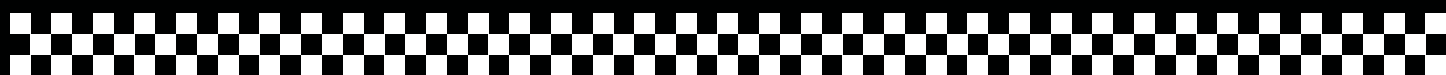


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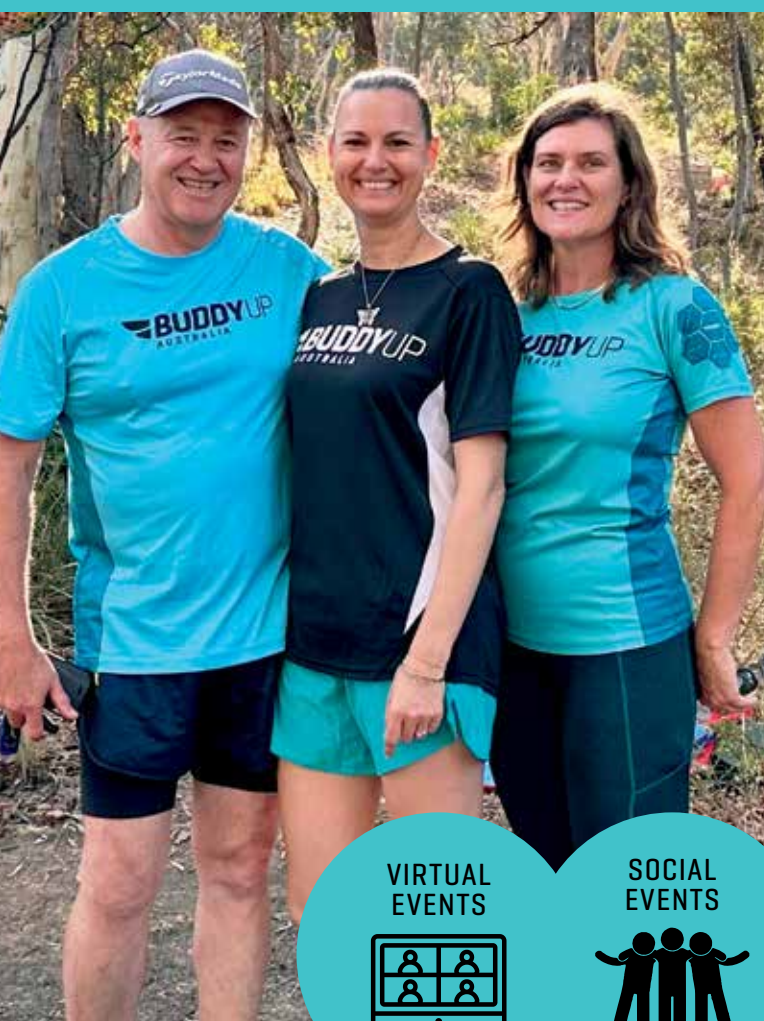
Journal of the Australasian Institute of Policing Inc.

Volume 15 Number 4 • 2023



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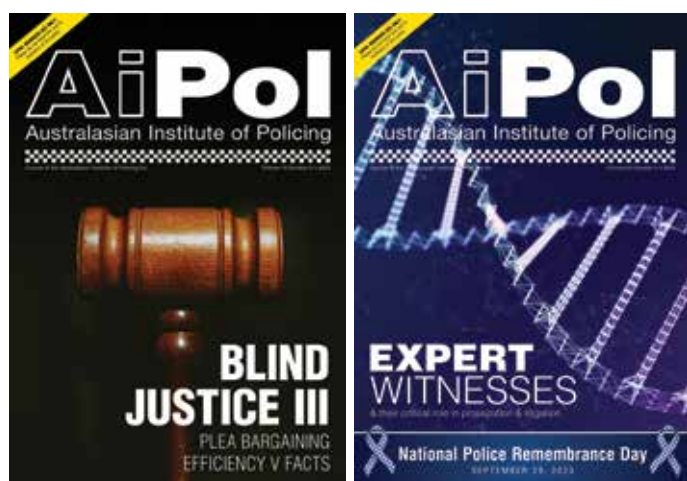
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Editorial

DR AMANDA DAVIES

Editor, Senior Researcher at the Charles Sturt University



May I take the opportunity to wish you and your friends and family a happy and safe festive season and a prosperous and rewarding 2024.

Welcome to the final edition for 2023 – the year has rushed past with so much happening here and abroad. For Australian policing there have been some significant wins against organized crime including illicit drug importation and distribution and local drug manufacturing. This brings into focus the continuing conundrum and debate as to decriminalization of specific categories of drugs which are currently illegal to possess and distribute.

This edition is devoted to providing a balanced view from the policing, health, legislative, economic perspectives on the potential or realized advantages/disadvantages of decriminalizing or diversion programs associated with drug use. There is an excellent coverage of this issue by Tram, Weatherburn and Poynton (2023) highlighting the saving associated with decriminalization of drug use in NSW. Here the article compares 4 drug policies and in doing so provides insightful statistics in relation to the number of people charged with possession of a prohibited drug in Australia – between 2010 and 2019 the figure increasing by 73%. The article provides comparative costs of taking offenders through the criminal justice system vs alternative diversionary programs. In conclusion the authors suggest that monetary saving should be regarded as a consideration in

deciding whether to decriminalize drug use, they suggest however, a more relevant consideration is whether the costs imposed on those convicted of possessing a small quantity of illicit drugs for personal use is worth the benefit gained in terms of public safety -considering the adverse consequences of criminal conviction on an individual's employment and earnings prospects, and the evidence that more severe sanctions are not a deterrent to drug use this seems doubtful.

On the other side of the debate lies the ever-increasing devastation caused by beginning with small amounts of illicit drugs for personal use to progressing to more sophisticated and harmful drugs and or the criminal behaviour that comes with the uncontrollable demand for the illegal drug. Coupled with the organized criminal behaviour to supply and promote adulterated drugs that impacts communities are the policing endeavours in this domain which Jonathan Hunt-Sharman refers to as Russian Roulette where officers see and deal with the negative results of the use of and trade in illicit drugs. In parallel there are the costs and impact on health systems and personal health including the impact on health professionals who like police officers deal with a seemingly never-ending cycle of drug abuse.

For those countries that have acted in respect of decriminalization of drug use (in various forms and formats) it will be the evidence of the impact of such action that will determine the current and long-term value for the community and society more widely that will offer insight into the appropriateness of such legislative decisions. The recent action by the Australian Capital Territory (ACT) is the first Australian jurisdiction to implement illicit drug decriminalization for personal use (in effect as of 28 October 2023) will be closely monitored by those for and against such legislative decisions to best understand the implications for all stakeholders and the potential for advocacy more widely.

As we head towards the festive season, let us wish for a more peaceful world and at home and abroad maintain vigilance as to the impact of legislative decisions and their contribution to easing the load on our police agencies. To this end, I recommend the articles in this edition as providing a well-balanced example of research and commentary on this appreciatively, controversial decision by the ACT government – let us see how this works out in the reality of achieving the intentions with which it has been taken.

May I take the opportunity to wish you and your friends and family a happy and safe festive season and a prosperous and rewarding 2024.



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President's Foreword

JONATHAN HUNT-SHARMAN

President, Committee of management, Australasian Institute of Policing

Illicit drug reforms arrive in Canberra for Christmas

On behalf of the Aipol team, I wish our members and readers an enjoyable and safe Christmas holiday season. A season in which our Federal Police colleagues policing the Australian Capital Territory (ACT) will again have to navigate under conflicting Commonwealth and ACT drug legislation as further ACT illicit drug reforms take effect.

The ACT is the first Australian jurisdiction to implement illicit drug decriminalisation for personal use. The legislation came into effect on 28 October 2023. Adoption of this drug reform was based on the alleged success of other international jurisdictions including, Switzerland, Portugal, British Columbia in Canada, and Oregon in the USA. However, questions remain about the accuracy of reporting those successes. Either way, the ACT has now introduced this reform. In a nutshell the reform is as follows:

- Small quantities of various illicit drugs found on a person may attract either diversion to a health education and information session, or the option of paying a \$100 fine;

- The session is a one-off 1-hour assessment with Canberra Health Services, either face-to-face or via telehealth which involves a health assessment to assess the person's well-being and to identify any need for support or early intervention relating to problematic drug use. Once the session is completed there is no further action;
- If the session is not completed or the person chooses to pay the \$100 fine, the person is issued with Simple Drug Offence Notice (SDON);
- Once a SDON is issued the person has 60 days to pay the \$100 fine or attend the session. There is no further action once the SDON is adhered too.

The reforms aim to divert people who use drugs away from the criminal justice system and encourage them to access health services.¹

On 31 January 2020 cannabis was decriminalised for personal use. As a result of the amendment Bill, amphetamine; heroin; cocaine; methylamphetamine ('Ice' or 'Meth'); methylenedioxymethylamphetamine ('MDMA' or 'Ecstasy'); lysergic acid; lysergide ('LSD', 'LSD-25') and pholocybine ('Magic mushrooms') are now decriminalised for personal use.

From a policing perspective, the legislation enacted in the ACT appears to be addressing a virtually non-existent problem without tackling the real issues associated with illicit drugs.

The aim of the reforms appear 'sound' to the lay person but people who use illicit drugs in the ACT, prior to the enactment of the legislation, were already being diverted away from the criminal justice system and encouraged to access health services.

Since 2001, the ACT has had a non-legislated approach called the Illicit Drug Diversion Program. Its aim has been, and is, to divert people away from the criminal justice system to health and social services.² ACT Policing's internal governance specifies various criteria for diversion, including the amount, the person's age, the context, and whether other offences are involved.³

In 2019–20, ACT Policing completed 192 referrals under the Illicit Drug Diversion Program.⁴ The drugs most involved were cocaine (68), cannabis (56), and MDMA (34).

ACT Policing stated during the inquiry into the Bill:

ACT Policing very rarely criminalises the personal use of substances – resources are targeted at drug trafficking. However,

1. <https://www.health.act.gov.au/about-our-health-system/population-health/drug-law-reform> - accessed 30 October 2023

2. ACT Government-Health, Submission 15, pp 4, 22. ACT Legislative Assembly Select Committee on the Drugs of Dependence (Personal Use) Amendment Bill 2021

3. ACT Policing, Submission 7, p 6. ACT Legislative Assembly Select Committee on the Drugs of Dependence (Personal Use) Amendment Bill 2021

4. By way of context, there were 149 offences committed in the same year where drugs were also seized— ACT Policing, Submission 7, p 9. ACT Legislative Assembly Select Committee on the Drugs of Dependence (Personal Use) Amendment Bill 2021

criminality can often be driven by drug use. For instance, drug possession offences are regularly prosecuted alongside other more serious offences. ACT Policing already adopts a harm minimisation approach to illicit drugs.⁵

The ACT Law Society also argued that the Bill would have a limited additional effect in diverting drug users away from the criminal justice system, noting that police are already doing this. During the inquiry into the Bill the ACT Law Society stated:

Although the Society supports a harm minimisation and therapeutic approach in dealing with drug users, we also expect that the Bill will have a minimal effect on diverting drug users from the criminal justice system. We observe that it is relatively uncommon for drug users to come before the courts charged only with drug possession...In cases where a police officer detects a person in possession of only a small quantity of an illicit drug for the first time, we understand that the Australian Federal Police is already adopting a diversionary approach.⁶

From a policing perspective, there are genuine concerns that these reforms will have minimal beneficial effect on diverting illicit drug users from the criminal justice system, but may indeed lead to organised crime taking advantage of this reform to cause even greater misery to illicit drug users, their loved ones, impacting on their health, welfare and the general safety within the ACT community.

Across Europe, the USA, and Canada, there is an illicit drug overdose pandemic. Unfortunately, it is not unreasonable to accept that this pandemic is coming to Australia. Despite large seizures of illicit drugs by law enforcement, the average consumption of methylamphetamine, cocaine, MDMA, MDA, fentanyl and ketamine has increased across Australia.⁷

The latest National Wastewater Drug Monitoring Program Report⁸ found that Australians are the sixth largest consumers of illicit stimulants out of 28 countries monitored from the Sewage Core Group Europe (SCORE), which covered 161 cities from 28 countries in Europe, Asia, North America and Oceania.

Australia has the third highest methylamphetamine ('Ice' or 'Meth') consumption per capita compared with 24 other countries.

Methylamphetamine ('Ice' or 'Meth') is recognised as the most harmful illicit drug in Australia due to its high availability, high addiction effect, the subsequent serious mental and physical health impacts and the propensity to cause violent episodes.

When considering the ACT illicit drug reform it is important to understand the level and type of illicit drug use that exists in the ACT.

A national comparison of illicit drug consumption has found that:

- In December 2021 the ACT had the second highest capital city consumption of heroin and the second highest capital city consumption of oxycodone;
- In April 2022 the ACT ranked second highest nationally in capital city consumption of oxycodone and cannabis;
- In August 2022 the ACT ranked first nationally in capital city consumption of oxycodone, and second in cocaine, fentanyl, cannabis consumption and MDA excretion;
- In December 2022 the ACT ranked second nationally in capital city consumption of heroin and oxycodone.⁹

Although these figures are startling there is a further complication in that organised crime syndicates are now lacing heroin, oxycodone, cocaine, cannabis and other illicit drugs with fentanyl. Fentanyl is a synthetic opioid up to 100 times more potent than morphine.

Organised crime is lacing illicit drugs with fentanyl because it is cheap, it requires only a small amount to increase the 'high' for the user and being highly addictive, creates a return stream of customers. Unfortunately, it is also the main contributor to illicit drug overdoses.

The decriminalisation of cannabis in the ACT included breaking the link to organised crime. By allowing individuals over the age of 18 residing in the ACT to grow cannabis plants for personal use, whilst retaining criminal offences for trafficking and supply, the strategy

aimed to provide both health and law enforcement benefits.

This ACT legislative reform does not in anyway remove the link to organised crime or the profit derived from the production and distribution of illicit drugs and the subsequent laundering of those proceeds which then go on to fund further criminal activity across a multitude of crime types.

Police Officers see the negative results of people buying illicit drugs on the street. It is a game of Russian Roulette. From cannabis to cocaine, illicit drugs purchased from organised crime syndicates contain life threatening substances, including fentanyl.

Ensuring access to a safe supply of drugs for those obtaining adulterated drugs from illegal markets must be an essential element of preventing overdose and reducing the harms of those toxic elements included within the impure illicit drugs.

AiPOL is concerned that you can't have decriminalisation of dangerous illicit drugs without enhancing safe supply through clinical oversight.

We know that safe injecting rooms and pill testing saves lives. However, we also know that some drug addicts are not going to take up drug diversion programs that are currently being offered as part of the reform strategy. They are either simply wanting to continue their addiction or in the past they have found traditional replacement therapies non effective.

Is the ACT Government content to decriminalise harmful drugs for personal use and allow those 'users' to risk their lives every time they take an illicit drug?

If the ACT is serious about confronting the leading cause of unnatural death in Australia, it is going to take far more than decriminalising simple drug possession. People who use illicit drugs require an alternative to the toxic unregulated supply. We need to find an alternative to them risking their lives every time they use illicit drugs.

Increasing access to a safer supply of drugs and providing adequate funding for accessible treatment options can make an immediate positive impact if the ACT is willing to tackle the real issues associated with illicit drugs.

continued on page 8

5. ACT Policing, Submission 7, p 2. ACT Legislative Assembly Select Committee on the Drugs of Dependence (Personal Use) Amendment Bill 2021

6. ACT Law Society, Submission 10, p 2. ACT Legislative Assembly Select Committee on the Drugs of Dependence (Personal Use) Amendment Bill 2021

7. ACIC National Wastewater Drug Monitoring Program Report 19 data released 12 July 2023

8. Fifty-seven wastewater sites were monitored nationally, covering a population of 13.9 million Australians.

9. ACIC National Wastewater Drug Monitoring Program Reports No's 14 to 20

Although I have concerns in relation to decriminalisation of illicit drugs for personal use, I am of the view that the ACT Government should now complement this reform with an immediate focus on pharmacotherapy advances in addressing addiction.

