

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the Drugs, Poisons and Controlled Substances Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023

Melbourne – Friday 14 February 2025

MEMBERS

Trung Luu – Chair

Ryan Batchelor – Deputy Chair

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WITNESSES

Ali Besiroglu, Director, Legal Services, Victorian Aboriginal Legal Service; and

Amity Mara, Manager, Policy, Advocacy and Projects, and

Adam Willson, Managing Lawyer, Criminal Law and Drug Outreach, Fitzroy Legal Service.

The CHAIR: Good afternoon, and welcome back to the Inquiry into the Drugs, Poisons and Controlled Substances Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023. I would like to welcome all the members of the public watching via the live broadcast.

Joining us for this session are members of the Fitzroy Legal Service and the Victorian Aboriginal Legal Service. From Fitzroy Legal Service we have Mr Adam Willson and Ms Amity Mara, and from the Victorian Aboriginal Legal Service we have Mr Ali Besiroglu. Welcome. Thank you very much for joining us.

Before I continue I just want to introduce you to our committee members: my name is Trung Luu, the Chair; Mr Michael Galea; Mr Aiv Puglielli; Ms Rachel Payne; and David Ettershank. Also, Dr Renee Heath is with us on Zoom.

Before I continue I will just provide some information to you. All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Council standing orders. Therefore the information you provide during this hearing is protected by law. You are protected against any actions for what you say during this hearing, but if you go elsewhere and repeat the same things those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded. You will be provided with a proof version of the transcript following the hearing. The transcript will ultimately be made public and posted on the committee's website.

Just for Hansard, could you please state your full name and the organisation you are representing today.

Adam WILLSON: Adam Willson. I will be representing Fitzroy Legal Service.

Amity MARA: Amity Mara, representing Fitzroy Legal Service.

Ali BESIROGLU: Ali Besiroglu, representing the Victorian Aboriginal Legal Service.

The CHAIR: Thank you. Again, welcome, all. I understand that you have already made your submissions, but I would like to invite you to make an opening statement before I open up for the committee to ask you questions.

Amity MARA: We might let the Victorian Aboriginal Legal Service go first, if that is okay.

Ali BESIROGLU: Sure. That is fine. I thank the committee for the opportunity to speak about this important issue on behalf of the Victorian Aboriginal Legal Service. I appreciate the opportunity to set the scene before we open for discussion.

I want to start by acknowledging the traditional custodians of the land on which we meet, the land of the Wurundjeri people, and I pay my respects to their elders past and present. I want to acknowledge that we are on sovereign land and unceded land. I also pay my respects to Aboriginal people who may be present at the hearing and/or those that are watching online.

My name is Ali Besiroglu, and I am the Director of Legal Services at the Victorian Aboriginal Legal Service. I was a senior lawyer for seven years, practising in criminal defence law. I then moved to working in civil litigation at a private firm, where essentially I took civil suits against the state of Victoria and/or Victoria Police and prisons in the areas of serious assaults and police misconduct. I also acted for Aboriginal families in multiple coronial inquests for the loved ones of those who had passed away in police or prison custody.

Aboriginal communities have been subjected to discriminatory and violent policing since colonisation, and this remains a persistent issue today. Aboriginal people are disproportionately stopped, searched, arrested, charged and imprisoned. Data released last year from the Centre Against Racial Profiling shows that Aboriginal and Torres Strait Islander people are 11 times more likely to be searched by Victoria Police than non-Indigenous people. One of the most common offences leading to this overpolicing is the personal possession of cannabis. Aboriginal people are far more likely to be charged with drug offences arising from personal use and possession than non-Indigenous people. This is despite the rate of use being similar across the board. Crime Statistics Agency data reveals that in 2021–22 Aboriginal people were eight times more likely to be arrested for possession of cannabis than non-Indigenous people. In contrast, non-Indigenous people arrested for possession of cannabis were 50 per cent more likely to receive a caution in Victoria. They are harrowing statistics. These data points show what Aboriginal communities continue to know: one, that racialised profiling and systemic biases continue today, and that this manifests through the criminalisation of personal cannabis use. The Chief Commissioner of Victoria Police apologised to the Yoorrook Justice Commission earlier last year, but we are still waiting on the outcome of that apology and how it is going to translate with respect to Victoria Police policy.

