Inquiry into the use of Cannabis in Victoria

Ms Ashleigh Stewart

Organisation Name: Burnet Institute
Your position or role: Research Assistant

SURVEY QUESTIONS

Drag the statements below to reorder them. In order of priority, please rank the themes you believe are most important for this Inquiry into the use of Cannabis in Victoria to consider::
Public safety,Public health,Accessing and using cannabis,Young people and children,Education,Mental health,Social impacts,Criminal activity

What best describes your interest in our Inquiry? (select all that apply) :
Academic and research

Are there any additional themes we should consider?

Select all that apply. Do you think there should be restrictions on the use of cannabis? :
Personal use of cannabis should be decriminalised.
(Decriminalised: there are no criminal or civil penalties instead a person is referred to a drug diversion program or other health/ treatment service),Personal use of cannabis should be legal. ,Sale of cannabis should be legal and regulated. ,Cultivation of cannabis for personal use should be legal.

YOUR SUBMISSION

Submission:

Do you have any additional comments or suggestions?:

FILE ATTACHMENTS

File1: 5f4c8ee620641-Cannabis_submission_31082020.pdf
File2:
File3:

Signature:
Ashleigh Stewart

Burnet Institute
Medical Research. Practical Action.

DIRECTOR and CEO – Professor Brendan Crabb AC PhD
PATRON-IN-CHIEF – The Honourable Linda Dessau AC, Governor of Victoria

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Spring Street

MELBOURNE VIC 3002

To the Inquiry,

Re: INQUIRY INTO USE OF CANNABIS IN VICTORIA (2020)

We are responding on behalf of the Burnet Institute to the call for submissions from the Legal and Social Issues Committee to the Inquiry into the use of Cannabis in Victoria, 2020.

The Burnet Institute is one of Australia's leading Medical Research Institutes. Burnet Institute is in a unique position to provide information relevant to the Inquiry, having conducted research with people who use drugs since 1989. Our findings have greatly advanced knowledge of the nature of drug use, related harms, and responses. The research findings from the Burnet Institute's Alcohol and other Drugs research group have greatly advanced the public health responses to the social, medical, and mental health issues experienced by vulnerable populations. The Burnet Institute applies a public health and harm reduction approach to its research on drug use, with the aim of improving the health and wellbeing of the people who consume drugs and the communities around them.

The submission is framed in regard to the use of cannabis in Victoria, with a focus on methods of regulatory approaches to cannabis use, crime attributed to cannabis use and possession, and monitoring the health, mental health and social impacts of cannabis use in the state of Victoria.

We welcome the opportunity to respond. This Inquiry is an important opportunity to examine current and future responses to cannabis use in Victoria.

Please do not hesitate to contact us if you have any queries about our submission. We would welcome the opportunity to discuss any of the recommendations with the Inquiry.

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Cannabis use in Victoria and related harms

Cannabis is the most widely used illicit drug in Australia. In 2019, 36% of respondents (aged 14 years and over) to the National Drug Strategy Household Survey reported lifetime use of cannabis, with 11.6% of respondents reporting recent (i.e. in the past 12 months) cannabis use (AIHW, 2020). Approximately a third (36%) of those reporting recent cannabis use reported weekly or more frequent use (AIHW, 2020). This figure represents almost 700,000 Australians, most of whom do not appear to suffer health or social problems related directly related to their use of cannabis.

The harms associated with cannabis use are primarily those resulting from acute use, such as anxiety and panic, especially in naïve cannabis users; psychotic symptoms (generally noted at higher cannabis doses), and physical harm as a result of cannabis intoxication (such as accidents) (Hall & Degenhardt, 2009). Harms increase with intensity of use, although the risk curve is not well characterised (Fischer, et al., 2011). More serious harms occur among long-term, frequent consumers of cannabis, including increased risk of mental health issues (particularly among heavy consumers with genetic predisposition to mental illness), memory and learning impairments, respiratory issues (due to smoking cannabis), and potential social and legal issues (Degenhardt, et al., 2009; Copeland, et al., 2014). An estimated 10% of people who use cannabis regularly are dependent on the drug (Nutt, et al., 2007). Potentially modifiable risk factors of the association between cannabis use and harms relate to: frequency of use and quantity consumed; early initiation of cannabis use; methods and practices of use and substance potency; and characteristics of specific populations.