For example, hydromorphone (heroin derivative) should be available for those heroin users in the ACT who have not had positive results from traditional drug diversionary programs such as methadone treatment etc. Multiple Randomised Control Trials of SIOT have been conducted in the UK, several European nations, Canada and the US.¹⁰ A significant body of research evidence supports SIOT as a supplement to traditional Opioid Agonist Therapy (OAT) treatment and the drug is already available in Australia under the Pharmaceutical Benefits Scheme.

Some key findings on SIOT include:

- Increased reduction in drug-related criminal offending and incarceration among patients compared with traditional OAT treatments.^{11 12}
- Increased reduction in non-medical use of opioids, treatment cessation, overdose and all-cause mortality compared to traditional OAT.^{13 14 15}
- SIOT (hydromorphone) associated with reduced incidence of adverse events compared to SIOT (diacetylmorphine).^{16 15 10}
- Higher patient retention rates than traditional OAT programs (77% for hydromorphone, 45% for methadone and between 30-50% for buprenorphine/naloxone).¹⁰

- Highly cost-effective:
 - Reduced costs associated with crime, criminal justice procedures and imprisonment.¹⁷
 - Reduced associated, non-criminal justice costs: housing, healthcare, social services.¹⁸
 - A mean saving of €12,793 per person per year for clients on SIOT compared to clients on traditional OAT (Netherlands).¹⁹
 - Other research demonstrating cost-effectiveness from Britain,^{13 20} Canada,^{14 21} the Netherlands,²² Germany,^{18 23} Switzerland,^{24 25 26} and Spain.²⁷

Further, due to administration occurring in a supervised medical setting, there is no evidence that SIOT medications are likely to be diverted for illicit use.^{15 28}

It should be noted that a recent study led by the National Drug and Alcohol Research Centre, UNSW surveyed Australians who inject opioids and found their perceptions were that offering injectable opioid agonist treatment (iOAT) could deliver important benefits.²⁹

There is also the opportunity for the ACT Government to take advantage of a number of trials being conducted in Australia relating to combatting other illicit drugs.

For example, currently there is no approved pharmacotherapy option for methamphetamine withdrawal, however a pilot feasibility and safety trial has been successfully conducted of the drug lisdexamfetamine.

Lisdexamfetamine has been found:

- to be a safe and feasible for treating acute withdrawal; and

- to be highly acceptable to participants.³⁰

Currently the results of a four (4) year multisite (Sydney, Newcastle, Adelaide) double-blind randomised controlled trial of lisdexamfetamine for the treatment of methamphetamine dependence is awaiting 'peer review' and the results published in the near future.³¹

It is up to the ACT government to ensure measures are implemented to ensure that decriminalisation of illicit drugs for personal use achieves the positive outcomes that the ACT government argued when introducing this reform.

There is an opportunity to enhance the reform with innovative action, such as the provision of heroin derivative hydromorphone under a medical setting, and encouraging participation in any future amphetamine trial of lisdexamfetamine, as it will not just provide a health outcome but a law enforcement outcome by reducing the impact of organised crime's illicit drug supply. Aipol urges ACT Health to seek partnership with researchers to provide relevant pharmacotherapy trials in the ACT.

In closing, it is truly inspiring, the many innovative medical advances are occurring in the fight against illicit drugs, particularly in the area of novel immunotherapeutic approaches. For example a cocaine vaccine dAd5GNE has successfully advanced to Phase 3 clinical human trials in the USA with an estimated completion date of 30 December 2025.³² but there are many others at various stages of research, which I am sure will make good reading in a future Aipol edition.

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30. Lisdexamfetamine for the treatment of acute methamphetamine withdrawal: A pilot feasibility and safety trial. Liam S. Acheson, Nadine Ezard

31. Discussion with Professor Nadine Ezard, Professor with the National Drug & Alcohol Research Centre, University of NSW, contact person for the Randomised, double blind, placebo controlled trial of lisdexamfetamine for the treatment of methamphetamine dependence 31 October 2023

32. A Review of Immunotherapeutic Approaches for Substance Use Disorders: Current Status and Future Prospects; 2022, Muhammet Celik, Brian Fuehrein pg 63



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AMPHETAMINE-TYPE STIMULANTS

- The weight of amphetamine-type stimulants (ATS) seized globally between 2009 and 2019 increased. This was primarily due to the almost tenfold increase in the weight of methylamphetamine seized, although the weight of seized ecstasy and amphetamine also doubled.
- For Australia, chemical profiling of methylamphetamine seized at both the border and domestically indicates the proportion of methylamphetamine manufactured using P2P-based methods has increased in recent years.
- Indicators of the supply and demand trend for ATS (excluding MDMA) point to a market that was impacted by COVID-19 but remains large.
- The number of ATS (excluding MDMA) detections at the Australian border increased in 2020–21, while the weight increased slightly to reach a record level.
 - The number and weight of national ATS seizures decreased in 2020–21.
 - Data from the National Wastewater Drug Monitoring Program (NWDMP) indicate
- the population-weighted average consumption of methylamphetamine in both capital city and regional sites decreased from August 2020 to record low levels in August 2021.
- Indicators of the supply and demand trend for MDMA point to a small market that is contracting.
 - Both the number and weight of MDMA detections at the Australian border decreased in 2020–21.
 - Both the number and weight of national MDMA seizures decreased in 2020–21.
 - The number of MDMA laboratory detections, already relatively low, nearly halved in 2020–21.
 - Data from the NWDMP indicate the population-weighted average consumption of MDMA in both capital city and regional sites decreased from August 2020 to August 2021, with capital city sites decreasing to record low levels.



CANNABIS

- Cannabis remains one of the largest illicit drug markets globally and remained the most consumed and seized drug in 2019.
 - While cannabis herb accounted for the greatest proportion of the weight of cannabis seized globally in 2019, the weight seized decreased, whereas the weight of resin seized increased.
- Indicators of cannabis demand and supply in Australia point to a large market that is well supplied.
 - The number of border detections increased by both number and weight in 2020–21. While detections by weight increased only moderately, the detections by number almost doubled from the previous year's figures.
 - The number of national cannabis seizures decreased moderately in 2020–21, while the weight of cannabis seized nationally increased slightly to a record level for the second consecutive reporting period.
 - The number of national cannabis arrests decreased in 2020–21.
 - According to the National Wastewater Drug Monitoring Program, the population-weighted average consumption of cannabis increased to the highest levels recorded by the Program in both capital cities and regional areas in August 2021.



HEROIN

- While illicit opium production remained relatively stable in 2020, the total area under opium cultivation increased—primarily due to an increase in the area under cultivation in Afghanistan, which remained the largest cultivator of illicit opium in the world.
- Forensic profiling of both border and domestic seizures indicates that the vast majority of heroin in Australia continued to originate from South-East Asia.
- Indicators of heroin supply and demand point to a relatively small market which had increased seizures and detections during the review period.
 - Both the number and weight of heroin detections at the Australian border increased to record levels in 2020–21.
 - According to the National Wastewater Drug Monitoring Program, the population-weighted average consumption of heroin from August 2020 to August 2021 decreased in both capital city and regional sites. Heroin consumption remained low compared to other illicit drugs, particularly methylamphetamine.
 - The number and weight of heroin seizures nationally increased in 2020–21, with the weight of seizures increasing to a record level.
 - The number of heroin arrests decreased in 2020–21.



CLANDESTINE LABORATORIES & PRECURSORS



COCAINE

- Cocaine remains among the most consumed and seized drugs worldwide.
- While the total area under coca bush cultivation decreased in 2019, the estimated weight of cocaine produced increased to record levels.
- Colombia accounted for two-thirds of the global area under coca bush cultivation, with drug profiling indicating that the majority of both border detections and domestic cocaine seizures originated from coca leaf grown in Colombia.
- Indicators of supply and demand point to a continuing expansion of the cocaine market in Australia.
 - The weight of cocaine detected at the border reached the highest level on record in 2020–21.
 - Both the number and weight of national cocaine seizures increased in 2020–21,
 - with the number of cocaine seizures increasing to a record level.
 - There was a record number of national cocaine arrests.



OTHER DRUGS

- Compared to other illicit drug markets in Australia, substances within the 'other drugs' category are niche markets. They are diverse and dynamic and include a range of drugs which merit ongoing monitoring in order to identify new trends, as well as emerging areas of potential harm.
- In 2020–21, the tryptamines, anaesthetics and anabolic steroids and other selected hormones market showed signs of potential expansion.

- The trafficking of precursor chemicals used in illicit drug production is a global market
- in itself, with the range of chemicals used worldwide to produce illicit drugs, including amphetamine-type stimulants (ATS) increasing.
- In 2020, of the chemicals seized globally under international control and commonly used to manufacture ATS, cocaine and heroin:
 - the weight of ephedrine and pseudoephedrine decreased to decade-low levels
 - the weight of potassium permanganate increased
 - the weight of acetic anhydride increased.
- Indicators of domestic illicit drug production in 2020–21 provide a mixed picture:
 - The number of clandestine laboratories detected nationally decreased.
 - Both the number and weight of ATS (excluding MDMA) precursors detected at the Australian border decreased.
 - The number of MDMA precursors detected at the Australian border increased,
 - while the weight decreased.
 - The majority of laboratories detected nationally continue to be addict-based and located in residential areas.
 - While the proportion of clandestine laboratories manufacturing ATS (excluding MDMA) decreased, they continue to account for the greatest proportion of national detections, with methylamphetamine the main drug produced.

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Australia's illicit drug problem: Challenges and opportunities for law enforcement

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As Australia's national criminal intelligence agency, the ACIC is responsible for collecting and analysing intelligence on serious and organised crime (SOC) threats to Australia. Through the application of specialised intelligence collection methodologies and working closely with domestic and international partners, the ACIC is able to monitor and assess SOC involvement in Australia's illicit drug markets. Two flagship intelligence products—the National Wastewater Drug Monitoring Program (NWDMP) Report and the Illicit Drug Data Report (IDDR)—provide unique insights into challenges and opportunities to address the rising harm from illicit drugs.

The Australian Institute of Criminology reports that TSOC cost Australia up to \$60.1 billion in 2020–21, of which up to \$16.5 billion was specific to illicit drug activity.¹ Illicit drug use in Australia is a complex problem, with no single (or short term) solution.

- From 1 July 2010 to 30 June 2020, there was around a 14% increase in the Australian population but a 74% increase in the number of illicit drug seizures, a 314% increase in the weight of illicit drug seizures and a 96% increase in the number of national illicit drug arrests.
- Since the NWDMP began in 2016, national consumption of methylamphetamine, cocaine, MDMA and heroin increased year on year from 2016–17 to 2019–20. Consumption declined in 2020–21 but monitoring shows it is returning to pre-COVID levels.
- Even though there had been a drop-in consumption of approximately 4.7 tonnes (23%) from the

previous year's levels, in 2020–21 Australians spent almost \$10.3 billion dollars (second highest amount recorded) on illicit drugs and 16 tonnes of methylamphetamine, cocaine, MDMA and heroin was consumed nationally.

- \$7.95 billion (77 per cent of the total estimated expenditure on illicit drugs) was spent on methylamphetamine during 2020–21.
- Australia had the highest methylamphetamine consumption per capita compared with 24 other countries from sampling taken in 2021.
- In 2020 there were 1,842 (equating to approximately 5 per day) drug-induced deaths in Australia.

Illicit drugs are harmful to the safety and security of Australia and Australians. The harmful effects include direct impacts on individuals and families, community-level harm (such as increased family violence and road trauma) through to violent organised crime that risks broader community safety.

The illicit drugs environment in Australia is virulent, highly resilient and adaptable, and SOC groups are sophisticated and determined to evade law enforcement and avoid criminal prosecution. SOC groups supply illicit drugs with no regard for the law or societal and community values and safety. Solutions must continue to evolve with agile and integrated efforts, spanning policy, legislation and ongoing collaboration across law enforcement, intelligence and national security, health and education agencies and the private sector and academic institutions.

Trends and changes relating to illicit drug markets in Australia, including supply, trafficking, production, distribution and use of illicit drugs

Illicit drugs are 'big business' in Australia, with SOC groups importing illicit drugs on an industrial scale. The 4 most consumed illicit drugs (after cannabis which is the most consumed but poses a lower level of harm) are methylamphetamine, cocaine, MDMA and heroin. Key trends and changes to note include:

Market expansion

The trend for Australian illicit drug use remains on an upward trajectory, highlighting the resilience of the markets and the persistence of SOC groups. The drugs market in Australia is resilient, lucrative and unfortunately fuelled by a seemingly unsatiated consumer demand, despite consumers paying some of the highest prices in the world for illicit drugs. Data suggests that the illicit drug market in Australia has been consistently growing. From 1 July 2010 to 30 June 2020, the Australian population increased around 14%, but the number of national illicit drug seizures increased 74%, the weight of illicit drugs seized nationally increased 314% and the number of national illicit drug arrests increased 96%.

While COVID-19 travel/movement/event and venue closure restrictions (2020–21) were likely the cause of consumption of the 4 major illicit drugs to decrease by nearly a quarter in the year to August 2021, almost 16 tonnes of these drugs were still consumed nationally. This demonstrated the resilience of

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Australia's illicit drug markets, the agility and determination of SOC groups to overcome significant challenges to continue supplying the market, and a high level of demand.

Profitability

Australians pay some of the highest prices globally for most illicit drugs and the market is sufficiently profitable and large enough for multiple SOC groups to do business here. During 2020–21 Australia saw the second lowest annual consumption of the four major drugs since the ACIC's NWDMP began, yet the second highest spending on these drugs by Australians over the same period. The high prices Australians pay increases the profitability of illicit drugs in Australia and drives SOC groups to continue to supply the market.

There is a significant mark-up in the price of the 4 major illicit drugs once they reach the Australian border. For example, Mexican cartels currently pay Colombian farmers US\$1,000 per kilogram for dried coca leaf. This price almost doubles once processed into cocaine and by the time it reaches Australia, cocaine can be sold for more than A\$300,000 per kilogram.

Offshore origins

With the exception of cannabis, which is cultivated in Australia, and almost a third of methylamphetamine which is locally made; the vast majority of illicit drugs consumed in Australia originate offshore and are imported, typically by sophisticated transnational SOC groups. The major drug markets are supplied from the Mekong (primarily Myanmar), Colombia, Mexico and the Netherlands. With 70% of Australia's SOC entities being based offshore or having strong offshore links, Australian authorities are continuously focusing their capabilities and relationships offshore to disrupt the supply of illicit drugs to Australia.

Highest threat markets

Methylamphetamine poses the greatest harm in existing markets

As mentioned, at the height of COVID, almost 16 tonnes of the 4 major illicit drugs was consumed nationally, with an estimated street value of \$10.3 billion. Methylamphetamine accounted for the majority of that, amounting

to \$7.95 billion (77 per cent of the total estimated expenditure).

Although the ACIC assesses cannabis to be the most consumed illicit drug—and the largest illicit drug market—it is not included in Figure 1 above as a reliable dose figure is not currently available.¹

In terms of usage, prior to the implementation of COVID-19 restrictions in Australia in March 2020 (see Figure 1), there had been a steady increase in methylamphetamine consumption.

Methylamphetamine consumption far exceeds the consumption of the other 3 major illicit drugs

(cocaine, heroin and MDMA) and other drugs monitored by the NWDMP, apart from cannabis, accounting for approximately 56% of the combined estimated consumption of the 4 major illicit drugs, some 8.8 tonnes in the year to August 2021; see Figure 1.

Methylamphetamine poses the highest harm to the community by some margin and this will not change for the foreseeable future. Australia has been a 'stimulant nation' since the early 2000s and methylamphetamine (particularly in its crystal form—'ice') is at the vanguard of this trend. According to 2021 wastewater data from the Sewage Core Group Europe (SCORE²), which covered Europe, Asia and Oceania, Australia's per capita illicit stimulant and methylamphetamine consumption was the highest of the participating countries, with Australia ranked first of 28 countries for stimulant consumption and first compared with 24 other countries for methylamphetamine consumption.