In Victoria the disparity in drug-related charges has worsened over the past decade rather than improved. Victoria's current and what we refer to as carceral approach to personal cannabis use increases Aboriginal people's contact with the criminal legal system. This entrenches the cycle of disadvantage and reinforces all harms of discriminatory policing. It puts Aboriginal people who need support in handcuffs, in police cells and in prison. It retraumatises them, denies them proper health care and substantially increases the risk of more deaths in custody.

I am going to go off script and state this in terms of my observations as a criminal lawyer. The maximum sentence that we have for possession of cannabis at the moment is 5 penalty units. Now, when we think about that as being a maximum sentence, we think a fine is imposed by Parliament and that is what translates out in the community. That is not the case, though, because what happens is when you are prosecuting a person without means and you give them a fine, there is one way that they eventually will end up having to pay for that fine, and what we then see is an increasing risk of an Aboriginal person being incarcerated for that offence, despite Parliament's wishes in its putting forward a cap on the maximum penalty. Further, from my experience we think: what else can the courts do in relation to cannabis use? And we say, 'Well, we've got a Drug Court that's available.' But the Drug Court is not available, because you need a term of imprisonment in order for you to be eligible for the benefits of Drug Court, so that is not on the table. Then we think about what is on the table, and we talk about diversion and caution – caution for children, diversion for adults.

A practice direction that was released in 2016, practice direction 10 – I should get this; apologies, I will just check this. Practice direction 10 of 2016 provided this:

Although persons who identify as Koori make up 3 per cent of the Victorian population and 8 per cent of the prison population –

back then –

only 0.76 per cent of matters referred to the Criminal Justice Diversion Program ... comprise accused who identify as Koori.

So what we see is this disproportionate overpolicing of Aboriginal people put through the courts and over-representation of Aboriginal people put through the courts and then any benefit or leniency that is provided by the courts and/or our police being under-represented in those circumstances.

We then move on to what happens when we do not address these policies. We saw firsthand the terrible impact of the government criminalising health issues with what happened with Aunty Tanya Day – and I should say that I spoke to the Day family before providing this evidence, who have provided their blessings – who passed away in 2017 in a police cell for public intoxication. I will not go through it; I am sure this committee knows all of the circumstances of that. The decriminalisation of public intoxication was first recommended by the Royal Commission into Aboriginal Deaths in Custody over 30 years ago, but the Victorian government did not act, and ultimately Aunty Tanya Day paid with her life. The government subsequently, in facing a coronial inquest, did act halfway through the inquest, and we now have a new model in dealing with public intoxication.

A public health issue ultimately should be dealt with by a public health response. That is our position. That is the Victorian Aboriginal Legal Service's position. At its core public health issues are not criminal legal issues,

yet the Victorian government's current drug policy subjects people dealing with addiction to intrusive policing and excessive punishment instead of giving them the support that they need. We ask: what do the courts provide? Nothing, other than fines. We do not address the underlying causes for cannabis use.

Decriminalisation offers a pathway to prioritise community health, reduce criminal legal system interactions for our First Nations people and improve social health and outcomes for Aboriginal people and their families. In relation to the expungement submission that we provided, we say it is essential that past convictions for cannabis offences, if cannabis possession is decriminalised – and we support the calls of all the other organisations – be expunged from a criminal records. Why is that so? The counterargument is that there is spent convictions legislation that is in force at the moment which some people might claim might be sufficient for past offences not to be revealed. However, spent convictions legislation, we would submit, does not go far enough. In our spent convictions legislation there are all sorts of exemptions that apply. More importantly, when you are in a courtroom that past offence remains in your criminal history, which is taken into consideration with further sentencing. We want to see it removed from people's records, much like we have seen 'ward of the state' being removed from a person's criminal record, or the great work of Uncle Noel Tovey, whom I had the pleasure of meeting, who went before Parliament and had the abominable crime of buggery removed from his record as well.

The CHAIR: Excuse me, Ali. I am just mindful of time. I know we have got your submission, and there are just a few questions we need to ask as well.

Ali BESIROGLU: Yes, understood. My apologies.

The CHAIR: Would you mind cutting down short whatever you have got left?

