



Committee Secretary
Parliamentary Joint Committee on Law Enforcement
PO Box 6100
Parliament House
Canberra ACT 2600

11 January 2023

RE: Parliamentary Joint Committee on Law Enforcement Inquiry into the Challenges and Opportunities for Law Enforcement in Addressing Australia's Illicit Drug Problem

Thank you for the opportunity for Harm Reduction Australia (HRA) to make a submission to the *Parliamentary Joint Committee on Law Enforcement Inquiry into the Challenges and Opportunities for Law Enforcement in Addressing Australia's Illicit Drug Problem*.

HRA is a national organisation committed to reducing the health, social and economic harms potentially associated with drug use. HRA is a membership-based organisation that represents the views of its members who are primarily people working in the health, welfare, and law enforcement sectors, but also include concerned family members, people who use drugs, students, and other individuals wanting to advocate for the continuation and expansion of harm reduction policies in Australia.

The Board and members of HRA are people who understand the complexities of drug use and are advocating for the safest, most effective ways to protect the wellbeing of individuals, families and communities addressing drug use. HRA takes a non-judgmental approach to drug use within society and aims to ensure that drug policies in Australia first and foremost do no harm and provide real benefit to Australian society through evidence-based and humane responses to drug use.

While we note there are six (6) terms of reference (TOR) associated with this inquiry, our submission specifically addresses TORs b, c & d as these are of most relevance to HRA's body expertise. In addition, to our responses to the relevant TORs, we have also attached several documents (below) for the Committee's further information and consideration.

In regard to the relevant TORs, we would also like to highlight the following issues:

(b): emerging trends and risks, such as new psychoactive substances, adulterated drugs and other new sources of threat:

There are many challenges and opportunities for law enforcement in Australia to address in relation to emerging drug trends and risks. The six-fold increase in identifications of novel psychoactive substances (NPS) globally¹, with new substances also being reported in Australia². In particular, the detection of novel benzodiazepines and novel opioids (including fentanyl analogues³ and nitazenes⁴) detected in Australian drug markets have the potential to cause immense harm to the community⁵. These circumstances have led to the roll out of health-led 'early warning systems' both at national⁶ and state and territory levels, e.g., in New South Wales⁷ and South Australia⁸. These systems share health and law enforcement information to inform clinical and public health responses, including the circulation of public drug warnings. A national system, co-led by Health, Customs and Police has also been recently implemented in New Zealand⁹. Opportunities exist at both the national and state and territory level for law enforcement agencies to share information from customs and seizures into these health-focused systems for public health and harm reduction benefits in Australian communities.

In addition, some policing practices have been shown to cause significant unintended harms. For example, passive alert detection or sniffer dog operations in several Australian jurisdictions (including NSW, Victoria, and Queensland) targeting music event patrons (and other public places) have been causally linked to drug toxicity deaths from 'panic -swallowing' and post-traumatic stress from being strip searched. There have been formal recommendations in various inquiry reports to stop such practices¹⁰.

The recent implementation of pill testing/drug checking services at both festivals and fixed sites in Canberra by Pill Testing Australia has demonstrated the clear benefits that can be achieved for the community. These benefits include reduced harm (including overdose) from drug use, greater awareness of the harms potentially associated with drug use and a much greater understanding on the current availability of a range of drugs including new and emerging drugs. The important role

¹ United Nations Synthetic Drugs Strategy 2021-2025,

<https://syntheticdrugs.unodc.org/syntheticdrugs/en/strategy.html>

² <https://www.anu.edu.au/news/all-news/anu-scientists-make-australian-first-detection-of-new-drug>

³ <https://www.health.nsw.gov.au/aod/public-drug-alerts/Pages/heroin-may-contain-fentanyl-sydney-update.aspx>

³ <https://www.health.nsw.gov.au/aod/public-drug-alerts/Pages/Dangerous-Substance-Alert-Acetyl-Fentanyl-and-Fentanyl.aspx>

⁴ <https://www.health.nsw.gov.au/aod/public-drug-alerts/Pages/heroin-found-to-contain-nitazenes.aspx>

⁴ <https://www.health.vic.gov.au/drug-alerts/yellow-powder-containing-protonitazene-may-be-sold-as-ketamine>

⁵ <https://www.health.nsw.gov.au/aod/public-drug-alerts/Pages/public-drug-warning-counterfeit-alprazolam-July2022.aspx>

⁵ <https://www.health.vic.gov.au/drug-alerts/high-potency-benzodiazepine-tablets>