Crystal methylamphetamine (ice) is commonly smoked, but various forms of methylamphetamine are also injected. The Australian Needle and Syringe Program Survey (ANSPS) found in 2019, 49% of respondents reported methylamphetamine as the drug last injected, which increased from 26% in 2010. In 2018, this proportion exceeded heroin as the most commonly reported drug last injected. This trend has serious implications for harms around drug injecting risk behaviour and blood borne viral infections.

Demand for methylamphetamine remains very high and resilient. According to the DUMA Program, 'Overall, past-month methamphetamine users reported a median of 15 days of use (IQR=4–28) in the past 30 days and

administered a median of 0.8 grams per day of use (IQR=0.3–1.3 grams). Among past-month methamphetamine users, 30 percent (n=273) were classified as recreational users (1–5 days of use per month), 32 percent (n=295) were regular users (6–20 days of use per month), and 38 percent (n=349) were heavy users (over 20 days of use per month). These indices of frequency and quantity of use did not vary notably over 2021.'ⁱⁱⁱ

The impact of methylamphetamine on regional cities and towns is significant. Importation of methylamphetamine by SOC groups, augmented by increasingly sophisticated and diverse domestic production, permits the supply side of this market to recover relatively quickly from shocks such as COVID restrictions and law enforcement responses.

Precursor chemicals

Domestic manufacture of methylamphetamine and a number of other illicit drugs relies on the importation or diversion of precursor chemicals that originate offshore, primarily from China and India. Most illicit drugs arrive in Australia in finished form, but some come in a reconstituted form in an attempt to defeat border controls.

Every gram of illicit drug manufactured or reconstituted in Australia relies either on the diversion of a precursor, pre-precursor, reagent or solvent from legitimate distribution channels in this country, or the illegal importation of these products. A substantial quantity of these chemicals is required to produce drugs such as methylamphetamine. For example, a typical methylamphetamine manufacturing method usually requires 10–20 kilograms of chemicals for each kilogram of methylamphetamine produced. Use of chemicals on this scale offers law enforcement agencies and regulators opportunities to collaborate closely with industry to monitor for and prevent attempts at chemical diversion from legitimate industry, with mutual benefit to both public and private interests.

Also of concern, is the domestic manufacture of other illicit drugs including MDMA, 3,4-methylenedioxymphetamine (MDA), gamma-hydroxybutyrate/gamma-butyrolactone (GHB/GBL), dimethyltryptamine (DMT) and cannabis oil; and the reconstitution of imported methylamphetamine, cocaine and steroids into the form in which they

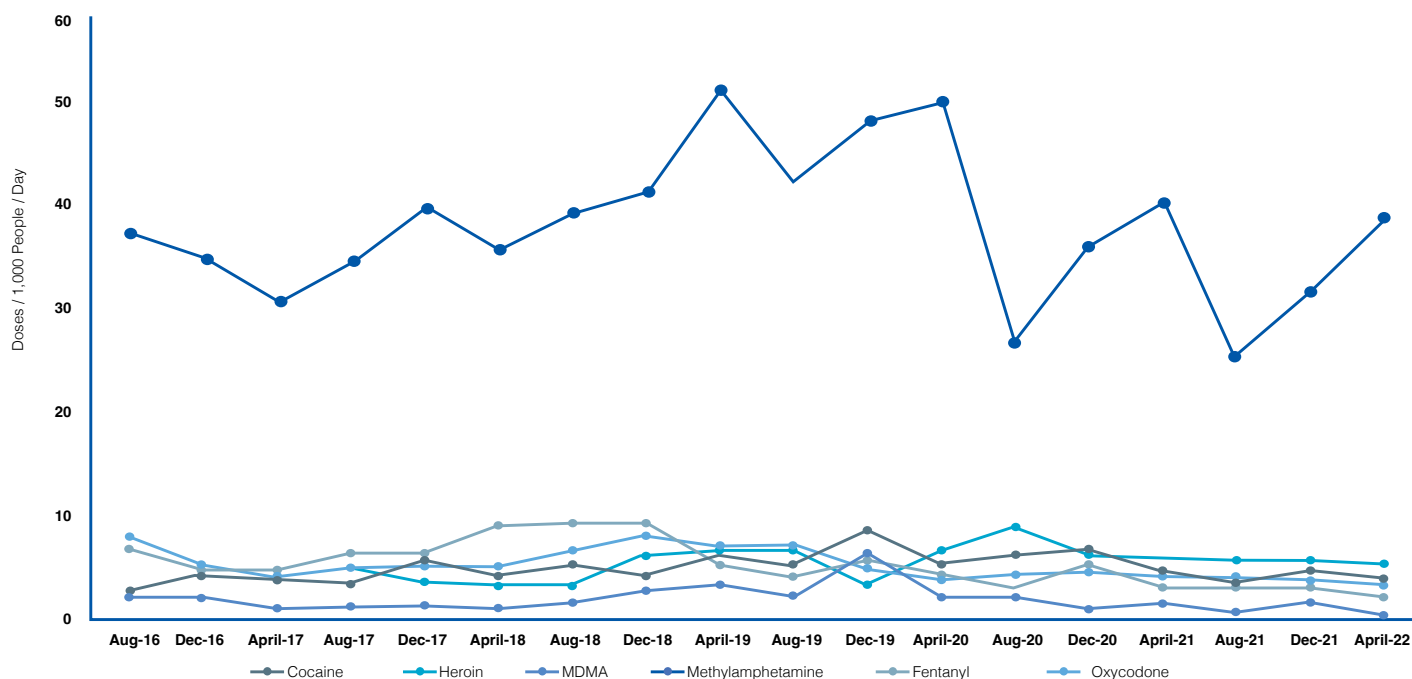


Figure 1: National average drug consumption of methylamphetamine, cocaine, MDMA, heroin, oxycodone and fentanyl, August 2016 to April 2022.
Source: NWDMP, Report 17 ii

are consumed. In addition, a number of clandestine laboratories have been detected producing precursors such as pseudoephedrine and phenyl-2-propanone (P2P) from both pharmaceutical preparations and other chemicals referred to as pre-precursors for the subsequent manufacture of illicit drugs.

New and emerging illicit drug threats

The ACIC engages with partners to identify significant overseas drug threats to prevent them from being replicated in Australia.

Non-medical use of pharmaceutical opioids

One example is the ACIC's proactive response to the non-medical use of pharmaceutical opioids such as oxycodone and fentanyl which have caused significant harm in North America. The harms to Australians from opioids such as oxycodone and fentanyl are demonstrated by the following data from the Pennington Institute.

- Of the 1,842 drug-induced deaths in Australia in 2020 (equivalent to 5 drug-induced deaths per day or 7.2 deaths per 100,000 people), 707 were linked to non-medical use of pharmaceutical opioids or pharmaceutical opioids and heroin, and 818 to benzodiazepines.

- Unintentional deaths involving fentanyl, pethidine and tramadol increased to 165 in 2020, while there were 596 unintentional deaths involving benzodiazepines. Of these, 499 deaths in 2020 involved both opioids and benzodiazepine.

This concerning data reflects a period when consumption (both licit and illicit) of oxycodone and fentanyl was decreasing nationally (in fact in 2022 it reached record low levels). The decrease in consumption was a result of impacts on the market from COVID restrictions, relatively tight regulatory controls on pharmaceutical companies in Australia, and proactive work by the ACIC and other agencies to limit SOC influence over the market and hence constrain the evolution of an illicit market for pharmaceutical opioids in this country.

North America is experiencing significant harm from the non-medical use of fentanyl and oxycodone. The North American fentanyl epidemic evolved from a situation in which there was significant legitimate supply of pharmaceutical oxycodone and then fentanyl which created a market for non-medical use of pharmaceutical opioids. SOC groups took advantage of this opportunity to undercut the price of the pharmaceutical formulations when regulation was tightened in the United States

(US), leading to a situation in US and Canada whereby fentanyl manufactured

in Mexico and Canada is causing significant public health problems and many other illicit drugs are laced with fentanyl. The differences in Australia are that pharmaceutical companies are more tightly controlled than in North America in the 1990s and, to date, imported powder fentanyl and domestically manufactured fentanyl are yet to be a significant feature of the organised crime landscape (this may change with evolving or changing environmental factors). Moreover, the illicit market for pharmaceutical opioids has not yet developed to the extent that it has in North America. It will be important to continue to respond to non-medical use of these substances and any increase in SOC involvement in the market to avoid the North American experience.

Counterfeit pharmaceuticals

According to the United Nations Office on Drugs and Crime (UNODC), counterfeit pharmaceuticals pose a significant and growing threat to people's health globally. In 2018, the World Health Organization (WHO) estimated the share of counterfeit pharmaceuticals (including those which are of bad quality) on the global market ranges from over 10% of total sales in low and middle-income countries to 1% in developed countries. The production and sale of some

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counterfeit pharmaceuticals has been found to be potentially more profitable than illicit drugs such as cocaine, heroin and opium, in part explaining the gravitation towards this market.

Benzodiazepines refer to a drug class commonly legitimately prescribed to treat people with anxiety or insomnia. Non-medical use of benzodiazepines is harmful, but the risk is exacerbated when counterfeit versions of the drug are introduced into the illicit market or when they are consumed with other substances. Benzodiazepines were the second most common drug type involved in drug-induced deaths in Australia in 2019, identified in 811 of the estimated 1,865 drug-induced deaths nationally.

The consumption and supply of counterfeit pharmaceuticals has to date not been an issue of substantial concern in Australia due to robust regulation (in world terms) of pharmaceuticals in this country and the ready availability of quality pharmaceuticals. However, recent seizures of, and fatal and non-fatal overdoses, involving counterfeit benzodiazepines have raised concerns about the level of threat and risk posed to the community by this activity.

There is a level of sophistication in this market, with domestic manufacturers obtaining chemicals from China, India and through domestic diversion, as well as authentic looking labels, bottles and packaging. There is potential for counterfeit pharmaceuticals manufactured in this way to be exported from Australia, as well as being consumed domestically.

Adulterated drugs

In the US and Canadian markets, there is the issue of consumption of fentanyl-laced products being produced by SOC groups, including cocaine, methylamphetamine and heroin. Fentanyl is also being pressed into tablets and capsules to mimic oxycodone formulations and other pharmaceuticals. The dangers posed by adulteration were underlined in Peru, where a recent mass overdose incident resulted in the deaths of 24 people after they consumed cocaine tainted with carfentanil. The veterinary substance xylazine is causing increasing fatal overdoses in the US when mixed with fentanyl, heroin, cocaine and methylamphetamine.

Australian illicit drug market snapshot

The following market snapshots provide background to commentary elsewhere in the submission.

Methylamphetamine

The majority of Australia's methylamphetamine, heroin and ketamine is sourced from South East Asia; with the majority of methylamphetamine imported from the Mekong region and Mexico. Domestic manufacture of methylamphetamine also remains robust, with consumption returning to long-term average levels. Methylamphetamine is the most significant drug in the Australian market, with more than 8.8 tonnes consumed in Australia in the 12 months to August 2021 (see Figure 2). Australians consumed more than 4.7 tonnes of cocaine (produced primarily in Colombia but sent from countries across the globe), 1.2 tonnes of MOMA (produced primarily in the Netherlands, Belgium and Germany) and 0.9 tonnes of heroin (produced primarily in South East Asia).

Cannabis

A range of data sources indicate that more cannabis is consumed in Australia than any other illicit drug (as it is across the world) and it accounts for the largest number of domestic seizures and the most drug-related arrests. Despite this, the market does not generate the harms of drugs such as methylamphetamine. In the 2021 SCORE comparison, Australia ranked 6th of 16 countries for cannabis consumption. The majority of cannabis in Australia is domestically cultivated. The SOC threat in relation to the cannabis market relates to organised hydroponic grow-houses and outdoor crops; and the overlap between organised cannabis cultivation and methylamphetamine and heroin trafficking. Large grow-houses on rural properties in multiple jurisdictions are also a tangible threat. Most of the cannabis market (perhaps as much as 70%) is not supplied by sophisticated SOC groups.

MDMA

MDMA consumption is now at record low levels nationally and has been decreasing since December 2019 (i.e. prior to the start of COVID restrictions). In Europe, there are reports that manufacturing is switching from MDMA to

methylamphetamine, which likely explains the domestic trend. In the 2021 SCORE comparison, Australia ranked 5th of 27 countries for MDMA consumption.

The vast majority of the MDMA consumed in Australia is imported (domestic manufacture continues but supplies a small component of the market). This makes the domestic market vulnerable and less resilient than the methylamphetamine market.

Cocaine

The ACIC assesses a succession of large cocaine seizures and detections over the past year possibly led to decreasing cocaine consumption. In the 2021 SCORE comparison, Australia ranked 15th of 26 countries for cocaine consumption.

Although cocaine is exclusively imported, the diversity of transnational groups represented in the market appears to give it greater resilience than the MDMA market.

Throughout 2022, there have been a series of large attempted importations of cocaine into Australia, which underlines the determination of SOC groups and the ongoing threat posed by this drug.

Heroin

The heroin market has occasional fluctuations but little has changed since the early 2000s. All heroin is imported, but the market appears to have a level of resilience despite relatively low consumption. The vast majority of Australia's heroin comes from the Mekong region of South East Asia.

GHB/GBL/1,4-butanediol (1,4-BD)

The GHB, GBL and 1,4-BD market appears to be growing. GHB, GBL and 1,4-BD have been implicated in a series of fatal and non-fatal overdoses. They are often consumed in very small doses, and even a small increase can cause an overdose. The substances have been used to facilitate sexual assault. Poly-drug consumption and supply is also a feature of GHB-related substances, particularly concurrent use of methylamphetamine.

GHB and GBL are controlled and border controlled drugs, but 1,4-BD is not currently a controlled substance at the border. SOC groups appear to be increasingly involved in this market, trafficking and importing all 3 substances and sometimes manufacturing them domestically. There are also many less

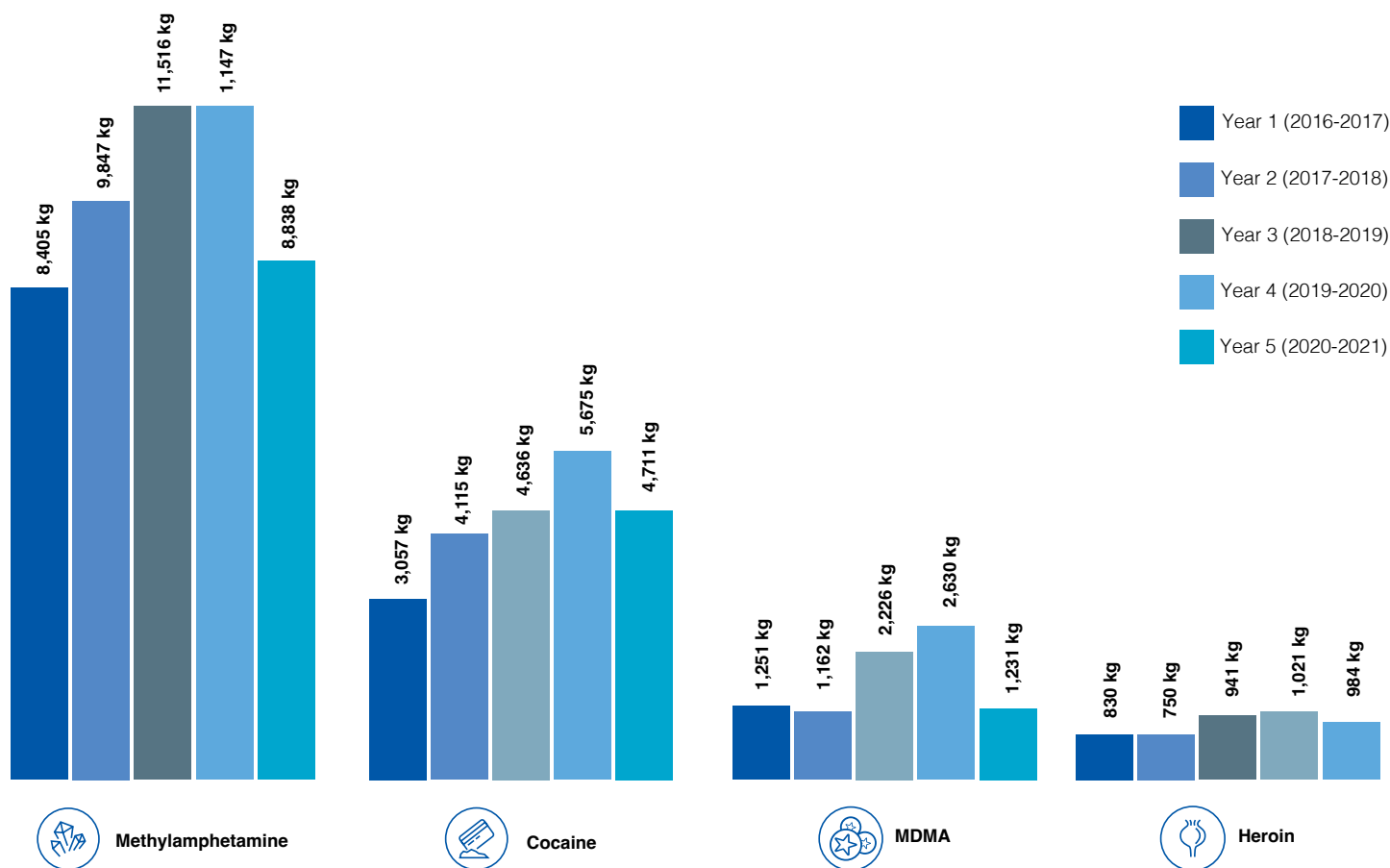


Figure 2: Estimated annual average consumption of methylamphetamine, cocaine, MDMA, heroin, Year 1 to 5 of the NWDMP. Source: NWDMP, Report ISiv.

sophisticated criminal enterprises and individuals importing or diverting the substances. SOC groups have sought to obtain the substances for illicit purposes under the guise of legitimate commercial transactions, including in very large quantities.

