation that makes real progress on treatment outcomes in this treatment area difficult.



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