⁶ National Centre for Clinical Research into Emerging Drugs. The Prompt Response Network:

<https://nccred.org.au/collaborate/prompt-response-network/>

⁷ <https://www.health.nsw.gov.au/aod/resources/Pages/cosmos.aspx>

⁸ Camilleri A, Alfred S, Gerber C, Lymb S, Painter B, Rathjen A, Stockham P. Delivering harm reduction to the community and frontline medical practitioners through the South Australian Drug Early Warning System (SADEWS). *Forensic Sci Med Pathol*. 2021 Sep;17(3):388-394. doi: 10.1007/s12024-021-00381-1. Epub 2021 May 19. PMID: 34013465. Available from: <https://pubmed.ncbi.nlm.nih.gov/34013465/>

⁹ <https://www.highalert.org.nz/about-us/>

¹⁰ See: https://coroners.nsw.gov.au/coroners-court/download.html/documents/findings/2019/Music_Festival_Redacted_findings_in_the_joint_inquest_into_deaths_arising_at_music_festivals_.pdf

that law enforcement can and should play in supporting such efforts perhaps with a genuine partnership with health services (as has been demonstrated with the Can TEST service in Canberra needs to be replicated across the country. The reliance of governments on law enforcement to lead efforts to address the challenges of new substances and adulterated substances circulating in the community simply needs to change to a genuine harm reduction approach led by health services.

(c) the involvement of law enforcement in harm reduction strategies and in efforts to reduce supply and demand, including the effectiveness of its involvement

It is commonplace in Australia for law enforcement to claim that they are supportive of harm reduction approaches to illicit drug use and that therefore, they focus their attention on supply-side disruption rather than targeting individuals who use drugs. Yet, despite these repeated claims, the evidence is clear that the overwhelming majority of arrests for drug offences in Australia are for drug use and personal possession. A recent Australian report highlighted that since 2010, over 700,000 people have been arrested for cannabis-related offending in Australia, with 90% of these arrests for personal use or possession¹¹. Further, the same report showed that the current prohibitionist approach to cannabis use is costing the Australian community \$1.7bn a year in law enforcement costs¹².

Harm reduction approaches on the other hand, have repeatedly been shown to not only be highly evidenced-based and effective at reducing potential drug related harms, but as saving Australian taxpayers billions of dollars annually in public health costs¹³. Despite these clear benefits, and the lack of evidence that law enforcement is effective in reducing drug-related harms in the community, research has indicated that law enforcement continues to receive approximately 70% of the government budget allocated to addressing drug issues in the community¹⁴. In comparison, harm reduction (including Needle & Syringe Programs (NSP), opioid dependence treatment (ODT), Take-Home Naloxone (THN), medically supervised injecting facilities, pill testing/drug checking services, etc.) receive less than 5% of the government drug policy spend in Australia¹⁵.

Furthermore, in relation to demand reduction (as well as supply reduction), law enforcement efforts continue to focus on drugs that in terms of overall risk, cause few harms in the community such as cannabis, cocaine and MDMA. These efforts have led to large numbers of arrests and life-ruining criminal records, yet little reduction in availability of those substances with little to no impact on demand demonstrated. Even in the area of occasional (always highly publicised) so-called 'large-scale seizures' of drugs including heroin and amphetamine-type substances (ATS), there is now routine acknowledgement (including by past and serving law enforcement officials) that despite frequent public claims to the contrary, such seizures do not have any lasting suppression effect on the potential harms

¹¹ <https://www.theguardian.com/australia-news/2022/dec/08/decriminalising-cannabis-could-save-australian-taxpayers-850m-a-year-report-finds>

¹² Ibid.

¹³ National Centre in HIV Epidemiology and Clinical Research. (2009). Return on investment 2: Evaluating the cost-effectiveness of needle and syringe programs in Australia: The University of New South Wales.

¹⁴ <https://ndarc.med.unsw.edu.au/news/law-enforcement-takes-lions-share-illicit-drug-spend>

¹⁵ Ibid.

associated with, the demand for or supply of illicit substances¹⁶. Indeed, it has been acknowledged that these large-scale law enforcement efforts are typically “a signal of increased rather than reduced supply”¹⁷ and invariably come at a significant cost to the public purse.