Law enforcement's ability to detect and respond to the trafficking of precursor chemicals and illicit drugs, including the adequacy of screening techniques and the impact of seizures on illicit drug availability and use

Law enforcement's ability to detect and respond to the trafficking of precursor chemicals and illicit drugs is challenged by the scale of the markets, the number and sophistication of SOC groups targeting Australia and the length and nature of Australia's border, which cannot be continuously monitored.

The fact that the 4 major illicit drugs are sourced from overseas and offshore networks control distribution to Australia, necessitates a focus on upstream supply chains.

In some cases, SOC groups collaborate on ventures and share

capabilities, amplifying their chances of success. SOC groups are also enabled by technology, which increases anonymity and obfuscation in addition to connecting individuals, professional facilitators and trusted insiders.

SOC groups involved in the importation and domestic trafficking of illicit drugs employ a range of methodologies to increase the success rates of their activity and limit law enforcement disruption. The exploitation of professional facilitators and trusted insiders has included facilitation of concealment of illicit goods, seeking to identify law enforcement activity, use of encrypted communications to avoid lawful interception by law enforcement, money laundering and concealment of criminal assets. Obfuscation methods used by SOC groups include deliberately mislabelling goods and concealing illicit drugs, or partially processed drugs, in other media including liquids, plastics and powders.

The variety of criminal methodologies demonstrates the resilience and adaptability of SOC and the need for a holistic and multi-dimensional response, supported by the ACIC's

criminal intelligence to identify emerging methodologies for partner agencies. Further, building relationships with the supply chain industry is important to understand where there may be weaknesses open to criminal exploitation by SOC.

Detecting and preventing diversion of chemicals and equipment

The illicit production of plant-based substances (primarily cocaine and heroin) relies on a number of known precursor chemicals, solvents and reagents used in common and well understood methods of production. In contrast, the illicit manufacture of synthetic drugs—in particular methylamphetamine—and the precursor chemicals required are changing and 'cooks' are employing new techniques or reviving older ones. There is an increasing trend in the use of non-scheduled chemicals, designer precursors and pre-precursors as alternatives to precursor chemicals in the manufacture of illicit drugs.

Tracking chemical flows is complicated by a lack of controls on many chemicals

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Drug	Estimated consumption ^a (kilograms per annum)	2019-20 national seizures (gross kilograms)	Percentage of total estimated consumption seized
Methylamphetamine	11,147	9,408 ^b	84
MDMA	2,630	3,214	122
Heroin	1,021	210	21
Cocaine	5,675	1,573	28

(a) Consumption estimates are based on data derived from Year 4 of the National Wastewater Drug Monitoring Program.

(b) At this time it is not possible at a national level to provide a further breakdown of drugs within the amphetamines category, as such national seizure figures reflect the weight of amphetamines seized. Amphetamines include amphetamine, methylamphetamine, Dexamphetamine and amphetamine not elsewhere classified. Based on available data methylamphetamine accounts for the majority of amphetamines seized

Table 1: Comparison of the weight of methylamphetamine, MDMA, heroin and cocaine seized nationally in 2019–20 and estimated consumption. Source: IDDR, 2019-20v.

that are dual use, made more difficult by the sheer volume and variety of chemicals imported into Australia.

Preventing the diversion of precursors, reagents and solvents for use in illicit drug manufacture is likely to be an effective and efficient way of limiting the domestic supply of illicit drugs. It is important to consider, as many of these substances have legitimate application within industry, that controls must balance legitimate access with efforts to reduce diversion to the illicit market.

Another area of focus is on monitoring equipment that is used in or facilitates manufacture, such as pill presses and encapsulating machines and their components, as well as glassware and heating mantles.

Different types of law enforcement intervention and their importance

ACIC intelligence insights, augmented by domestic and international law enforcement partners, in key areas, is helping to enable law enforcement disruptions and seizures:

- In November 2021, the head of a domestic Australian Priority Organisation Target network was arrested by the Australian Federal Police (AFP) following a multi-hundred-kilogram drug seizure in South East Asia. This outcome was the result of a 2-year joint AFP–ACIC investigation into the network, which provided criminal logistics, counterintelligence, encrypted communications devices and access to trusted insiders and drug manufacturing capabilities.

The ACIC is also increasingly leveraging its NWDMP by combining sampling with operational and intensive research activity by partners. This work is particularly effective in assisting law enforcement and other partners to focus on SOC groups targeting regional areas of Australia with relatively high per capita use of methylamphetamine and other drugs. Supply side interventions of this type, together with treatment and education programs that are focused on specific drugs are likely to provide an appropriately holistic response to drug threats in particular locations.

Wastewater analysis provides a measure of licit and illicit drug consumption within a given population. By reliably measuring drug consumption, wastewater analysis provides quantitative comparisons between levels of consumption and the extent of drug detections and seizures by law enforcement agencies. Comparisons of seizure and consumption data has shown that law enforcement is seizing a higher proportion of illicit drugs than previously thought.

Law enforcement interventions disrupt supply, creating windows of opportunity in which efforts to reduce user demand may be more likely to succeed. In the absence of law enforcement intervention, the relationship between illicit drug use and other criminal offending such as corruption, property crime, acts of violence and drug driving means that community and institutional harms will rise. There are a series of international examples of major drug-producing and

manufacturing countries suffering from a lack of effective law enforcement in all or key parts of the country. It is no coincidence that in a number of countries where law enforcement is less than effective, there are also resilient and sophisticated SOC groups that export drugs globally. Conversely, with appropriate forewarning from reliable intelligence, proactive measures can be implemented to reduce the demand and supply components of illicit drug markets and prevent markets from evolving.

Other criminality and harms linked to illicit drug suppliers

Due to the significant profits available through illicit drug trafficking, laundering criminal proceeds is a key enabler of illicit drug markets. Money laundering can take a variety of forms, often the profits are transferred offshore, or concealed through company structures, comingled with legitimate funds, used for the purchase of high value assets, often with assistance from professional facilitators. The concealment of the profits also means that SOC groups do not pay tax on proceeds of criminality.

The use of violence as a method to maintain control over drug trafficking markets, methods, profits and networks is common among SOC groups. AIC research has shown a statistical relationship between the violence used by OMCGs and involvement in ongoing criminal enterprises (eg the drug trade) ^{vi} Even groups which are sophisticated and collaborative will likely resort to violence under perceived threat or to

advance their interests. APOT level groups have been linked to violence and the threats of violence in order to control particular drug markets.

The AIC estimated that SOC cost Australia up to \$60.1 billion in 2020–21. Of that, the direct costs of illicit drug use and associated medical and lost output costs are estimated at \$16.5 billion^{vii}. As noted in the National Drug Strategy 2017–26, there are also serious, but non-quantifiable impacts of drug markets including the collateral damage to family relationships and social cohesion and volume crime by persons seeking to fund drug purchases or affected by drugs.

The involvement of law enforcement in harm reduction strategies and in efforts to reduce supply and demand including the effectiveness of its involvement

The level of community harm from illicit drugs is a function of the quantity of drugs consumed. As the supply of illicit drugs is reduced, and treatment and education programs reduce the demand for drugs, the level of community harm should fall. This is the fundamental premise which underpins Australia's National Drug Strategy (NDS) 2017–26.

It follows that supply reduction is an integral part of harm reduction. In addition to its involvement in decreasing supply, the ACIC also contributes to harm reduction efforts by other agencies by identifying areas of high consumption and working with other bodies to understand the nature and extent of the drug problem and the locations where consumption is highest. Partner agencies can then make informed decisions concerning resource allocation and investigative priorities. The ACIC routinely collaborates with health agencies across the Commonwealth and jurisdictions in the context of the NDS. There is also collaboration with industry to decrease capacity for harms posed by illicit drug manufacture and the diversion of chemicals and pharmaceuticals to the illicit market.

The ACIC has analysed the relationship between drug consumption data derived from the NWDMP for the 4 major illicit drugs and national drug seizure and detection data. This analysis revealed that law enforcement activities can result in measurable, short-term decreases in illicit drug consumption

for between 2 and 6 months, during which demand reduction initiatives could usefully be applied.

The NWDMP has found that with the exception of heroin and cocaine, consumption of drugs monitored by the Program is higher in regional areas than capital cities. The ACIC is increasingly utilising its NWDMP regional data in collaboration with state and territory law enforcement agencies and academic institutions to obtain a more granular appreciation of regional markets and to provide the evidence base for local multi-agency responses. Two police agencies made strategic decisions about the deployment of resources and coordination of targeting effort with other agencies in 2022 based on trends in regional drug consumption identified from wastewater analysis.

More than ever, it is necessary to maintain an appreciation of trends in drug markets to guide, focus and measure the effectiveness of demand and supply reduction strategies.

The strengths and weaknesses of decriminalisation, including its impact on illicit drug markets and the experiences of other jurisdictions

The issue of decriminalisation is a complex consideration and ultimately a legislative and policy matter for Government.

Effective drug policy reform requires all jurisdictions to work together to ensure the policy is holistic, co-ordinated and aligned to a national approach that addresses supply, harm and demand reduction. This will prevent SOC exploiting gaps and inconsistencies between jurisdictions to undercut regulated markets.

The ACIC monitors the impacts that changes in global drug policy and legislative reform has on the illicit drug market in order to understand the threat environment. In doing so, the ACIC notes the following:

- Use of illicit drugs increased after decriminalisation was introduced.
 - There are now 20 states of the US, as well as the District of Columbia, which have legalised cannabis consumption and, in these jurisdictions, cannabis is being used 24% more frequently than before the legalisation, and the use continues to rise.

- Since 2014, a number of Colorado and (US) national drug surveys have identified increased marijuana use in Colorado post-legalisation.
- There was a considerable increase in the number of drug related driving offences and similar increases in related harms.
 - A Colorado Department of Public Safety Report from July 2021, found that in the period since cannabis/marijuana was legalised, there has been a considerable increase in the number of drug related driving offences and similar increases in related harms in the state.
 - Driving under the influence (DUI) summonses issued by the Colorado State Patrol in which marijuana-alone or marijuana-in-combination was recorded increased by 120% between 2014 (n=684) and 2020 (n=1,508).
 - The number of fatalities with cannabinoid-only or cannabinoid-in-combination positive drivers increased 140%, from 55 in 2013 to 132 in 2019.^{viii}
 - High taxes and regulatory costs on legitimate suppliers enabled SOC to undercut the legal market with cheaper illicit drugs. In the US case the illicit market was also well entrenched and more efficient.
- Cannabis remains the second-most-valuable crop in the US after corn and it is the most common reason for arrest in America. California's illicit market is enormous and efficient and remains a cheaper source of supply than the highly taxed and regulated industry. In 2021, the state seized more than 1.2 million illegal cannabis plants and more than 180,000 pounds of processed marijuana.^{ix}

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In Australia, the Australian Capital Territory (ACT) introduced its cannabis decriminalisation legislation in January 2020 and in October 2022, separate ACT legislation decriminalised possession of specified amounts of drugs including methylamphetamine, cocaine, amphetamine and MDMA (1.5 grams) and heroin (1 gram) from late October 2023.

The 'personal use' quantities in the ACT legislation constitute multiple street deals. A comparison between street deals of the respective drugs and the quantities that are permitted for 'personal use' in the ACT is provided above (see table 2).

The ACIC assesses that overseas outcomes from decriminalisation of drugs will be reflected in the ACT. Already, the ACT experience of cannabis consumption post decriminalisation is mirroring that of overseas jurisdictions. Wastewater analysis indicates estimated cannabis consumption in the ACT was 22% higher in June 2022 than when the drug was decriminalised in January 2020 (see Figure 4).

Need for research into the primary reason for drug consumer (possession) arrests

One of the issues commonly raised in discussions of enforcement of drug offences is that law enforcement agencies are actively targeting drug users. The discrepancy between the number of consumer and provider arrests is often used as support for this hypothesis. The alternate view, borne out by law enforcement experience, is that law enforcement officers often detain people for offences other than drug offences and then locate drugs in their possession leading to drug-related charges. The ACIC submits that research could seek to

Drug	Personal Use Quantity	Street Deals
Methylamphetamine	1.5	15
Amphetamine	1.5	15
Cocaine	1.5	7
MDMA	1.5	5
Heroin	1.5	5
Cannabis	50 (dried and 150 (fresh)	50 (dried)

Table 1

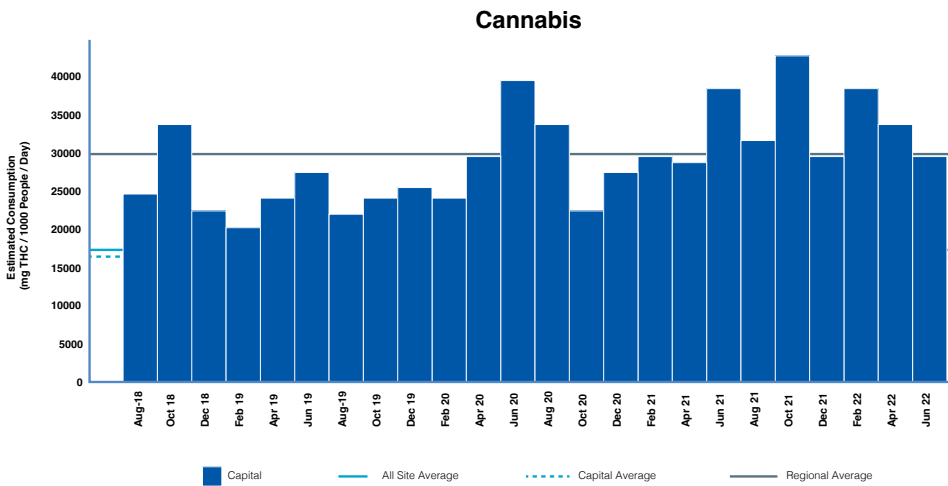


Figure 4: Cannabis consumption in the ACT, August 2018 to June 2022. Source NWDMP, Report 17 x.

clarify this issue by examining the proportion of people arrested for possession of illicit drugs who are concurrently charged with another criminal offence, and who would not have come to law enforcement attention but for the concurrent (non-

drug related) offence. Research of this type would increase understanding of the nature and extent of drug related offending and consider the discretion exercised and action taken by law enforcement officers in relation to drug offences.

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Ecstasy and Related Drugs Reporting System 2022-ACT

UPOROVA, J., PEACOCK, A. & SUTHERLAND, R. (2022)

Australian Capital Territory Drug Trends 2022:

Key Findings from the Ecstasy and Related Drugs Reporting System (EDRS) Interviews. Sydney: National Drug and Alcohol Research Centre, UNSW Sydney.