Social costs of cannabis use

Beyond individual harms, both licit and illicit drugs may impose broader social costs in various ways, such as damage to family and social structures, and through costs to health, social and criminal justice systems (Nutt, et al., 2007). The social costs of cannabis in Australia were recently estimated to be $4.5 billion in 2015/16, with over half of these costs ($2.4 billion) accounted for by criminal justice costs (Whetton, et al., 2020). These costs are considerably lower than other licit drugs such as alcohol and tobacco and illicit drugs such as methamphetamine despite much higher rates of use than methamphetamine. Considering harm to the consumer and harm to others in Australia, Bonomo et al. (2019) assessed cannabis as the 13th most harmful drug in Australia; however after accounting for the prevalence of use, cannabis was assessed as the fourth most harmful drug, behind alcohol (as the most harmful drug), tobacco and methamphetamine (Bonomo, et al. 2019). Similarly, analysis from the UK, placed cannabis lower still with respect to overall harm (Nutt, et al., 2010). The Australian Federal Police Drug Harm Index estimated in 2009, the social cost per kilogram of cannabis to be

$8,000AUD, compared to between $1.1 million - $224,000AUD for other illicit drug types (UNODC, 2011).

Despite the fact that cannabis is regarded as less harmful than other illicit drugs, the enforcement of cannabis control laws occupies a disproportionate share of overall drug enforcement activities. The Australian Criminal Intelligence Commission (ACIC) reported that over 2017-2018 cannabis accounted for the greatest number of drug related arrests (72,381 arrests) nationally, being approximately half of all drug related arrests. Over 9,760 cannabis arrests took place in Victoria. Of all arrests, over 90% were of cannabis consumers, as opposed to cannabis providers (ACIC, 2019). Contacts with the criminal justice system can have enduring and damaging impacts on an individual's life, particularly in relation to employment prospects, housing, education or obtaining occupational licenses (Jones, et al., 2019). Additionally, further impacts and harms to individuals caused by episodes of imprisonment have been linked to increased distress, poor physical and mental health, loss of contact with family and social networks, and increased risk of recidivism and reincarceration (Williams, et al., 2013).

Models of cannabis regulation

Prior to 2016, Australian law recognised cannabis as an illegal narcotic with the use, possession and cultivation of cannabis strictly prohibited. In February 2016, an amendment to the Narcotics Drug Act was made, providing a legislative framework permitting cannabis cultivation for medicinal and related research purposes (Australian Government Department of Health - Office of Parliamentary Counsel, 2016b). We have not focused on medicinal cannabis in this submission as we understand the enquiry's focus to be on broader cannabis regulation. However, even prior to this change related to medicinal cannabis, the legal situation of cannabis was more nuanced, with strict prohibition rarely applied. Instead, *de facto* decriminalisation of cannabis operates across most of Australia.

Cannabis decriminalisation, national and international examples

Decriminalisation of drug use and drug possession for personal use refers to the removal of criminal penalties for these offences, but does not legalise use and/or possession. The enactment of decriminalisation can take two primary forms: *de jure* (in law) and *de facto* (in practice). Currently in Australia, only the Northern Territory and South Australia have enacted *de jure* cannabis decriminalisation. Western Australia previously enacted *de jure* decriminalisation in 2004, but repealed the policy in 2011. Following decriminalisation in both Western Australia and South Australia, research found no increase in cannabis use attributable to the policy (Donnelly, et al., 2009; Turner, 2019). Similar findings were reported for other international examples of *de jure* decriminalisation (Maag, 2003).

Alternatively, *de facto* decriminalisation refers to a certain act remaining illegal, but the enforcement of the crime being at police discretion. All states in Australia, aside from the Northern Territory and South Australia, practice *de facto* decriminalisation. Under the Victorian Cannabis Cautioning Scheme, a person found with less than 50 grams of cannabis receives a caution, and therefore, no criminal record. However, a person can only be cautioned twice under this scheme, after which, they are ineligible (ADF, 2019).

Decriminalisation can reduce the demands on and costs to the criminal justice system. Evidence suggests that decriminalisation leads to reduced need for and use of police, court and prison resources. For example, in California, the total cost of cannabis law enforcement was substantially reduced (from $17 million in the first half of 1975 to $4.4 million in the first half of 1976) after decriminalisation in 1975 (Single, et al., 2000). Recent Australian research estimated a cost saving from $733AUD per person charged, to $388 per person cautioned, after accounting for the costs of policing, court, penalties, assessment, treatment and educational sessions (Shanahan, et al. 2017). For individuals avoiding criminal records, there are improved social, educational and employment outcomes (Hughes et al., 2016). Available evidence suggests that these improvements reduce costs to both the individuals involved and the wider community (Hughes et al., 2016).