In summing up the launch of the ‘*Police Statement of Support for Drug Policy Reform*’ during the United Nations Commission on Narcotic Drugs (CND) in Vienna on 18 March 2019, the Centre for Law Enforcement and Public Health (CLEPH) stated that:

*"There is one sector which knows better than any other how badly a prohibitive and punitive approach to the use of illicit drugs has failed – the Police. Police daily see the harmful impact of prohibition law enforcement on individuals and communities, and recurrent failure of the system to help those suffering. But the Police voice is rarely heard in debates about drug policy, despite their first-hand and expert experience."*¹⁸

In the Australian context in particular, the above statement begs the question, if law enforcement, as it is so often claimed, supports a harm minimisation policy approach, then why, with few exceptions, is there no acknowledgement amongst law enforcement that policing of drug markets causes more harms than the actual drugs themselves? While HRA does not have a neat answer to this somewhat rhetorical question, it is a situation that we strongly believe needs to urgently change if law enforcement claims towards supporting an evidence-based harm reduction approach to drug policy matters are to be believed in reality.

Moreover, HRA also believes there is an urgent need to significantly increase the level of funding for harm reduction and demand reduction services and approaches at the state/territory and federal levels in Australia, particularly in light of the substantial (and chronic) imbalance to the level of funding provided to law enforcement for supply reduction activities. This increase in resourcing for harm reduction and demand reduction should also include the development of new services and approaches to reduce harms associated with emerging and novel substances, changing drug markets (including online drug markets) and targeted services for young people, women, indigenous communities, LGBTQI+ communities and people in regional and rural areas. Such developments must also be done with full engagement and consultation with people who use/have used drugs and their representative organisations.

Finally, HRA believes a key point that deserves greater attention in the Australian law enforcement context, is that police practices drive far-reaching outcomes and consequences for the community in myriad ways. For example, changes in arrest rates have significant and rapid impacts on demand for correctional services. Central agencies, therefore, need to pay close attention to the downstream impact of policies

¹⁶ Australian Strategic Police Institute (ASPI). 2018. <https://www.aspistrategist.org.au/policing-illicit-drugs-big-hauls-are-easily-replaced/>

¹⁷ Wan, WY., Weatherburn D., Wardlaw, G., Sarafidis, V., and Sara, G. 2014. Supply-side reduction policy and drug-related harm. National Drug Law Enforcement Research Fund, p. 2. Retrieved from BOSCAR website on 22 December 2022: www.bocsar.nsw.gov.au/Documents/20141127_supplycontrol.pdf

¹⁸Centre for Law Enforcement & Public Health (CLEPH) ‘Prohibition Does Not Work: Police Statement of Support for Drug Policy Reform’ <https://www.youtube.com/watch?v=kmNQvM7gpkk>

that are likely to result in increased arrest rates. Correctional agencies also need to closely monitor arrest rate trends¹⁹. In the current system, there is a real lack of feedback to police of the consequences of their actions and decisions. This is critical as such feedback can be instrumental in changing police practice.

(d) the strengths and weaknesses of decriminalisation, including its impact on illicit drug markets and the experiences of other jurisdictions:

“Experience has shown that force alone cannot reduce the drug supply or the criminality and corruption that it induces. We need to regulate drugs because they are risky. Drugs are infinitely more dangerous when produced and sold by criminals who do not worry about any safety measures. Legal regulation protects health. Consumers need to be aware of what they are taking and have clear information on health risks and how to minimize them.”

Kofi Annan (1938-2018), former UN Secretary General

There is a growing global recognition of the need to urgently move towards the full decriminalisation/legal regulation of the use and supply of currently illicit substances for personal consumption, along with possession for personal use, to address the significant long-term health, financial and social harm that is caused by criminalising, arresting, convicting, and often incarcerating people who use drugs. Multiple reports from the Global Commission on Drugs (a group of eminent past heads of state and other dignitaries) have reiterated their collective view that drug prohibition has failed both the world and individual countries utterly and that significant drug policy reform is a matter of global emergency²⁰.

One of the most frequently cited examples of the benefits of decriminalisation in the drug policy context, is Portugal. Over two decades ago, Portugal decriminalised the personal use and possession of small amounts (up to 10 days' supply) of all drugs. This reform proceeded with the support and co-operation of law enforcement in Portugal (which importantly include training and support for police). Decades later, the benefits of decriminalisation in Portugal are evident in multiple reports and independent evaluations that have demonstrated (among other outcomes) no major increases in drug use, significant decreases in arrests, criminal records and incarceration rates and significant public health benefits including reduced deaths²¹. In the past decade, other countries and jurisdictions have followed suit either with cannabis legalisation (including in parts of the US and Canada) or, in some cases, such as Uruguay and Oregon, have moved to full decriminalisation of all drugs.