Executive Summary

The Canberra, Australian Capital Territory (ACT) EDRS comprises a sentinel sample of people who regularly use ecstasy and other illicit stimulants recruited via social media, advertisements on websites and via word-of-mouth in Canberra, ACT. The results are not representative of all people who use illicit drugs, nor of use in the general population. Data were collected in 2022 from April-July. Interviews in 2020, 2021 and 2022 were delivered face-to-face as well as via telephone, to reduce the risk of COVID-19 transmission; all interviews prior to 2020 were conducted face-to-face. This methodological change should be factored into all comparisons of data from the 2020-2022 samples, relative to previous years.

Sample Characteristics

The EDRS sample (N=100) recruited from Canberra, ACT, were predominantly a young (although older than seen in previous years), educated group, with

slightly more participants identifying as male (53%) than female (42%). This is largely consistent with the sample profile in 2021, and in previous years, although median age has been increasing over time. Cannabis and ecstasy were the most common drugs of choice (21% and 20%, respectively). There was a significant change in the drug most often used in the past month between 2021 and 2022 ($p=0.039$). Specifically, there was an increase in participants reporting alcohol (25% versus 15% in 2021) as the drug used most often in the past month and fewer reporting ecstasy ($n \leq 5$ versus 13% in 2021).

Ecstasy

The ecstasy market has diversified over the past few years. Recent (i.e., past six months) use of ecstasy pills have declined since 2013, with 28% of the sample reporting use in 2022, the lowest per cent throughout monitoring. Despite capsules remaining the most commonly used form of ecstasy, recent use significantly decreased from 76% in 2021 to 52% in 2022 ($p<0.001$). Indeed, recent use of 'any' ecstasy declined significantly in 2022 (87% versus 98% in 2021; $p=0.005$) to the lowest per cent observed. However, frequency of use of any form of ecstasy remained stable in 2022 relative

to 2021 (i.e., equivalent to monthly use), although lower compared to previous years. There was a significant change in the perceived availability of crystal ($p=0.001$) and capsules ($p<0.001$), with an increase in the per cent perceiving these forms to be 'difficult' to obtain in 2022 compared to 2021 (42% versus 29%, and 52% versus 24%, respectively). Although not significant, the highest per cent reported pills and powder to be 'difficult' or 'very difficult' to obtain.

Methamphetamine

Use of methamphetamine had been declining, with the lowest per cent (15%) reporting any recent use in 2020. However, recent use increased in 2022 (39%), returning to similar levels of use observed in 2014-2019. This was largely driven by an increase in recent crystal methamphetamine use (31%). Frequency of crystal methamphetamine use was reported at a median of 24 days (i.e., equivalent to weekly use), the highest median days recorded since monitoring began. There was a significant change in the perceived availability of powder and crystal methamphetamine ($p=0.030$ and $p=0.038$, respectively). More participants perceived both forms to be 'easy' and 'very easy' to obtain in 2022 relative to 2021.



Cocaine

In 2021, the highest per cent reported recent use over the course of monitoring (91%). In 2022, use declined, with three-quarters (76%; $p=0.007$) reporting recent use, similar to levels observed in 2018-2019. Recent use remained infrequent (6 median days), however, 17% of participants who had recently used cocaine reported weekly or more frequent use. The median price for a gram of cocaine has been \$300 since 2006. The perceived purity and perceived availability of cocaine remained stable between 2021 and 2022.

Cannabis and/or Cannabinoid Related Products

At least three in four participants have reported any recent use of non-prescribed cannabis and/or cannabinoid related products each year (81% in 2022; noting some changes in question wording). The median price for an ounce of bush cannabis increased from \$220 in 2021 to \$250 in 2022 ($p=0.027$). The perceived purity and availability of non-prescribed cannabis remained stable between 2021 and 2022.

Ketamine, LSD and DMT

Recent use of ketamine, LSD and DMT has fluctuated over the period of monitoring. In 2022, two-fifths (39%) of participants reported any recent ketamine use, stable from 2021 (51%). Recent use of LSD also remained stable in 2022 (31%; 45% in 2021), although there was a significant decrease in frequency of use, from three median days in 2021 to two median days in 2022 ($p=0.023$). There was a significant change in the perceived availability of LSD in 2022 relative to 2021 ($p=0.004$). More participants

perceived LSD to be 'very difficult' to obtain compared to 2021 (22% versus $n\leq 5$ in 2021). In 2022, one in ten (9%) participants reported recent use of DMT, stable from 18% in 2021.

New Psychoactive Substances (NPS)

Nine per cent reported recent use of at least one form of NPS (including plant-based NPS) stable relative to 18% in 2021. Few participants ($n\leq 5$) reported any individual NPS use.

Other Drugs

Half (50%) of the sample reported recent non-prescribed pharmaceutical stimulant use, the highest per cent observed, although stable from 41% in 2021. There was a significant decrease in GHB/GBL/1,4-BD use from 17% in 2021 to 6% in 2022 ($p=0.027$). In 2022, the lowest per cent reported recent use of alcohol (86%) and tobacco (68%). Although recent non-prescribed e-cigarette use remained stable between 2021 and 2022 (67% and 57%, respectively), frequency of use increased from a median of 30 days in 2021 to 120 median days in 2022 ($p=0.001$). Recent use of nitrous oxide also remained stable between 2021 and 2022, however, an increase in frequency of use was observed from 4 days in 2021 to 11 days in 2022 ($p=0.013$).

Drug-Related Harms and Other Behaviours

On the last occasion of ecstasy or related drug use, 79% of participants in 2022 reported concurrent use of two or more drugs. Twenty-nine per cent reported that they had tested the contents of their illicit drugs in the 12 months preceding interview. There was a significant decrease in the mean

AUDIT score in 2022 relative to 2021 (11.6 versus 13.1 in 2021; $p<0.001$). Eleven per cent of the sample reported a non-fatal stimulant overdose and one-fifth (17%) a non-fatal depressant overdose (including alcohol) in the 12 months prior to interview, stable relative to 2021 (15% and 21%, respectively). Nine per cent of participants reported that they were currently in drug treatment. Seventy per cent reported engaging in some form of sexual activity in the past four weeks, of which 28% reported penetrative sex without a condom where they did not know the HIV status of their partner. Mental health problems in the preceding six months were self-reported by 67%, most commonly anxiety and depression. Among recent drivers, 21% reported recently driving while over the (perceived) legal limit of alcohol, whereas 58% reported recently driving within three hours of consuming an illicit or non-prescribed drugs. Past month drug-dealing (20%) and property crime (13%) remained the two main forms of past month criminal activity in 2022. The most popular means of participants arranging the purchase of illicit or non-prescribed drugs in the 12 months preceding interview was in person (68%) and via social networking applications (68%). Significantly more participants obtained their drugs face-to-face in 2022 than 2021 (97% versus 86% in 2021; $p=0.009$). In 2022, 95% of the sample had been tested for SARS-CoV-2, with 57% of participants having been diagnosed with COVID-19 in the past 12 months. Two-thirds (68%) reported that they were 'not at all' worried about contracting COVID-19, and most (91%) had received at least one dose of the COVID-19 vaccine.



Illicit Drug Reporting System 2021-ACT

UPOROVA, J., PEACOCK, A. & SUTHERLAND, R. (2022)

Australian Capital Territory Drug Trends 2021:

Key Findings from the Illicit Drug Reporting System (IDRS) Interviews. Sydney: National Drug and Alcohol Research Centre, UNSW Sydney.

Executive Summary

The Australian Capital Territory (ACT) IDRS sample comprises a sentinel group of people aged 18 years or older who injected illicit drugs at least once monthly in the preceding six months and resided in Canberra, ACT. Participants were recruited via advertisements in needle syringe programs (NSP) and other harm reduction services, as well as via peer referral. The results are not representative of all people who use illicit drugs, nor of use in the general population. **In 2021, data were collected in June: there were no COVID-19 restrictions on travel and gatherings in Canberra thus all interviews were delivered face-to-face. In contrast, all interviews in 2020 were conducted via telephone, and this change in modality should be factored into all comparisons of data from the 2020 sample relative to other years.**

Sample Characteristics

The IDRS sample recruited from Canberra, ACT in 2021 was relatively

consistent with samples recruited in previous years. There was a significant change in gender identity ($p=0.041$), with more male participants in 2021 (70%) than 2020 (55%), however age remained stable at a mean of 44 years) The majority (88%) reported being unemployed at the time of interview and most (98%) received a government pension/allowance or benefit in the month prior to interview, similar to previous years. There was a significant difference in participants' drug of choice in 2021 compared to 2020 ($p=0.007$), with fewer participants nominating heroin as their drug of choice in 2021 (46% versus 69% in 2020) and more participants nominating methamphetamine as their drug of choice (40% versus 20% in 2020). Similarly, there was a significant change in the substance injected most often in the past month, with fewer participants nominating heroin as the substance injected most often in the past month (49%; 66% in 2020), and more participants nominating methamphetamine (47%; 31% in 2021).

COVID-19 Impact

In 2021, 35% of the ACT sample had been tested for SARS-CoV-2 in the 12 months prior to interview, although no one had been diagnosed with the virus. The

majority (72%) of participants were 'not at all' worried about contracting COVID-19. Six per cent had received at least one dose of the COVID-19 vaccine at the time of interview.

Heroin

At least seven in ten participants have reported any recent use of heroin each year since monitoring began, with 78% reporting recent use in 2021 (85% in 2020). Frequency of use significantly decreased, from a record high of a median of 165 days in 2020 to 72 days in 2021, returning to levels similar to 2019. The median price for one gram of heroin was stable at \$320. There was a significant change in the perceived purity of heroin ($p=0.004$), with more participants perceiving heroin to be of 'medium' purity in 2021 (32% versus 12% in 2020) and fewer participants perceiving it to be of 'low' purity (38% versus 61% in 2020). Availability of heroin remained stable compared to 2020.

Methamphetamine

Recent use of any methamphetamine has remained relatively common over time, with 75% of participants reporting recent use in 2021 (65% in 2020). This mostly comprised use of methamphetamine crystal (74%),



with just over one-in-ten reporting use of powder methamphetamine (13%). In 2021, participants reported using methamphetamine on a median of 72 days, a non-significant increase from 47 days in 2020. The median price for one point (0.10 grams) of crystal methamphetamine decreased significantly from \$100 in 2020 to \$50 in 2021, similar to the price reported in 2017-2019. There were significant changes in the perceived purity ($p=0.005$) and availability ($p<0.001$) of crystal methamphetamine between 2020 and 2021, with more participants perceiving purity as 'high' in 2021 (35%; 11% in 2020) and more people perceiving it to be 'very easy' to obtain (48%; 16% in 2020).

Cocaine

Historically, recent use of cocaine has typically been reported by one-in-five or fewer participants in the ACT sample. In 2021, 16% of the sample reporting using cocaine on a median of two days in the past six months. Injecting and snorting were reported as the most common routes of administration, similar to previous years.

Cannabis

At least three-in-four participants have reported recent use of cannabis each year since monitoring began (75% in 2021). Three-fifths (63%) of participants who had recently used cannabis reported daily use. The price for a gram of bush and hydroponic cannabis remained stable at \$20. Hydroponic cannabis was mostly perceived to be of 'high' potency in 2021 (52%), whereas cannabis was perceived to be of 'medium' potency (50%), both stable

from 2020. The perceived availability of bush and hydroponic cannabis also remained stable in 2021, and were largely perceived as being 'easy' or 'very easy' to obtain.

Pharmaceutical Opioids

Methadone was the most commonly used non-prescribed opioid in 2021 (14%), followed by fentanyl (10%), morphine (9%) and buprenorphine-naloxone (9%). There were no significant changes between 2020 and 2021.

Other Drugs

New psychoactive substance (NPS) use was reported by one-in-ten participants (12%). The most commonly used NPS were 'new' drugs that mimic the effects of cannabis (12%). In 2021, recent use of non-prescribed benzodiazepines decreased relative to 2020 (24% versus 38% in 2020; $p=0.047$), largely driven by a decrease in the recent use of alprazolam (9% versus 20% in 2020; $p=0.045$). In 2021, 11% reported past six month use of GHB/GBL/1,4-BD. The per cent reporting tobacco use remained high and stable (93%) and recent use of alcohol was reported by 57% of participants. Almost one-quarter (23%) of participants reported recent use of e-cigarettes, mostly containing nicotine (86%).

Drug-Related Harms and Other Associated Behaviours

Nearly all participants reported using one or more drugs on the day preceding interview (99%). Just over one-in-ten participants (13%) reported overdosing on any drug in the preceding year, most commonly heroin (6%) and stimulants (6%). Ninety-six per cent of participants had heard of naloxone, 88% had heard

of the take-home naloxone programs and nearly three-fifths (58%) had been trained in naloxone administration. Eleven per cent reported distributive sharing and small numbers ($n\leq 5$) reported receptive sharing of needles/syringes in the past month. One-fifth (18%) of the sample reported any past month injection-related health problems in 2021, stable from 2020 (24%). There was a significant decrease ($p=0.009$) in the per cent of participants who reported current drug treatment (52%; 71% in 2020), mostly driven by a decline in methadone treatment (36%; 52% in 2020). Nearly two-thirds (64%) of participants reported receiving a hepatitis C antibody test in the past year, and just over half (52%) had received a PCR or RNA test. One-in-ten participants reported having a current HCV infection (10%). The majority (87%) reported having an HIV test in their lifetime (44% within the past six months). Two-fifths (42%) of the sample reported experiencing a mental health condition in the past six months, most commonly depression and anxiety. One-fifth of the sample (19%; 86% those who had recently driven a vehicle) reported driving within three hours of consuming an illicit or non-prescribed drug in the last six months. In 2021, one-in-six participants (14%) reported that they or someone else had tested the content and/or purity of their illicit drug(s) in Australia in the past year. One-quarter (26%) reported past month criminal activity, with selling drugs for cash profit (18%) and property crime (13%) remaining the most common crimes. In 2021, 61% of the sample reported a lifetime prison history, and just over one-quarter (28%) reported being arrested in the past 12 months.



Prime Minister of Australia
Federal Member for Grayndler

Anthony Albanese MP

**I want to wish all our police a Merry Christmas
and a safe and happy New Year.**

It is when we are in our time of most need and vulnerability that we turn to our police for strength, support, and safety. The contribution you make to our community is monumental, and as we head into a new year I want to thank you again for your service, courage, and commitment in the face of great challenges.

Once again, Merry Christmas and a very happy New Year.



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ACT Drug Law Reforms

Overview of changes

- Changes to the ACT's Drugs of Dependence legislation come into effect on 28 October 2023.
- The changes mean maximum penalties for possessing small amounts of some illegal drugs for personal use have been reduced.
- The reforms aim to divert people who use drugs away from the criminal justice system and encourage them to access health services.
- Small quantities of drugs found on a person may attract either diversion to a health education and information session, or the option of paying a \$100 fine.
- It's important to know that the ACT is not legalising illicit drugs. Drug use is not safe or encouraged, and police will still confiscate illicit drugs if found on a person. It will still be illegal for a person to drive with any level of illegal substances in their system.
- The ACT takes a strong stance against drug trafficking and drug dealers. Possession of larger amounts of the drugs covered by the legislation, or any amount of drugs other than those listed below, will still attract higher fines and potential prison sentences.
- The legislation will be independently reviewed after two years of operation.

Quantities and types of illicit drugs included in the changes

Drug	Small quantity
Amphetamine	1.5g
Cocaine	1.5g
Methylamphetamine ('ice' or 'meth')	1.5g
Cannabis (dried)*	50g
Cannabis (harvested cannabis)*	150g
Heroin	1g
Lysergic acid	0.001g (or 5 DDU)**
Lysergide (LSD, LSD-25)	0.001g (or 5 DDU)**
Psilocybine ('magic mushrooms')	1.5g

*Note only those aged under 18 can be given a Simple Drug Offence Notice for possession of small amounts of cannabis. There are no penalties for low-level adult possession of cannabis.