Portugal introduced decriminalisation across all drug types in July 2001. Decriminalisation here sought to provide comprehensive legal framework through the expansion of policies and resources targeted at prevention, harm reduction, treatment, social reintegration and supply reduction (Hughes, & Stevens, 2010; Vale de Andrade, & Carapinha, 2010). Hughes & Stevens (2010), found that the reform did not result in major increases in cannabis use, particularly in comparison to neighbouring Spain which did not introduce decriminalisation but saw substantial increases in reported cannabis use. Further, they also found documented reductions in problematic drug use, drug-related harms and criminal justice overcrowding. Additionally, drug offences decreased while uptake of drug treatment increased (Hughes, & Stevens, 2010).

Cannabis legalisation

An alternative to decriminalisation and prohibition is legalisation. Models for the legalisation of cannabis vary internationally. However, there are key examples to guide policy decisions in Victoria.

The Netherlands introduced *de-facto* cannabis legalisation nationally in 1976, whereby cannabis remains illegal, but the law against sale and possession of cannabis goes unenforced (MacCoun & Reuter, 2001). This policy allowed for the commercial sale of cannabis via “coffee shops”. Whilst survey data showed sharp increases in lifetime and

recent cannabis use, there is the suggestion that fluctuations in cannabis use reflected increases and declines in coffee shop numbers, whilst trends in *recent* cannabis use among people living in the Netherlands have been comparable to trends in other European countries (Hall & Weier, 2015).

Uruguay was the first country to fully legalise the use, possession and cultivation of recreational cannabis. Cannabis legalisation in Uruguay was initiated via the government in a top-down approach, with limited public support (Kilmer, et al., 2013). A key motivation for the legislation change was the growing concern around levels of organised crime threatening public safety (Walsh, & Ramsey, 2015). Since 2013, research has suggested increases in cannabis use among the general population (Walsh, & Ramsey, 2015), but no change in the prevalence or frequency of use among adolescents (Laqueur et al., 2020).

As of 2018, eight states in the US had legalised the retail sale of cannabis (Leung, et al., 2018). Across heterogenous state-based policies and regulatory systems, the commercialisation of cannabis has appeared to increase the prevalence and frequency of cannabis use among adults (i.e. individuals 21 years and older), but not among adolescents (Leung, et al., 2018). The ultimate public health impacts, if any, resulting from US legalisation, however, are as yet unknown, and will be influenced by further governmental policies on cannabis promotional activities, such as pricing in reference to black market alternatives (Hall, et al. 2016).

Of particular relevance to the Victorian context, the Australian Capital Territory became the first Australian jurisdiction to fully legalise personal use and cultivation of cannabis, with new laws coming into effect on the 31st January 2020. Despite this allowance for personal use, the sale of cannabis remains illegal. Monitoring the effects of this regulatory change will be important for future decisions around existing Victorian laws and policy.

The above examples highlight the diversity of legalisation models, which can include prescription models, pharmacy models, licensed and unlicensed sales (Rolles, 2009). Victoria currently operates a highly regulated pharmacy model for medicinal cannabis products which may be purchased via prescription by people who are being treated by specially trained medical professionals for specific medical conditions. It must be noted, however, that the price of medicinal cannabis is substantially higher than what people can access illegally (Lintzeris, et al., 2020). Pharmacy models of drug-distribution typically resemble a less-restrictive form for distribution of pharmaceutical drugs; however they may also be appropriate for recreational drugs where medical training is considered a requirement for the safe distribution of the product (Rolles, 2009). Pharmacy models also offer opportunities for brief intervention with trained staff to occur at the point of sale.

Licensed sales and premises models authorise the sale of certain drugs for recreation purposes from approved commercial vendors, similar to models used for the sale of alcohol and tobacco (Rolles, 2009). Such models can preclude sale to people under the age of 18

and those experiencing acute intoxication, but typically lack medical supervision. Unlicensed models allow for anyone operating a business to sell the product, akin to the sale of drugs such as caffeine or paracetamol. Such models are only appropriate where the risk of misuse is negligible which is clearly not the case in relation to cannabis.