Meanwhile in Australia, (with the exception of recent developments in the ACT), we have largely continued with harmful, punitive, prohibitionist approaches to drug use that continue to cause untold levels of health and social harm associated with ongoing criminalisation and the impacts of entrenched stigma and discrimination on

¹⁹ https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CJB/cjb150-The-relationship-between-police-arrests-and-correctional-workload.aspx

²⁰ Global Commission on Drug Policy. 2021. Time to End Prohibition.

<https://www.globalcommissionondrugs.org/reports/time-to-end-prohibition>

²¹ Transform. 2014. Drug Decriminalisation in Portugal: Setting the Record Straight. Retrieved from: <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Transform-Drug-Policy-Foundation/Drug-decriminalisation-in-Portugal.pdf>

people who use drugs. Further, far from aiding in the reduction of drug-related harm, current prohibitionist, and law enforcement approaches, are contributing to an increase in deaths from drug-related overdose which have now reached new record levels in Australia due to ongoing fears associated with police intervention and criminalisation²². It is HRA's view that we can no longer claim that the current system of drug control somehow acts as a deterrent. The calls for policy change are clear. The current system is not a deterrent of any kind, it is a system that has failed to achieve its desired outcomes and only continues because of the political investment and the reputations and deeply vested interests that would suffer if an honest assessment was made of the outcomes.

Despite the lack of movement by governments, among the general public the use of illicit drugs in Australia as well as support for drug policy reform are growing every year. For example, according to findings from the most recent National Drug Strategy Household Survey, almost half of those surveyed aged 14 and over, admitted to having used a drug illicitly in their lifetime and almost 80% agreed that possession of cannabis for personal use should not be a criminal offence²³.

In addition to moral arguments about drug use in society, it is often claimed (including by many top law enforcement officials) that because Australia is a signatory to the 3 UN international conventions on drug policy, Australia cannot (and should not) shift from the current prohibitionist approach to drug use. The UN General Assembly Special Session (UNGASS) on the world drug problem, held in April 2016 in New York, however, resulted in agreement amongst member states including Australia on an Outcome Document.²⁴ Of particular relevance, this document encourages "alternative or additional measures with regard to conviction or punishment, in cases of an appropriate nature": paragraph 4(j). Further, during the UNGASS, the International Narcotics Control Board President further reiterated that *'there is no treaty obligation to incarcerate for minor offenses such as possession of small quantities for personal use'*.

There are a plethora of international standards and guidelines, as well as best practices from around the world, available to guide the development of appropriate and effective drug policy²⁵. HRA believes that it is well overdue that Australia (at all levels of government and with all key stakeholders) commits to engaging in an evidence-based and human rights-informed dialogue on drug policy reform in the best interests of the entire Australian community.

Although HRA fully acknowledges that drug policy reform, including moves towards decriminalisation are legislative and policy matters for government rather than a policing/law enforcement matters per se, it cannot be denied that police play a critical role in relation to educating the community on these issues and in shaping attitudes and values towards reform (or indeed, against it). We need look no further than

²² AIHW: <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/impacts/health-impacts>

²³ Australian Institute of Health and Welfare. (2019). National Drug Strategy Household Survey detailed report. Canberra: Australian Government.

²⁴ United Nations General Assembly (14 April 2016), *Our joint commitment to effectively addressing and countering the world drug problem*, A/S-30/L.1, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/S-30/L.1>

²⁵ International Drug Policy Consortium, *IDPC Drug Policy Guide 3rd Edition*, (2016) <http://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition>

recent media statements and social media campaigns from the AFP in relation to drug policy matters to witness the potential influence of law enforcement officials on public opinion and policy²⁶. As noted above in relation to the recent reforms in the ACT, however, we can also see the benefits of co-operation, partnership and collaboration between public health and law enforcement in relation to drug policy reform including decriminalisation.

Having made the above comments, however, HRA does acknowledge that even if police are sympathetic towards and/or supportive of calls for drug policy reform, it is currently contrary to government policy for them to openly do so. In this context, HRA also acknowledges that support and action from government is essential for any meaningful change in policing practices. This critical relationship was evident in the late 1980s when Australia introduced Needle & Syringe Programs (NSP) – once government clearly demonstrated support for this major policy shift, a range of significant changes to policing practices (and policies) followed to support the effective implementation of NSPs in the community. Similarly, the now openly supportive position of police in Portugal towards decriminalisation came about due to wide-scale changes in government policy.