**There is a discrete dose unit (DDU) for MDMA, lysergide and lysergic acid which are often packaged as a single dose, for example, capsules or tablets. This means you can be eligible for a diversion if you have

no more than 5 MDMA, lysergide or lysergic acid doses, such as capsules or tablets.

If an individual has 2 different types of eligible illicit drugs, they may be eligible for an SDON if they have no more than 100 per cent of the small quantity limit of each drug.

If they carry smaller amounts of multiple drugs which add up to no more

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than 200 per cent of a small quantity limit, they may still be eligible for an SDON.

For example, 1.5g is the small quantity for amphetamine, cocaine and MDMA. A person may be eligible for an SDON if they had:

- 1.5g of amphetamine (100 per cent of the small quantity amount);
- 0.75g of cocaine (50 per cent of the small quantity amount); and
- 0.75g of MDMA (50 per cent of the small quantity amount).

However, if they had the same amount of amphetamine and cocaine as above, but 0.9g of MDMA (60 per cent of the small quantity amount), they may face up to 50 penalty units and/or 6 months imprisonment.

If the person is under 18, small quantities of cannabis are included in this calculation. If the person is 18 or over, small quantities of cannabis are not included in this calculation.

What is changing

- Maximum penalties for possessing small amounts of some illegal drugs for personal use have been reduced.
- Small quantities of drugs found on a person may attract either diversion to a health education and information session, or the option of paying a \$100 fine.
- If the person does either of these things, no further action will be taken.
- If you are in possession of drugs and charged with other offences, it is likely that you will be charged with drug possession offences at the same time – you will not be referred to a health session or issued a fine.
- If the matter goes to court, a \$160 fine can be issued, with a potential criminal conviction.
- In most instances, police will seek to divert or fine an individual however police will retain the power to summons or arrest an individual to appear before a court, particularly when other offences are involved.

What is not changing

- The listed drugs are still illegal and drugs will still be confiscated.
- It will still be illegal for a person to drive with any level of illegal substances in their system.
- These changes do not affect the 2020 cannabis reforms. Rules

about cannabis, including personal possession limits and the number of plants that a person can grow, will still apply and be enforced.

- If a person is in possession of drugs and charged with other offences at the same time, it is likely they will be charged with drug possession offences alongside the other offences rather than referred to Canberra Health Services or issued a fine.
- Possession of large amounts of these drugs (above the new 'small quantity' thresholds but below drug trafficking limits) will still attract higher fines (up to \$8,000) and potential prison sentences of up to 6 months (reduced from 2 years).
- It will still be illegal to supply and manufacture drugs. Penalties for these offences will not change.

The process when someone is found with a small amount of drugs

- Police will confiscate the drugs and take them away to test and weigh them. This will inform police if someone is eligible to receive a Simple Drug Offence Notice.
- In most instances, police will then refer them to the Canberra Health Services (CHS) diversion service.
- The CHS diversion service will contact the person and set up a time for the health session.
 - Once the person has attended a session, police will be advised and will take no further action.
 - The person does not get a Simple Drug Offence Notice or a criminal record at this time, but their details will be in the police internal system.
- If the person does not satisfy the drug diversion or requests a fine, CHS will advise police.
- If eligible, police may issue a Simple Drug Offence Notice.
- To satisfy the Simple Drug Offence Notice, the following must be completed within 60 days:
 - The person can then pay the fine via the Access Canberra website, over the phone or in person; or
 - If the person decides they don't want to pay the SDON, they can contact Canberra Health Services to complete a health session. Once the person has attended the session there will then be no further action.

The health session

- The session is a one-off 1-hour assessment with Canberra Health Services, either face-to-face or via telehealth where appropriate.
- The session involves a health assessment to assess your well-being and to identify any need for support or early intervention relating to problematic drug use. Staff provide assessment, education around harm minimisation and assist in creating external referrals if needed or necessary to further support you.
- The session provides harm minimisation information in relation to drug use. It is useful even if you continue to use drugs. The session helps to identify whether you have a health issue and gives you information to support your health and wellbeing.

Purpose of the reforms

- The ACT Government is committed to a harm minimisation approach to the use of alcohol, tobacco and other drugs.
- These changes aim to reduce the harm associated with illegal drugs with a focus on diversion and access to treatment and education.
- By diverting people to a drug diversion program, people who use drugs will be offered the health services and support they need while providing a pathway away from the criminal justice system.
- Providing people who use alcohol and/or other drugs with access to safe, appropriate, and affordable services and support is a key to the ACT Government's harm minimisation approach.
- The reforms aim to reduce the potential long-term negative impacts for all Canberrans, particularly young people, of getting a criminal conviction for a minor drug possession offence, for example on employment prospects.

ACT Government approach to reforms

- This reform has been supported by extensive consultation and input from policy experts, local and national alcohol and other drug sector advocates, service providers, ACT Government Directorates and ACT Policing.

- The ACT Government is committed to ongoing work in drug policy with our valued community sector partners.
- Research indicates that rates of drug use are not strongly linked to levels of punishment for personal possession, however the Government will carefully monitor drug trends following the changes.
- The legislation will be independently reviewed after two years of operation.
- The ACT Government invests more than \$26 million each year in specialist alcohol, tobacco and other drug treatment and support services.
- Police can still intervene if a person under the influence of drugs is behaving in a dangerous or threatening manner.
- Police can still prosecute people for other offences that occurred at the same time as the drug possession offence.
- Under the Liquor Act a person is considered intoxicated if their speech, balance, coordination, or behaviour is noticeably affected and it is reasonable in the circumstances to believe it is the result of the consumption of liquor, drugs, or a combination of both.
- The Liquor (Intoxication) Guidelines 2017 (No 1) provide practical guidance to licensees and their employees about the signs of intoxication, ways to reduce incidence of intoxication, and what to do if someone demonstrates signs of intoxication.
- Venues can also contact Access Canberra for general RSA and other questions at complianceandinvestigations@act.gov.au.

Information for businesses and licensed venues

- Nothing changes for licensed venues under the reforms.
- These changes do not affect how clubs and venues manage their patrons.
- It is still illegal to take any level of drugs in a public club or venue and anyone doing so can be instructed to leave by management.

Information for community groups and organisations

- The ACT Government is working with community service providers to provide information on the changes to their clients.

If you are a community service organisation and require more information, contact ATODPolicy@act.gov.au.

Support services

- If you need support in relation to your drug use, please call the National Alcohol and Other Drug Hotline on 1800 250 015.
- You can also access information on treatment and support services on the ATODA directory or from Canberra Health Services.
- The Canberra Alliance for Harm Minimisation and Advocacy (CAHMA) provides peer support and tailored harm reduction advice for people who use drugs and drug treatment services.

Merry Christmas

I wish all our police officers, emergency workers and first responders a very happy and safe Christmas and New Year.

Christmas is a time when we give thanks for the things we hold dear in life, be it our family, our friends, our faith and our great fortune to live in the best country in the world.

The service and sacrifices of our police officers are the reasons why Australians have orderly streets, safe communities and criminals brought to justice.

This Christmas, I pay particular tribute to the families, friends and colleagues of our brave police officers who tragically lost their lives while on duty this year.

I also acknowledge the many officers who will be away from their own families on duty over the holiday period and looking out for all Australians. We can relax because you never do.

Thank you for all that you do and epitomising the very best of the Australian character.

The Hon Peter Dutton MP

Leader of the Opposition
Federal Member for **Dickson**

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A major push from the ACT government to decriminalise the use of illicit drugs in small quantities has sparked anger from police, who believe the shake-up will only attract more crime to the territory.

Police criticise move by ACT to decriminalise use of cocaine, heroin and ice

A major push from the government to decriminalise the use of illicit drugs in small quantities has sparked anger from police.

JACK EVANS

news.com.au

A major push from the ACT government to decriminalise illicit drugs in small quantities has sparked anger from police, who believe the shake-up will only attract more crime to the territory — that they claim will become a “fantasy land” for drug users.

Law enforcement in the nation’s capital say the new laws will increase in drug intake and gang activity, running counter to many drug experts who say decriminalisation will lead to a decrease in the number of people using dangerous substances.

The radical drug law changes kicked in from October, with ACT set to become the first Australian jurisdiction to decriminalise the use of ice, heroin and cocaine.

AFP Deputy Police Commissioner Neil Gaughan said the changes would lure recreational drug users into Canberra and spark an increase in drug-related deaths.

“We will be seizing drugs and if anyone has anything that looks slightly more than what’s allowed, we will lock them up for supply,” Mr Gaughan said on Monday.

Under the new laws, people caught with decriminalised amounts of drugs such as 1.5g of cocaine, meth and MDMA, or 1g of heroin, will be hit with a \$100 fine.

Laws were passed in the Territory’s parliament in December after legislation was introduced by the ACT’s Labor-Greens majority government.

The deputy commissioner said it would be “naïve not to think people won’t come down, even for a weekend, to get on the coke and not worry about the cops”.

Curtin University’s National Drug Research Institute professor Nicole Lee said there was no academic evidence to show that decriminalisation would lead to a “honey pot effect”.

“All that is shifting is that we’re moving people out of the criminal justice system and pushing them more towards the health system,” Dr Lee said.

“We also have to keep in mind that 43 per cent of the Australian population have tried an illicit drug in their lifetime, and 10 per cent have used recently, so drugs being illegal doesn’t really stop people using them.”

There are also fears fentanyl, a potent drug that is ravaging the United States, could soon “annihilate” Australian communities.

Since 2019, the Australian Federal Police has been instrumental in preventing 29 kilograms and an estimated 5.5 million lethal doses of fentanyl from hitting Australian streets.

However, decorated AFP member and head of the Australian Federal Police Association, Alex Caruana, says the

threat of such hauls slipping through the cracks is perilously real.

He says domestic and international crime syndicates are watching Australia's policing closely.

"While 30kg doesn't seem like a lot, that's a lot of lethal doses out there that could have killed a lot of Australians," he told news.com.au.

"If it was made in a backyard or a shoddy shed, that figure of lethal doses is likely to increase significantly."

Mr Caruana said policing a Schedule 8 drug (pharmaceutical) presents nuanced challenges which outright illicit drugs don't, though the focus remains on cutting off supply lines before either even hit Australian shores.

"We invest in disrupting these crimes before it gets to the country ... once it gets to the country then, we're putting a larger number of Australians at risk," he said.

Not only is the potent opioid dangerous for those who seek to use it, it can be deadly for the countless customs and police officers who ultimately deal with it at the borders.

"It's well known that when fentanyl powder becomes airborne, people react to it differently," Mr Caruana explained.

"So you might only need to inhale a very small amount, I'm talking much less than a gram, for it to be lethal for you."

A startling claim, however, is that the threat of illegal fentanyl entering the country isn't borne just from the criminals moving it, but also from the allocation of police funding and resources domestically.

"So the AFP are investing a lot of time and resources overseas to disrupt the crime at the source," Mr Caruana explained.

"But without the correct funding, without the appropriate resources, we obviously can't do that."

In recent years, the abuse of opioids has become a significant public health concern.

One of the most potent opioids is fentanyl, which is about 80 to 100 times stronger than morphine.

Fentanyl is prescribed for chronic pain, severe cancer pain, nerve damage, back injury, major trauma, and surgery.

The Alcohol and Drug Foundation reports that from 2001 to 2021, there were 833 deaths in Australia related to fentanyl.



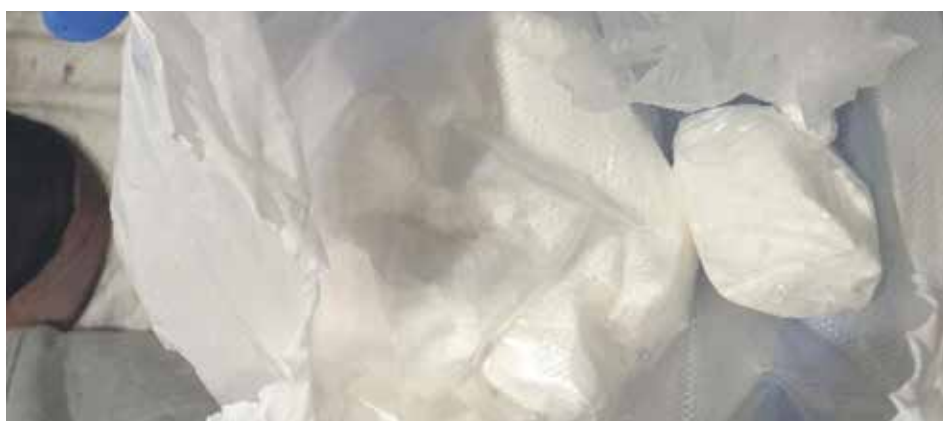
Under the new laws, people caught with decriminalised amounts of drugs such as 1.5g of cocaine, meth and MDMA, or 1g of heroin, will be hit with a \$100 fine.



AFP Deputy Police Commissioner Neil Gaughan said the changes would lure recreational drug users into Canberra and spark an increase in drug-related deaths.



There are warnings of Canberra being hit by drug problems similar to those seen in the US. Picture: Telemedellin/TikTok



Since 2019, the Australian Federal Police has been instrumental in preventing 29 kilograms and an estimated 5.5 million lethal doses of fentanyl from hitting Australian streets.



The New Drug Reality in Canberra

The possession of ‘small amounts’ of several types of illicit drugs, has been decriminalised in the Australian Capital Territory (ACT).

BY JASON BYRNES APM

This move represents the most significant change in illicit drugs policies in the country, in a century. The full ramifications for the Canberra community are unable to be accurately predicted.

In a first for any Australian jurisdiction, police no longer have the option to prosecute people under Territory laws for the possession of the drugs. Instead, police are encouraged to direct the person to a government-approved drug diversion program, issue a caution or issue a \$100 fine. The drugs are to be seized and destroyed.

The decriminalised drugs (and amounts) are amphetamines (1.5 grams), cocaine (1.5 grams), methamphetamines (1.5 grams), MDMA (1.5 grams), heroin (1 gram), cannabis (50 grams), psilocybin (1.5 grams) and LSD (0.001 grams). The penalty for the personal possession of illicit drugs not included in the list, has been reduced to six months. The trafficking of these drugs will remain an offence under ACT law; possession

of all the above remains illegal under Commonwealth legislation.

The ACT Labor/Greens coalition government voted for the changes to the *Drugs of Dependence Act* in the Legislative Assembly in October 2022. At the time, ACT Health Minister Rachel Stephen-Smith said the government acted on health advice: ‘The ACT has led the nation with a progressive approach to reducing the harm caused by illicit drugs with a focus on diversion, access to treatment and rehabilitation and reducing the stigma attached to drug use.’

This year, Stephen-Smith told a Labor Party conference her government was able to ‘quickly’ pass the legalisation by having a backbencher introduce a private member’s bill. This meant the Labor Party didn’t have to fully thrash out the pros and cons of the proposal through government deliberations – a process Stephen-Smith stated involves ‘risk aversion’ and ‘complexity’ on the part of government agencies.

When the private member’s bill was debated in the Assembly in 2022, ACT Liberal Party deputy leader Jeremy Hanson was critical: ‘It’s not going to change the number of people going into the criminal justice system, and it’s not going to fix the problem that we have now which is not enough people being able to access treatment. ... It’s going to lead to more crime. It’s going to lead to more carnage on our roads.’

Both the Australian Federal Police (AFP) and the Australian Federal Police Association (AFPA) have broadly supported the general concept of harm minimisation, including the operation of a government pill testing facility in Canberra City, but have frequently expressed reservations and concerns about the practical realities of the impacts of this model of decriminalisation on the community.

In February 2022 AFP Commissioner Reece Kershaw APM appeared before a Senate committee and was asked



about the risks of decriminalisation of drugs and the impact on frontline workers. He responded: 'My view would be that it would be a far more dangerous environment to police. ... It would become a more dangerous society and it wouldn't be as safe as what we are enjoying today. For me it would lead to chaos.'

When asked by a senator about whether there is a safe level of decriminalisation or legalisation of drugs, the Commissioner said: 'My own experience, as I said, is that I was able to experience it in different countries and look at the different models. Of course, we're always open to different strategies, but so far the evidence is not stacking up that decriminalisation necessarily leads to less crime.'