Ali BESIROGLU: I will try a truncated version. I do not think I will take it any further than what we have already provided by way of submission. I just want to reiterate this point if I may. As a person who has worked in Aboriginal deaths in custody cases, what we see time and time again is the government correcting policy and/or responding with legislative reform post recommendations from the Coroners Court. Aunty Tanya Day and Veronica Nelson were two examples of this. But what I want to suggest is this: that essentially, if a coroner makes a recommendation for reform which is then subsequently accepted by Parliament, it means that we as a society and you as a government have failed, because what that means is that a person has had to sacrifice their lives before this society and/or government has realised that change needs to come.

What we would be advocating for is that you have got this Bill, which we are in support of, before you. Let us make a decision in relation to this Bill before another black death in custody happens and before a recommendation comes targeting cannabis use and a person ended up in the criminal justice system as a result. Thank you.

The CHAIR: Thank you. Adam or Amity, would you like to make a statement too?

Amity MARA: Thank you. I would also like to acknowledge the traditional owners of the land we are on today, the Wurundjeri Woi Wurrung people of the Kulin nation, and pay my respects to their elders past and present. Sovereignty was never ceded. This always was and always will be Aboriginal land.

My name is Amity Mara. My pronouns are she/her, and I am the Manager of Policy, Advocacy and Projects at Fitzroy Legal Service. I am joined by my colleague Adam Willson, whose pronouns are he/him, and he is the Managing Lawyer of the Criminal Law and Drug Outreach program.

Our flagship drug outreach program has operated for over 20 years, providing specialist legal services to people whose engagement with the justice system is underpinned by drug use and the overpolicing of their communities. We work in partnership with health services to provide wraparound supports to people in accessing rehabilitation processes and reducing the negative impacts of their engagement with the criminal legal system.

We are supportive of this Bill and regard it as a step forward in supporting rehabilitative and health-based approaches to drug use and would commend its passage through Parliament. Drug use is a health issue, not a criminal one. We acknowledge the work of many of our colleagues in the AOD and CLC sectors today who have spoken at length of the harms and ineffective nature of criminalisation. We do not wish to repeat all the

same points, but we certainly agree with them and so wish to spend our time briefly outlining four key harms that criminalisation produces that we think encapsulate why the passage of this Bill is so important.

Number one: criminalisation is a barrier to help-seeking and recovery. Continued criminalisation of cannabis feeds into longstanding stigma and discrimination, which prevents many people from seeking support or information about cannabis use. Similarly, being met with carceral responses can greatly disrupt the rehabilitative and recovery journeys of people who have sought support by dragging them back into the stress, trauma and harms of the criminal legal system.

Secondly, criminalisation further marginalises those already experiencing other forms of disadvantage. Cannabis use is often a form of self-medication that occurs against a backdrop of overlapping marginalisations, including mental ill health, intergenerational trauma, family violence, economic hardship and homelessness. Criminalised responses prevent people receiving the support they need to address these underlying issues and instead inflict further harm upon the person, which makes it harder for them to break these cycles of disadvantage. In our submission we have included multiple case studies of people with severe mental ill health, intellectual disabilities or histories of childhood abuse and trauma being met with carceral responses to their cannabis use instead of the care and support they needed for the underlying issues that are at the very heart of why they chose to use cannabis in the first place. The sad reality is our file management system is filled with hundreds of these cases.

Number three: criminalisation increases the risk of homelessness. People can be evicted from public housing for being charged with certain minor cannabis offences. Notably they do not even need to be convicted, and sometimes being charged is enough to trigger eviction procedures. In the private housing market people with criminal records for cannabis offences face high levels of discrimination in trying to obtain a rental. As a surrounding housing and homelessness crisis in our communities only gets worse, this problem becomes more and more acute.

Fourthly, criminalisation puts victim-survivors of family violence at further risk. We often see clients being charged with cannabis possession after police have attended on a family violence call that is meant to help keep our clients safe. Instead police use the opportunity to charge people for possession of any cannabis they find lying around. At a time when they should be met with help and support, they are met with a criminalised response that ultimately makes it more difficult for them to leave violent situations or get the help they need. The de-identified story of Grace, a pseudonym for one of our clients, included in our submission highlights this point perfectly. When attending a family violence call, and at a time when the only concern should have been her safety, she was met with an illegal search by police, left sitting handcuffed on her front porch for 2 hours in full view of her neighbours and then had to endure 18 months of interaction with the criminal legal system until her charges were eventually dropped.