To this end, while HRA acknowledges that the kind of changes to policing practices we are advocating will need to be part of a wider government-driven drug policy reform agenda, we also strongly urge the Committee and this Inquiry to openly acknowledge the critical role of law enforcement in any drug policy reform efforts. Further, we also believe it is critical that this Inquiry also highlights the need for greater co-operation, partnership and resource-sharing among relevant key sectors and stakeholders including a more equitable resource allocation across supply, demand, and harm reduction efforts.

Finally, HRA is a highly regarded organisation in relation to law enforcement and drug policy matters in large part due to the significant expertise that resides within the HRA Board including:

- **Superintendent Frank Hansen APM**
<https://www.harmreductionaustralia.org.au/frank-hansen-2/>
- **Mr Greg Denham** – former police officer and President, Law Enforcement Against Prohibition (LEAP) Australia
<https://www.harmreductionaustralia.org.au/greg-denham-2/>
- **Professor Nick Crofts** – Director, Centre for Law Enforcement and Public Health (CLEPH), Honorary Professorial Fellow, Australian Institute of Police Management and Executive Director, Global Law Enforcement and Public Health Association (GLEPHA)
<https://www.harmreductionaustralia.org.au/nick-crofts/>
- **Dr Penny Hill** – National Centre for Clinical Research on Emerging Drugs (NCCRED) <https://www.harmreductionaustralia.org.au/penelope-hill-2/>

Given the above expertise, HRA would welcome the opportunity to speak to the Parliamentary Joint Committee on Law Enforcement at any hearings that may be scheduled as part of the Inquiry.

²⁶ <https://www.afp.gov.au/news-media/media-releases/australia%E2%80%99s-drug-use-%E2%80%93-scarier-halloween>

HRA would also like to take this opportunity to recommend the Global Law Enforcement and Public Health Association (GLEPHA) to the Committee. There is much police experience in other jurisdictions, and we believe GLEPHA would be well-placed to recommend relevant international law enforcement experts that could provide valuable insights on effective policies, programs, and approaches in other jurisdictions. HRA believes such insights can be highly instructive in relation to better understanding the 'real world' impacts of potential policy change. This is especially important in the law enforcement context where claims of unknown and potentially dangerous consequences of policy change are frequently used as arguments against change even in the face of failed policies. Evidence from police and allied groups from other jurisdictions, where drug policy reform has been successfully implemented, can provide a 'police-eye view' of what policy reform means for policing practices and a more rational and evidence-informed approach to discussion about potential policy reforms. The GLEPHA can be reached here:

<https://glepha.com/>

Please do not hesitate to contact us should you require any further information.

Yours sincerely

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Attachments

HRA Statements & Documents

<https://www.abc.net.au/news/2022-12-22/drug-properties-being-found-by-cantest/101798128>

<http://www.smh.com.au/comment/the-war-on-drugs-is-a-war-against-our-own-children-friends-and-families-20151125-gl7kkl.html>

http://www.huffingtonpost.com.au/gino-vumbaca/the-war-on-drugs-has-become-an-embarrassment-of-orwellian-proportions_b_9233694.html

http://www.huffingtonpost.com.au/gino-vumbaca/health-warnings-on-drugs-shouldnt-be-provided-by-police/?utm_hp_ref=au-homepage

<http://www.harmreductionaustralia.org.au/wp-content/uploads/2016/11/HRA-Statement-of-Drug-Policy-Hysteria.pdf>

Other Relevant Documents/Sites:

Full version: 'Police Statement of Support for Drug Policy Reform' during the United Nations Commission on Narcotic Drugs (CND) in Vienna on 18 March 2019, the Centre for Law Enforcement and Public Health (CLEPH):

<https://cleph.com.au/application/file...>

Global Commission on Drug Policy website:

<https://www.globalcommissionondrugs.org/>

International Drug Policy Consortium, *IDPC Drug Policy Guide 3rd Edition*, (2016),

<http://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition>

International Drug Policy Consortium, *The UNGASS on the world drug problem: Report of proceedings*, (September, 2016), <http://idpc.net/publications/2016/09/the-ungass-on-the-world-drug-problem-report-of-proceedings>

Pennington Institute. 2022. Cannabis in Australia Report:

<https://www.pennington.org.au/cannabis/cannabis-in-australia/#:~:text=%E2%80%9CMore%20than%20a%20third%20of,did%20200%20million%20people%20worldwide.%E2%80%9D>