In addition to the black-market supply restrictions that a regulated cannabis market can support, legalisation and regulation offers additional revenue to governments via taxation (Smart et al., 2017; Humphries, 2019). In some US jurisdictions, taxation rates were attached to the price of cannabis products, while others taxed cannabis products on weight or a combination of weight and THC content (Hall et al., 2019; Humphries, 2019). Revenue models based on weight and THC content appear to be the most stable taxation models, as they are resilient against decreases in cannabis prices, which are common following transition to legalised cannabis markets (Humphries, 2019). Taxation based on a combination of weight and THC content also limits high-potency products from flooding markets in response to weight-only taxation (Shover & Humpries, 2019). Additionally, the taxation of cannabis would likely serve to reduce demand for cannabis products by inflating prices, thereby reducing population-level consumption and restricting the frequency and quantity of cannabis consumed. Australia currently taxes tobacco and alcohol products through an excise duty system; such a scheme would likely suit cannabis products in Australia. However, as these schemes operate at a federal level, it is not clear whether taxation of cannabis products is feasible at a state level.

Evidence is still emerging about the potential benefits vs. costs associated with cannabis legalisation (Fischer, et al., 2011). Immediate benefits may be seen in tax revenue and reductions in law enforcement costs, with the additional funding then allocated to other government spending items (Room, 2014). Prospective literature available on the recent developments in New Zealand (referendum due to take place on 17 October 2020) may guide expected effects in Australia, due to the similar socio-political environments which exist (Fischer, et al., 2011).

Support among the general Australian population for the legalisation of cannabis is increasing, with more people surveyed in the 2019 NDSHS supporting the legalisation of cannabis than opposing legalisation (41% compared with 37%) (AIHW, 2020). Additionally, for the first time, respondents indicated a higher level of approval for the regular use of cannabis by an adult than tobacco (19.6% compared to 15.4%) (AIHW, 2020). But work by Leung et al. (2020) suggested that a substantial minority of young Australians would use cannabis for the first time if it were legalised, stressing the importance of careful monitoring following policy change.

Monitoring health and social impacts

Cannabis policies and their implementation are highly variable meaning that examples are not always comparable across or within countries. Robust systems for monitoring and evaluation of policy impacts is vital. Whilst the harms related to cannabis use may not be as large as other licit and illicit drugs, they are significant (Whetton et al., 2020). Given that increases in cannabis use have been reported in some international locations following the implementation of more liberal cannabis control polices, it is crucial that impacts of policies are monitored; to date policy impacts are hard to interpret as monitoring and evaluation are often limited or poor in many jurisdictions. Whetton et al. (2020) provide a framework for comprehensive evaluation of cannabis policy impacts but also identify key gaps. Determining both the negative and positive impacts from cannabis use policy change, particularly in relation to mental health and social and legal impacts, requires strong evaluative frameworks developed in conjunction with policy change.

Conclusions and recommendations

- Given that the majority of harms related to cannabis use appear to occur in selected high risk users or in conjunction with high-risk use practices, a public health-oriented approach to cannabis use should be considered (Fischer et al., 2011). Such an approach would rely on targeted and health-oriented interventions mainly aimed at those people who consume cannabis at high risk for harms, and not criminalisation of use as the main intervention paradigm, therefore increasing benefits for society (Fischer et al., 2011). In particular, the risks related to early initiation of cannabis use, frequent use, the use of high potency cannabis, and use among particular high-risk groups (pregnant women; middle-aged or older men with cardiovascular problems; and individuals with a history of psychosis, or a first-degree relative with a history of psychosis) should be prioritised.

- To achieve this aim, international evidence suggests there is considerable room for improved policy in relation to cannabis in Victoria. Policy reform needs to balance costs to the community and individuals while at the same time protecting public health; an assessment of any changes can only be made within a strong evaluative framework. Therefore, we suggest that any reform needs to be subject to strict monitoring and evaluation.

- International evidence supports *de jure* decriminalisation as a mean of reducing a number of impacts associated with cannabis use, not least the impacts associated

with law-enforcement costs and harms to the individual following criminal prosecution for simple possession (Jesseman, & Payer, 2018).

- The legalisation of cannabis use, possession and cultivation should be explored in Victoria. This would entail a thorough independent review of international legalisation models to be undertaken before any moves to legalise cannabis in Victoria. This review should include a consideration of key market parameters such as allowable formulations and potencies as well as risk mitigation strategies such as educational campaigns and other activities to prevent uptake and minimise harms.

- Any moves towards legalisation should incorporate a strict regulatory framework, linked to lessons learned from regulation of tobacco and alcohol that includes strong controls on advertisement, packaging, promotion and marketing activities.

- If laws are changed to legalise or formally decriminalise cannabis in Victoria, these should be accompanied by of a scheme to expunge historical criminal convictions in relation to cannabis use, personal possession and cultivation, that reflect new changes in law.

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