Finally, and while commending this Bill's passage through Parliament, we would call for it to be amended to provide for the automatic expungement of all past criminal records of conviction of minor cannabis offences. Criminal records can last for up to 10 years before being spent, all while preventing people from accessing many employment and housing opportunities – two essential pillars of support required for people to be able to rebuild their lives. The impact of this can be devastating. Without automatic expungement, too many people in this state will remain trapped in cycles of disadvantage and marginalisation, unable to access the supports or opportunities they need to get their lives back on track.

The CHAIR: I am just mindful of time. I will quickly ask a question now and then pass on to the committee, because we have spent half our time on witness statements. I will quickly ask the Fitzroy Legal Service. In your submission, essentially you mentioned there is a negative impact of legalisation elsewhere, and you have mentioned the commercial cannabis market in North America.

Amity MARA: I think that is actually VALS's submission.

The CHAIR: Sorry, is that the Aboriginal Legal Service's? Can you comment on the negative impacts in relation to the commercial cannabis market?

Ali BESIROGLU: Chair, I am unfortunately not in a position to be able to do so, but I am happy to take it on notice in terms of reaching out to my policy team and coming back.

The CHAIR: Just quickly, your submission, under ‘Considering negative impacts of legalisation elsewhere’, states:

Repeating the mistakes from other jurisdictions would only set back reform. Commercial cannabis markets in North America highlight significant potential pitfalls of legalisation ...

I am happy for you to take that on notice if you can expand on what the pitfalls were and what we can learn from that area in relation to the commercial cannabis market. You might have to take that on notice.

Ali BESIROGLU: Yes. Thank you. As I said, I will need to get some direction in relation to what those pitfalls were and what lessons can be learned.

The CHAIR: I will quickly ask another question before passing to my colleagues. You mentioned a couple of coroner’s inquest recommendations. Specifically, there were two that you mentioned in your statement. Were either of those two that you mentioned charged with cannabis or other offences? Can you specifically state they were related to cannabis use or possession? You said we should all listen to the coroner’s recommendations specifically related to those two. Because we are talking about legalising cannabis in this inquiry, were those specifically related to or were they charged with possession or use of cannabis?

Ali BESIROGLU: Not that I am aware of in terms of whether or not it was in relation to possession of cannabis, but that is not to say, though, that there is not an analogous response that can be provided through what we have stated. Intoxication, for example, the use of alcohol, was a public health issue which was then subsequently regulated or decriminalised, which we say is the same thing as what this committee is facing with respect to cannabis use and it being a public health concern.

The CHAIR: Thank you. Michael.

Michael GALEA: Thank you, Chair. Thank you very much, all, for joining us. Ms Mara, I would like to start with you and, from your submission, the story about Grace. She was not even the one who called the police; a neighbour called to check in on her. It was not even her plant, and yet she was faced with that hideous process that you have described for us. How common is it for victims of family violence to be caught up in the legal system as a result of, whether it is theirs or someone else’s, having cannabis found by police? Is this a one-off, or this a much more common phenomenon? Mr Willson, if you would like to answer.

Adam WILLSON: It happens a fair bit, wherein it is a criminal offence to possess cannabis. The police are there to enforce the law. As has been said many times today, many people do use cannabis. So coming into those doors, if there is cannabis there, the police have a job, and that job is often, yes, to charge the person who they believe has possession of it. As far as possession goes – Greg Barns was here earlier; I am not sure if he was talking about possession – it being in the house that you are a resident of, you can be charged. I will not go into the semantics of it, but that is the reality, and that often happens.

Michael GALEA: Interesting. Just to that point as well, the frequency of that – obviously to see this happen once is quite concerning, but to see that that is the case: I guess what you are saying, if I am hearing correctly, is that the discovery of cannabis then supersedes any other family violence reason that the police may have visited for and that becomes the priority. Is that correct?