The AFP unsuccessfully sought to exclude methamphetamine ('ice') from the legislation. The amount of 1.5 grams equates to a dozen-or-so doses. AFP Deputy Commissioner (and ACT Chief Police Officer) Neil Gaughan APM, told the media in August 2022: 'methamphetamine, in our view, is the most dangerous drug in the community. We see it as a violent drug. We very rarely come across people who are affected by ice who aren't involved in some other sort of criminality'. In October 2022, Deputy Commissioner Gaughan stated 'I'm worried we're almost enabling addiction and the criminality that's often behind that.'

A 12-month implementation timeframe for the new laws was set by the ACT Government, so government agencies

could prepare. The legislative assembly committee which recommended decriminalisation, found the alcohol and other drugs support system in the territory – the sector expected to take up the lion's share of responsibilities in the new arrangement – was underfunded and lacked significant availability to users. There was also the need to significantly increase training for staff in the health and social services sectors. Other areas that required attention included refining the process of managing drug diversion programs and implementing systems to ensure fines are paid.

There is general agreement decriminalisation will lead to an increase in consumption. Wastewater analysis undertaken by the Australian Criminal Intelligence Commission demonstrated an increase in the consumption of cannabis in the Territory, after laws were changed in 2020 to decriminalise the possession of a small amount of the drug. Those cities overseas that have decriminalised hard drugs, have seen rises in drug usage rates and attendant social problems. There is absolutely nothing to suggest similar results won't occur in the ACT.

Drug tourism and an increase in the presence of drug-related organised crime have both been flagged as a potential offshoot of the new laws. Of particular concern to many is the impact of the laws on road safety. A high proportion of serious crashes in the ACT involve drivers who had recently consumed the types of drugs now decriminalised – especially ice.

Logic dictates the numbers of vehicle crashes will rise, as will the percentage of crashes where drugs are a contributing factor. The only uncertainty is the number of innocent victims involved in these future crashes who will be injured or worse.

International experience has demonstrated the criticality of comprehensive and well-resourced education initiatives, health/drug treatments, domestic violence support, housing and family support arrangements. Portland, Oregon, USA, is an example of a dysfunctional decriminalisation framework where opioid overdoses and associated deaths are on the rise. In Portland, few drug users actively seek treatment alternatives and there has been a marked increase in homelessness, property crime and crimes of violence. Porto, Portugal has been championed by many drug reform advocates as being a success story. Recent reporting suggests widespread visible drug usage in public places, resource starved support services, police hobbled by lax legislation, and a community questioning whether the idea was worthwhile.

It's impossible to precisely predict exactly how decriminalisation will impact the Territory. The change of legislation itself will no doubt prove to be the easiest part of what is a massive social experiment, in which police will have to navigate the intricacies of competing community expectations and evolving societal ramifications. Interesting times lay ahead.

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I wish everyone in our policing family a very Merry Christmas and a happy safe new year.



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How to decriminalise drugs:

the design features of a non-criminal response to the personal possession of drugs

Aug 13, 2021

ALISSA GREER, MAT BONN, ALISON RITTER, CAITLIN SHANE, ALEX STEVENS, NATASHA TOUSENARD

ABSTRACT

Internationally, stakeholders across jurisdictions are considering alternative, non-criminal responses to the personal possession of drugs. Alternative responses include various decriminalization, diversion, and depenalization schemes. However, what details need to be considered? In this paper, we present the design features of non-criminal responses to simple possession and consider the implications of the choices available. The features include the reform architecture (objectives, decriminalization options, de jure or de facto approach), eligibility criteria (person-, place-, and drug-based criteria), and the actions taken (deterrence, therapeutic, and enforcement strategies). From this examination, it is clear that details matter – some can undermine the goals of reform altogether. We also show that the notion of ‘decriminalization’ is not a simple, unified framework. Rather, there are meaningful differences in policies and options available within a non-criminal response. The design features covered in this paper offer a framework that can be used to design future reforms and operationalize research on non-criminal responses to personal drug possession.

Keywords: Decriminalization; Depenalization; Drug possession; Drug policy; Policy reform; Legal framework

Introduction

For over 50 years, dozens of countries, states, and cities have implemented varying alternatives to criminal penalties for the personal possession of drugs. The Portugal model is perhaps the most well-known example, although 48 other countries and jurisdictions have removed

and/or reduced criminal sanctions related to drug possession, including Mexico, Uruguay, Germany, Lithuania, Australia, Costa Rica, the Czech Republic, and Oregon, USA (Talking Drugs, 2020). Core to these reforms is a greater emphasis on public health, social justice, and human rights, alongside revenue, political, and pragmatic considerations (Global Commission on Drug Policy, 2014; Transform Drug Policy Foundation, 2015).

Several reviews examine the impact of removing or downgrading criminal penalties across jurisdictions, highlighting “tremendous variation in the laws and regulations surrounding so-called decriminalization policies adopted by Western countries” (Pacula et al. (2005) p. 347) and internationally (Eastwood et al., 2016; Hughes et al., 2018; Scheim et al., 2020; Stevens et al., 2019; Unlu et al., 2020). In fact, ‘decriminalization’ is not a singular, uniform approach, but is instead a term that describes myriad legislative models. To simplify the legislative and/or regulatory schemes, Stevens et al. (2019) sort each model into one of three primary classes: decriminalization, depenalization, or diversion. Even so, these scholars and others point out considerable heterogeneity and a lack of articulation regarding the definitions and details under each class (Fischer et al., 2021; Stevens et al., 2019).

Kilmer (2019) outlines the design considerations available under a cannabis legalization framework, including policing, penalties, and price. Kilmer’s work highlights the potential to undermine positive intentions if such details are ignored. To our knowledge, this approach to policy design choices has not been documented for non-criminal responses to simple possession of currently illegal drugs.

Unintended consequences can arise if details of the legislative and/or regulatory model are not adequately considered (Global Commission on Drug Policy, 2016; Rubin, 2012). These can be in terms of the number of people intervened upon (net widening, Cohen 1985) and the intrusiveness of the intervention imposed (net deepening, and/or mesh thinning, Cohen 1985). Net widening happens where a broader population comes under state control under the new regime; net deepening occurs when sanctions are unintentionally more severe for ‘low or shallow end’ offenders who, under the previous regime, would have received lesser punishment; mesh thinning is where alternatives make it relatively harder to get out of the criminal justice system. These consequences are demonstrated globally (Hughes et al., 2016; Roberts & Indermaur, 2006; Stevens et al., 2019). For instance, in Mexico, contact between police and people who use drugs increased as officers had greater leeway to arrest and charge individuals with administrative sanctions (Arredondo et al., 2018; Beletsky et al., 2016). Such consequences demonstrate the importance of good policy design.

The purpose of the current paper is to describe and examine the key design features of non-criminal responses to personal drug possession. We present the features, define the options, and consider their implications. The variety of options available are organized into three categories, below: 1) Reform architecture; 2) Eligibility criteria to which the scheme applies; and 3) Actions taken upon detection of drugs for personal use (see Table 1).

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Designing a non-criminal response for simple drug possession

1. Reform architecture

The design of a non-criminal response to simple possession will be crucially shaped and/or constrained by its reform architecture: the reform objectives or goals, the legal framework, and the approach taken.

Reform objectives:

What are the goals of the change?

In theory, changes to drug policy should start with a clear set of objectives (Reuter, 2013; UK Drug Policy Commission, 2012). Well-defined objectives promote evaluation, accountability, and implementation. The goals of reform can be numerous: to prevent new or compounded criminal records; to limit contact with the criminal justice system, including police officers; and/or to minimize the resources and cost to the criminal justice system and society. Another goal may be to connect people who use drugs with healthcare, treatment, social services, and/or education. In any case, defining reform objectives is a crucial first step so reform decisions can logically and pragmatically follow.

Legal framework

Will the offence remain criminal?

Depending on the objective, a key design consideration is whether or not simple possession will remain a criminal offence in law. This legislative decision will determine the necessity for and availability of most subsequent policy options.

If simple possession remains in criminal legislation but removal of punishment is a goal, then model features must be specified, including eligibility criteria, actions taken, role of police, and potential penalties. Given that criminal penalties are still available for use (but not applied in some cases), this response is known as depenalization (Stevens et al., 2019; Stevens et al., in press).

Alternatively, if simple possession is removed from criminal legislation, new penalties can be added (or not). In some cases, civil penalties can be used in lieu of criminal ones. If neither a criminal nor civil offence applies, features such as prosecutorial and/or police discretion or diversion, are similarly inapplicable. This latter model is a gold standard amongst organizations of people who use drugs and many health professionals as it eliminates

punitive drug policies and permits a more health- and rights-based approach (International Association of People Who Use Drugs (INPUD), 2021; Scheim et al., 2020; Shane, 2020). A model that does not introduce new penalties or sanctions is considered full decriminalization (Stevens et al., 2019).

De jure or de facto:

Will the model be in law or procedure only?

The distinction between decriminalization and depenalization underscores differences between reforms that occur in law (de jure), or changes that occur only in practice or procedure (de facto). These two approaches differ significantly in terms of how reforms unfold.

De jure reforms tend to be more entrenched or longer lasting as they occur in law. They usually allow for less discretion, although 'street-level bureaucrats' (i.e. police) can be adept at continuing old practices despite legal changes (Lipsky, 1980). De jure reforms can also be more conservative and less responsive to people who use drugs' needs and experiences, in part because the legislative process is slow-moving, rigid, and averse to change.

De facto approaches are relatively more adaptable and easier to implement as they rely on practical and procedural non-enforcement of the criminal law. For instance, policing policies may advise officers not to arrest or charge for possession, such as in Denmark from 1969 to 2004 (Houborg et al., 2020), or prosecutorial guidelines may advise limiting the pursuit of criminal charges, as in Canada and the Netherlands (5.13 Prosecution of Possession of Controlled Substances Contrary to s. 4(1) of the Controlled Drugs and Substances Act, 2020; Talking Drugs, 2020). However, de facto approaches leave considerable interpretation and discretion to various actors, creating vulnerability to inequitable application and uncertain outcomes for people who use drugs.

2. Eligibility criteria to which the scheme applies

In any model, decision-makers must determine eligibility criteria to delineate the circumstances in which the new regime applies. Criteria include details relating to the person (age, population, previous and concurrent offending), place, and drug (drug type, threshold quantities).

Age:

What age group(s) does the model apply to?

In most non-criminal schemes, there is a difference in the treatment of adults and minors. In lieu of criminal penalties, responses to drug possession among minors include enforced confiscation of drugs or a therapeutic response (McClellan et al., 2020). For example, in the US Virgin Islands, minors found to possess under two ounces of cannabis must attend an education class and failing to complete it can result in criminal penalties. Internationally, some schemes have explicitly excluded minors from a non-criminal response, whereas others specify circumstances where policies apply to them. Up until 2004 in Denmark, for example, several police forces enacted de facto schemes to avoid arresting and charging young people for simple drug possession, even where these criminal justice responses were still applied to adults (Houborg et al., 2020; Hughes et al., 2018).

Population:

Which specific groups does the model apply to (or not)?

In some jurisdictions, reforms have only applied to certain groups. For instance, in 2013, Costa Rica amended Law 8204 to reduce and deliver alternative sentences for women in prison who are experiencing poverty, are elderly, disabled, and/or caregivers (Eastwood et al., 2016). In contrast, prosecutorial guidelines in Canada (reflecting a de facto depenalization model) generally limit prosecution to "the most serious manifestation of the offence", for example where offenders are a public or peace officer (5.13 Prosecution of Possession of Controlled Substances Contrary to s. 4(1) of the Controlled Drugs and Substances Act, 2020, p. 1). Police policies may also encourage officers to use greater discretion with certain groups, such as Indigenous peoples in Canada.

In any case, it is critical to consider how reform decisions may affect some groups differently. For instance, even small criminal citations and low-level drug arrests can lead to deportation and/or compromise immigration status (Drug Policy Alliance, 2020).

Previous and concurrent offending:

How will previous offences be handled?

Individual responses to simple possession may depend on whether

the person has previous offences and/or been found in possession of a drug more than a specified number of times. Pacula et al. (2005) call this 'partial depenalization' – an approach adopted by several countries, including Germany. In some Australian and US states, first time offences may accrue civil penalties whereas repeat offences may incur criminal charges. For instance, under the English cannabis and khat de facto warning schemes, first-time possession is met with a police warning, second-time with a fixed on-street fine (a 'Penalty Notice for Disorder'), and third-time with a criminal justice response (formal caution or charge) (Hughes et al., 2018).

If drug possession is no longer a criminal offence, another consideration is whether previous convictions will be expunged retroactively, as occurs in Costa Rica and some US states. In many places, expunging criminal records requires a legislative process, including defining the parameters of previous offences to which the reform will apply (Quinton, 2017).

Another decision is whether possession will be considered a criminal offence when it occurs alongside concurrent offending. For example, when drug possession occurs alongside other offences such as driving, weapon, or assault offences (which in turn may or may not be related to possession of drugs).

Place:

What locations/context does the model apply to?

Another design detail is to specify geographic locations and contexts that the model will apply to. For example, drug possession may face criminal penalties in the context of prisons, schools, and certain workplaces, or within a defined proximity to these locations.

Similar to some legal psychoactive substances such as alcohol, public drug use is commonly prohibited, even under non-criminal regimes, as in Jamaica, Spain, and Washington, DC (Eastwood et al., 2016; Stevens et al., 2019). Retaining the prohibition in specified places can perpetuate the criminalization of drug use (and its adverse effects), since police are enabled to arrest for low-level drug offences (Levine, 2009) – a policy that can inequitably impact people using drugs in public spaces, such as people living in poverty and/or experiencing homelessness.

Drug type:

Which drugs are included?

A significant decision is which drugs are subject to a non-criminal response. Countries such as Portugal, Germany, and the Czech Republic have removed criminal penalties for small quantities of all drugs, whereas several US and Australian states only include cannabis in their reforms. It is possible to define applicable drugs based on the class of drug, such as opioids, amphetamines or benzodiazepines, or specify the drugs themselves, such as crack and powder cocaine, or fentanyl, heroin, and opium. Applying reforms to some drugs and not others can create a complex system.

Some countries have looser definitions, such as the Czech Republic which codifies cannabis alongside 'plant drugs' (Belackova & Stefunkova, 2018). Countries typically rely on drug schedules to define which drugs are included or excluded. The presence of fillers or cutting agents in certain illegal markets (for instance fentanyl or fentanyl analogues in most North American street markets) may also impact the ability to define or categorize applicable drugs.

Another decision is whether the model applies to the presumed drug, actual chemical substance, or precursor of the drug, found in possession. In most jurisdictions that take a non-criminal response to simple possession, the drug in possession is based on officer judgement rather than laboratory testing. However, it is unclear how the law applies for multiple or unknown substances, particularly when the drug content is unknown to the possessor or officer assessing it.

Other countries have treated so-called 'hard' drugs differently from 'soft', as in the Netherlands and Italy (Eastwood et al., 2016). This superficial distinction perpetuates inequities. People with higher risk profiles, who are most in need of support, are more likely to be criminalized.

There may be other unintended consequences to limiting the scope of drugs/drug classes included in the model. For instance, consequences may arise in the drug market such as changes in use and/or supply and distribution. Differences in the treatment of various drugs may encourage people to switch from one to another. British prisoners switched from using cannabis to synthetic cannabinoid receptor agonists (known as 'Spice' or 'Mamba') during a period

when cannabis use was detected in urine tests and punished, while use of synthetic cannabinoids was not (Ralphs et al., 2017).

Threshold quantity:

What is/are the amount(s) of drugs that defines personal possession?

Many, but not all, non-criminal responses define the drug quantity (e.g., weight of powder, number of pills) of which possession is deemed a non-criminal offence. The specified amount is commonly referred to as a threshold quantity (TQ) or limit. TQs can be based on the total weight of the substance, including any non-psychoactive substances in that weight, or only include the pure drug. Nearly all jurisdictions that employ a TQ use the former, weight-based approach.