Amity MARA: Yes, that is correct. The only other thing I would add as well is in this case it was not necessarily Grace’s cannabis. But what we do know as well from our work with victim-survivors is that some victim-survivors do use cannabis to help deal with the trauma, stress and pain of living in a violent situation. It is our firm belief, which I am sure is shared by the committee, that that should be taken into account and that that should be met with care and support rather than handcuffs.

Michael GALEA: Thank you. I do not have much time, but happy for you to jump in, Mr Besiroglu.

Ali BESIROGLU: Yes, sure. I was just going to say that a police officer would not require a warrant. For example, they might enter the house on a family violence basis –

Michael GALEA: If they were invited inside or if they –

Ali BESIROGLU: Correct. Well, they do not necessarily need to be invited inside if they believe that there is family violence in the house. But upon discovering the cannabis everyone is open in terms of being charged

as a result of the deeming provision of being in possession. It also works as a disincentive for people to be calling police, which we know is –

Michael GALEA: If they are experiencing family violence.

Ali BESIROGLU: Yes, correct.

Michael GALEA: Which is not what we want to be encouraging.

Ali BESIROGLU: Yes.

Michael GALEA: I do not have a lot of time, I am sorry. But if I could quickly ask – I might ask you, Mr Besiroglu. On the juncture points at which we often see Indigenous people being treated differently through a process of being charged with cannabis use or possession, what are the key points at which it is an issue, where you are seeing those different outcomes that lead to, for example, 0.76 per cent of Indigenous people having diversions despite their larger population?

Ali BESIROGLU: The key point is that it is overpoliced. Cannabis is out there in the community and being used. I think initially we said that the number of people using has not changed – that has been consistent – but it is the amount of Aboriginal people that are being charged in relation to this and being put before the courts. For example, police have drug diversions up their sleeves in order to be able to provide that and/or cautioning. What we have found is that when you put the discretion to prosecute and leave that in the hands of police, it leads to, again, an over-representation of people being processed through the courts. Even with diversion, for example, one of the factors to take into consideration about whether or not a person should be granted diversion is whether or not they have a prior criminal history. So you may have –

Michael GALEA: Including cannabis use, if that is what the previous history is.

Ali BESIROGLU: Sure. But you may have a shop-steal offence and then all of a sudden come to court with cannabis, and then all of a sudden you are not going to have the same benefit that would be applied to the rest of the community in terms of being diverted away from the courts. I think what I was trying to highlight is that there is a carceral response. It is punitive, and it is about fines. Those fines do not just remain as fines. People can end up in prison as a result of that.

Michael GALEA: Thank you. Thank you, all.

The CHAIR: Thank you, Michael. Rachel.

Rachel PAYNE: Thank you, Chair. And thank you, both, for your submissions to the inquiry and for presenting before us today. I just want to pick up on the fact that Aboriginal people are no more likely to use illicit drugs than non-Aboriginal people, but we see in the data that there are more likely to be arrests or less likely to be diversions. How would decriminalisation of cannabis in Victoria promote a more equitable outcome for Aboriginal communities or even more marginalised communities more broadly?

Ali BESIROGLU: Sure. How would decriminalisation – they will not be charged in relation to it. It is as simple as that if we remove the discretion from police, who often use cannabis as a mechanism to search and who often use cannabis as a mechanism to invoke their powers of arrest. Removing that power in a way will level the playing field in terms of cannabis use. Again, it would not be police being the responders to using cannabis, it would be a health issue and a health problem and a health response.

Rachel PAYNE: Yes.

Amity MARA: Yes. I do not think we have anything further to add to that.

Rachel PAYNE: And just picking up on that health-led approach, in the ACT they have just done a five-year review of their Act, which this Bill is reflecting on. They have heard from stakeholders like the Canberra Alliance for Harm Minimisation and Advocacy about the positive effect of people's willingness to seek help, based on the fact that there is not that stigma around it. Do you expect that we would see a similar shift in Victoria if we were to move towards regulation of personal use or decriminalisation?

Ali BESIROGLU: Absolutely, 100 per cent. If you study the findings of Veronica Nelson, you will see what stigma did to her in terms of her being a drug user and what occurred. The coroner conclusively found that in making the decision to render medical aid to her, that stigma played a part. So we know the devastating impact that stigmatisation is having, and removing that at least for this part, being a small quantity of cannabis, will likely at least aid therapeutic responses and people seeking help.

Rachel PAYNE: Okay. Great. Thank you.

The CHAIR: Thank you, Rachel. David.

David ETTERS HANK: Thank you. Could I ask a question about infringement notices. They have obviously been used in other states. I guess I would be interested in your response to the effectiveness or the impact of infringement notices and fines. Does that fix it? Is that a good way to solve the problem?

Amity MARA: No. It is just the criminalisation of poor people. The reality of the infringement system and process is that you get a fine. If you cannot afford to pay it, the fine escalates. What might start up as a \$200 fine by the time you are in court with the sheriffs and the enforcement could be \$1000, and if you do not have assets to pay it with, if you do not have savings in your bank account, you are going to prison, whereas the rich kid with the intergenerational wealth is getting that fine and paying it off. I think shifting this to infringements would only entrench that systemic disadvantage and targeting of communities that are already overpoliced.

Adam WILLSON: So often clients have \$50,000 or \$100,000 worth of fines that they have no actual chance of ever paying back. Then it is acknowledged that special circumstances will apply, and some of that will be in regard to their drug use. In saying that, the infringement system is better than going to court and then having that sitting over their heads, but it is not the long-term solution.

Ali BESIROGLU: Infringements ultimately put the discretion to issue at the hands of police. What they also do is remove the burden for a police officer to have to produce a brief in order for a person to have to go to court. So what we would likely see is that there would be more infringements handed out than what there are when a police officer decides to turn a blind eye, let us say, to a small quantity of drugs – or cannabis, sorry. When we then provide the ability or a platform for police to provide infringements, we run the very risk of racialised policing and increasing the number of Aboriginal people who are then receiving infringements, who again will then end up back in prison.

David ETTERS HANK: Okay. I just want to get one more question in before I run out of time.

Ali BESIROGLU: Sure.

David ETTERS HANK: I just want to see if we can get a meeting of the minds between the sorts of riveting stories that you have told us in your submissions and here today and the views of Chief Commissioner Patton, because I have heard him now twice on ABC radio basically say to the government and to other stakeholders, ‘Don’t ask the police to interpret the law differently. That’s not our job. If you want the law changed, that’s up to Parliament.’ Is there a meeting of the minds on that, do you think? Is that a reasonable proposition – that if you want to actually get better legal outcomes, then you need to change the law, and that is the responsibility of the people on this side of the table?

Amity MARA: Yes. I think we would agree to that. I think what we have seen for decades are systemic biases and discrimination built into the policing system. That means it is incumbent on lawmakers and policymakers to be as clear and precise about how they want the law to be applied and that the police are an inappropriate body to hold that discretion.

Ali BESIROGLU: I agree. There is a huge disparity when it comes to police discretion. In a way, the chief commissioner’s comments somewhat do not give enough attention to the fact that police discretion is exercised differently when it comes to different sectors of the community. But ultimately, yes, the law will change, and if the lawmakers say, ‘This is what our position is,’ it will then be the case that police have to deal with it.

David ETTERS HANK: Thank you.

The CHAIR: Thank you, David. Mr Puglielli.

Aiv PUGLIELLI: Good afternoon. Ali, I will start with you. You spoke earlier about the recent decriminalisation of public intoxication in Victoria and the circumstances under which that change took place. Are there lessons that you can share with us today that the government should be learning from the example of that reform when we are considering decriminalisation of cannabis use?

Ali BESIROGLU: Yes. Thank you for the question. What we need to understand is that parallel between cannabis use and alcohol intoxication. Both disproportionately affect Aboriginal people, and it is not necessarily just the use itself but the responses to that use which present serious issues for Aboriginal communities policing responses to a public health issue. With the public intoxication reform that has come out, we now have mainstream health, Aboriginal service providers and outreach nurses who can assist in medically assessing people, so it is a complete health response. It is a bit too early in terms of being able to say whether or not it is a complete success or what lessons have been learned through that system, but all indications are showing that it is positive rather than the alternative, which was to lock people up and put them into a prison cell for 4 hours, give them a ticket to go to court the next day or in a month's time – so either (a) an infringement or (b) go to court where the magistrate will just prove and dismiss the charge. We have been able to see the carceral response as opposed to the health response and undeniably it is our position to say that the health response works and will work. That is what we believe through cannabis use so long as there is also a commitment to rehabilitative programs, specifically culturally appropriate rehabilitative programs – so an investment by the government.

Aiv PUGLIELLI: Thank you. I might bring in Fitzroy Legal Service as well for this next question. In both submissions I understand you have raised the automatic expungement as an amendment to this Bill as we are considering decriminalisation of cannabis here. Why is it so crucial that we have that as part of this conversation?

Adam WILLSON: I will start. It is the social and economic impacts of a conviction. It is very difficult to get a job, especially for marginalised clients, and it is even more difficult if you have a criminal conviction for possession of cannabis. That could be the difference between you actually getting the job and somebody who does not. That is one to start off with. I will pass to Amity.

Amity MARA: The only thing I would add is that the current spent convictions scheme is not working. Not only is it quite an onerous process but an inaccessible process for people to go through that system. It is obviously 10 years before you can even get your conviction spent, which is a huge barrier to people being able to rebuild their lives, particularly if they are coming out of situations like family violence or if they have had periods of mental ill health. And there are also massive amounts of exceptions to the spent convictions scheme, so even if your conviction is spent, it will turn up in working with children checks. It can prevent you from getting one. They are now basically standard; almost any job requires you to have a working with children check. It will turn up at certain professional accreditation bodies and could prevent you from getting accredited. There is a case study in our submission of a woman who wanted to be an AOD worker and then a child protection worker and she faced barriers at every turn for those reasons.

Ali BESIROGLU: I completely agree. I would just add the fact of stigmatisation, labelling oneself. If you go through the news articles in relation to Uncle Noel Tovey, when he had his criminal record expunged he was able to say, 'I don't have a criminal record.' That is very important. It is a recognition that society has moved on. It is anachronistic, it is discriminatory, it is harsh and it needs to be removed altogether. I think that is what I think.

Aiv PUGLIELLI: Thank you.

The CHAIR: Thanks, Ali. Dr Heath.

Renee HEATH: Thank you so much. I have just got a question for Ali, who said – I think it was you – earlier on that as an alternative to going down the criminal path that we have been using so far we should be addressing the underlying causes of cannabis use. What are those underlying causes, and how would we address those?

Ali BESIROGLU: Well, that is a health response in effect, not a criminal law response, is what I would say. What are the causes for cannabis use? There are –

Renee HEATH: Yes, sorry – not just a health response; what does that actually mean?

Ali BESIROGLU: What does that mean? Well, with respect I think that is a great question for a health expert, but not being a health expert, what I can say is that we see all sorts of reasons for why people turn to cannabis use. Routinely we explain that to the court. It could be a coping mechanism for a person whose life is going through difficulties, it might be mental health issues, it might be homelessness issues. There are all sorts of reasons for why someone would turn to cannabis use, as they would turn to alcohol, for example. The point that I was trying to make, or VALS as an organisation is trying to make, is: how do we respond to that use? Do we use the sledgehammer of the criminal justice system to change people? What we want to show is that it does not work. The sledgehammer does not work. The sledgehammer puts people in line to continue offending. It is criminogenic as opposed to addressing the underlying causes.

Renee HEATH: Sorry to interrupt – just because of time. I understand that; I really do understand that. What I am asking is for the alternative that you had in mind when you brought up that point, because I found that quite interesting. It could be helpful.

Ali BESIROGLU: Sure. Yes. What I would think is, just in terms of Aboriginal communities, an investment by the government into AOD workers – culturally sensitive AOD workers. It is an area that is chronically underfunded. Fitzroy will talk about that, and I think this committee has already heard evidence to that effect as well. We need an investment in rehabilitation as opposed to an investment in incarceration.

Renee HEATH: Thank you so much. That is very helpful.

The CHAIR: Thank you, Dr Heath. I am just mindful of time, so I want to say thank you so much to all three of you for coming in, Adam, Amity and Ali, and for your contributions and also submissions. That will definitely give us more insight in relation to the legal side of the incarceration aspect as well.

Witnesses withdrew.