International examples of TQs for personal possession vary dramatically (European Monitoring Center for Drugs and Drug Addiction, 2015). For example, the TQ for cocaine in Lithuania is ten times higher than that in Norway. In Germany and the USA, TQs differ between states. In other countries such as Uruguay, Denmark, and Spain, no TQs exist; rather, a supply offence only exists where there is evidence of intent to supply. In some jurisdictions, TQs are ambiguous, defined as 'more than small amounts', as in the Czech Republic, Costa Rica, and Poland (Belackova & Stefunkova, 2018; Talking Drugs, 2020). Undefined TQs are vulnerable to interpretation, discretion, and bias from police officers and prosecutors.

It is possible to have multiple TQs that differentiate between low- and high-level personal possession. As proposed in one Australian jurisdiction, neither are supply offences but the former is a non-criminal response whereas the latter a criminal one (see Ritter et al., 2021).

TQs may also be specified as binding or as indicative: binding TQs create a strict application of the law or penalty whereas indicative TQs are merely a guideline

(Talking Drugs, 2020). In the latter case, officers or prosecutors may use their discretion to not charge. Where possession is no longer a criminal offence, officers do not have discretion to charge below TQs.

Setting TQs is a critical decision point. If appropriately set and applied, TQs can limit biased application of police discretion. If set too low, however, TQs can heighten enforcement and result in net widening. Low TQs can disproportionately impact marginalized groups, including

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people who are racialized and people experiencing poverty or psychiatric distress (International Network of People who Use Drugs, 2021). Other potential harms associated with low TQs include incentivising interactions with the unregulated market as people try to avoid criminalization by frequently purchasing smaller (below-TQ) amounts. As well, the concentration or potency of drugs may increase to keep them below a threshold weight – potentially increasing overdose risk for certain drugs.

One option is to use an ‘average’ amount consumed for personal use, as in Portugal, where the criminal law applies to people who possess amounts above ten times the median daily dose (Hughes & Stevens, 2010; Rêgo et al., 2021). However, ‘averaging’ assumes drug consumption is relatively homogenous across people. The very nature of setting TQs does not enable consideration of diverse patterns of personal use, mobility, body composition, socioeconomic conditions, and geography. For example, people who live in rural/remote communities may need to possess a large quantity of drugs given the inaccessibility of drugs in their location.

3. Actions taken upon detection of drugs for personal use

Being found with illegal drugs can be met with a number of actions – or not. In the absence of criminal penalties, governments may choose to not define additional actions towards personal possession. Alternatively, they may introduce administrative or civil sanctions/penalties (Stevens et al., 2019). Globally, most reforms have produced policies that elicit actions under a deterrence, therapeutic, or educative logic. Several options, in any combination, are available for reform (Table 2).

Non-criminal disciplinary actions: What sanctions can be imposed on the possessor?

Some models include non-criminal disciplinary action for simple possession even if the criminal offence is removed. Notably, although these ‘deterrent’ actions are not criminal penalties, they can be punitive, discriminatory, and serve as a gateway to future engagement with the criminal justice system. Jurisdictions that employ a deterrence regime of administrative sanctions include Portugal, the Czech Republic, Australia, the USA, and Jamaica (Hughes et al., 2018; Stevens et al., 2019).

There are several potential consequences to deterrence strategies. Administrative sanctions can result in net widening. For example, South Australian expiation notices resulted in a 2.5-fold increase in detections – an increase in offences similar to that observed in New York following decriminalization of cannabis possession (Pacula et al., 2005) – thus increasing rather than decreasing the number people in the ‘net’ of state supervision (Hughes et al., 2019). Administrative sanctions can also create social and spatial marginalization for groups, driving people to use drugs underground out of fear and avoidance of law enforcement and/or punitive measures (INPUD, 2021).

Diversion and referral programs: Will individuals be re-directed or diverted into other systems?

Non-criminal diversion programs redirect individuals away from criminal justice processes into social, educational, or health programs. If the reform objectives include providing greater health support, treatment, and social care, then diversion actions may be preferred.

A key decision is defining the program that people who use drugs are diverted to. Programs include healthcare and treatment, education, and social services. Decisions about who may be diverted where, and their degree of agency, is key. The decision may be entirely voluntary and with the consent of the possessor, or rest with healthcare providers, police officers, or committees.

Another important design feature for diversionary approaches is the level of compulsion or coercion attached to such diversion. In places such as Norway, failure to comply with a police order for mandatory counselling results in a fine or financial penalty (Government of Norway, 2021). Even seemingly voluntary programming may include elements of coercion or be constrained, as in jurisdictions where ‘choosing’ the program is a mitigating factor for sentencing. Others note that coercive and punitive diversion schemes can be as harmful as criminalization (Eastwood et al., 2016).

Nevertheless, the absence of a criminal record can reduce reoffending and improve future employment prospects, even when diversionary measures are similar to probation following criminal conviction (Mueller-Smith & Schnepel, 2021).

In some diversion models, police officers are both the first point of contact with people who use drugs and also act as a broker for health and social services, which they may not be trained to do (Goetz & Mitchell, 2006). Over-reliance on police can result in avoidance strategies among people who use drugs, as seen in Mexico where police diversion programs negatively impacted health and social outcomes (Beletsky et al., 2016). Alternatively, police may refer people to another triage system, such as the dissuasion commissions in Portugal which include lawyers, psychologists, and social workers. However, this model too has been criticized by people who use drugs (INPUD, 2021).

Diversion can result in net widening by increasing the number of people who are brought into the criminal justice system who may otherwise have been ignored by police officers and who may not need or want treatment (Hughes et al., 2018; Roberts & Indermaur, 2006). For instance, in the UK, large numbers of people who used cocaine recreationally were referred for mandatory assessment following the ‘testing on arrest’ policy (Connor et al., 2020).

While there are a number of limitations and potential adverse consequences of diversion programs, the common aim of diversion programs is to reduce the burden on the criminal justice system and the criminalization of people who use drugs (Hughes et al., 2018). With an adequate design and triage system, diversion programs can provide additional pathways into health and social supports for people who need it. Internationally, diversion is a widely used intervention for personal possession offences (Stevens et al., 2019).

Police discretion:

How flexible is enforcement of laws and/or administrative sanctions?

Decisions must be made about the discretion or flexibility that police officers have in enforcing laws or sanctions. If the objective of designing an alternative model is to reduce the burden on the criminal justice system and remove criminal penalties, police discretion is highly relevant. Schemes that do not formally remove criminal penalties for simple possession often must rely on police discretion and/or officer interpretation of depenalization policies. Alternatively, if criminal penalties are removed from the law, there is less scope for police

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discretion – although, even in several US states that formally decriminalized drug possession, police retained considerable autonomy in their decision to arrest for drug offences (Logan, 2014; Pacula et al., 2005). This outcome may be partly because officers can use other offences (e.g., possession in public view) to target people who use drugs.

Police discretion can be viewed from two perspectives. On the one hand, discretion creates an opportunity for leniency and decreases penalties and burden on the criminal justice system. On the other hand, the subjective nature of discretion can produce inequities. Police discretion is vulnerable to inconsistent, unpredictable, and discriminatory application (Greer & Ritter, 2021). In some cases, it can stunt implementation of the de facto regime altogether – particularly if there is no top-down leadership or guidance on the purpose and benefits of non-enforcement (Hughes et al., 2019). Consequently, eliminating or minimizing police discretion may abate the problems associated with it: racialized profiling, inequitable application of the law, and the stress and negative impact that discretion can have on both people who use drugs and police officers.

Confiscation and destruction of drugs: Can drugs be seized and destroyed by the police?

One key detail in the design of non-criminal responses for simple possession is whether police will retain powers to seize and destroy drugs. In most jurisdictions with non-criminal models for simple possession, seizing and destroying drugs occurs irrespective of whether the offence remains in law (Talking Drugs, 2020). Some schemes, such as the UK Psychoactive Substances Act, allow for the retention and destruction of substances, even though simple possession (outside prison) is not a crime. Confiscation of drugs is similarly routine in several other jurisdictions where personal possession is no longer a criminal offence, such as Costa Rica, Croatia, Switzerland, Italy, and several US states. However, if there is no administrative or criminal penalty for possession, seizing and/or destroying personal drugs by police or others may not be legal.

Confiscation and destruction of drugs can produce unintended consequences – therefore, it is an important decision point. As many people who use drugs have pointed out, drug confiscation can produce harms, including increased violence and crimes associated with

replacing destroyed or confiscated drugs (INPUD, 2021; Shane, 2020).

Responses to non-compliance:

What happens if individuals do not comply with mandated actions?

If possession is no longer a criminal offence and alternative sanctions are not introduced, compliance is not a design issue. However, if personal possession is still subject to administrative or criminal penalties, a key model feature is the response to non-compliance with these sanctions. Details include whether the original criminal offence can be re-instated due to noncompliance, or if other penalties can apply, including alternative criminal penalties (non-drug offences) or actions such as fines.

Non-compliance measures for administrative or civil penalties can reflect a deterrence aim with the view that consequences for non-compliance upholds the administration of justice and act as a disincentive to use or possess drugs. However, non-compliance measures may introduce inequities and negatively impact marginalized groups, such as those experiencing homelessness or financial insecurity. Mandatory fines pose distinct harms for marginalized offenders, including disproportionate financial consequences, a pronounced threat of incarceration, targeting by collections efforts, and an “indefinite sentence” for offenders who are unlikely to ever be able to pay. (R. v. Boudreault, 2018). The Australian expiation system negatively impacted people who could not comply with the scheme due to financial difficulty (Humeniuk & Drug and Alcohol Services Council, 1999; Single et al., 2000).

Discussion

As detailed, there are a myriad of crucial decisions and options in the design of non-criminal responses to simple possession. Given the substantial policy attention that these alternative models (such as decriminalization, depenalization, and diversion) have received, it behooves decision-makers to carefully consider the design options. The task of reform is not achieved by mere support for removing criminal penalties. The real work is in the process of designing actual reforms, which starts with setting clear reform objectives, along with eligibility criteria, specifying the actions taken (or not), and deciding whether a deterrence, therapeutic, and/or enforcement strategy is involved. Importantly, the features in each of these

categories are not neutral or benign decisions but can have unintended consequences. At a time that is pivotal for legal reform in many jurisdictions, it is imperative to progress a reform agenda that takes these details into consideration.

In outlining the options available in the design of a non-criminal response to criminal penalties for simple possession, we have offered a range of examples that highlight the importance of clearly defined and carefully designed models. Vague or confusing reforms can result in poor implementation and uptake. Poorly designed reforms can also influence the interventions that follow and associated positive or negative consequences. Importantly, under all options, there are a number of equity issues to consider, including the disproportionate impacts on people experiencing homelessness, racialized people, and immigrants (Drug Policy Alliance, 2020; INPUD, 2021).

Clearly designed and defined reforms are paramount for understanding the impacts of the policy changes. Pacula et al. (2005) notes that “‘decriminalization’ does not mean what researchers and policy analysts think it means” (p. 25), pointing to the impossibility of truly understanding the differences between models when the nuance and details within models is obscured yet required to evaluate them. Importantly, the design considerations provided in this paper can be used to operationalize future reforms and study various decriminalization, depenalization, and diversion models. As well, we hope to have demystified the ubiquitous use of the word ‘decriminalization’. This term is not a simple, unified framework; rather there are meaningful differences in the policies, options available, and nuances between non-criminal responses, including decriminalization.

In this paper, we have briefly addressed the multitude of design features and lessons learned from jurisdictions that have introduced varying degrees of non-criminal responses to personal possession. Those examined in this paper are not necessarily exhaustive and the lessons learned from decriminalization, depenalization, and diversion schemes are not limited to those covered here (for example, see: Stevens et al., 2019; Unlu et al., 2020). We also do not suggest one ‘ideal’ model to adopt from the key design features presented here. The sociolegal context in which policies and laws are situated are unique; they each come with unique barriers

and circumstances (Unlu et al., 2020). This context-specific nature of policy reform and implementation means that there will always be some degree of uncertainty of the outcomes; “policy expectations define the means, the context mainly shapes the ends” (Unlu et al., 2020, p. 5). Given that evidence is still limited in many of these decision areas, evidence of the effectiveness of some interventions remains limited. What remains clear, however, are the inequitable harms that exist from current punitive models.

Finally, given that the aim of this paper was to only outline model design decisions, we did not cover the process of policymaking itself but need to underscore its relevance and importance. Key stakeholders and experts in any drug reform are the people directly impacted by subsequent policies and interventions – people who use drugs. However, the drug policy design process often happens without significant engagement

with the affected community, which can result in decisions and interventions that lack relevance, applicability, acceptability, and equity (Greer et al., 2016; Greer & Ritter, 2021; INPUD, 2021). By ensuring the inclusion and involvement of many people who use drugs in the design, development, and implementation phases of reform, it is possible to mitigate some of the issues that can arise from poorly designed policy.

Table 1: Design features of reforms for non-criminal responses for simple drug possession

1. Reform architecture	
Reform objectives	<ul style="list-style-type: none"> What are the aims/goals/objectives of the model/response/reform?
Legal framework	<ul style="list-style-type: none"> Will the offence remain in criminal law?
De jure or de facto	<ul style="list-style-type: none"> Will the model be in law or procedure only?
2. Eligibility criteria to which the response applies	
Person-based criteria <ul style="list-style-type: none"> Age Population Previous and concurrent offences 	<ul style="list-style-type: none"> What age groups does the model apply to? What groups will the model apply to? How will previous offences be handled?
Place-based criteria	<ul style="list-style-type: none"> Where does the model apply or not apply, geographically and contextually?
Drug-based criteria <ul style="list-style-type: none"> Drug type Threshold quantity 	<ul style="list-style-type: none"> Which drugs are included in the model? What are the amounts of drugs that defines possession for personal use?
3. Actions taken upon detection of drugs for personal use	
Deterrence strategies	<ul style="list-style-type: none"> What sanctions can be imposed on the possessor?
Therapeutic strategies	<ul style="list-style-type: none"> Will individuals be re-directed or diverted into other systems?
Enforcement strategies <ul style="list-style-type: none"> Police discretion Non-compliance Drug confiscation 	<ul style="list-style-type: none"> How flexible is police enforcement of laws and/or administrative sanctions? What happens if individuals do not comply with mandated actions? Can drugs be seized and destroyed by the police or others?

Table 2: Actions available in lieu of criminal penalties

No actions taken / no sanction Deterrence strategies
<ul style="list-style-type: none"> Caution notice or warning Fine issued Restriction to freedom of movement or contact with people Seizure or suspension of privileges (e.g. driver's licence or passport) Community service order
Therapeutic strategies
<ul style="list-style-type: none"> Referral to education Referral to a social program or health program
Enforcement strategies
<ul style="list-style-type: none"> Police discretion Confiscation Responses to non-compliance

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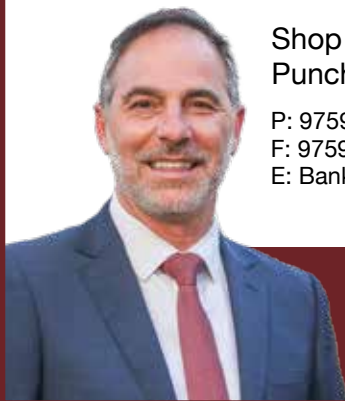
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I wish police officers in my electorate of Bankstown, and police officers across New South Wales and their families the very best during this special time of year.

The Hon. Jihad Dib MP

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The savings associated with decriminalization of drug use in New South Wales, Australia: a comparison of four drug policies

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ABSTRACT

Introduction: Most Australian states and territories have established some form of scheme to divert minor drug offenders from court. However, the number charged with drug possession continues to rise. We examine the costs of four alternatives to existing policy in relation to people apprehended by police using or in possession of a prohibited drug.

Methods: We construct a Markov micro-simulation model to examine four policies: (1) current policy; (2) expanding the existing cannabis cautioning scheme to all drug use/possession offences; (3) issuing an infringement notice to all those found using or in possession of a prohibited drug; (4) prosecuting all drug use/possession offences in the courts. The cycle length is one month. Since our aim is to examine the cost to the government, all costs are taken from the Government perspective and are in 2020 Australian dollars. Results: The current estimated annual cost per offence is \$977 (SD: \$293). Policy 2 costs \$507 per offence per year (SD: \$106). Policy 3 turns into a net revenue gain of \$225 (SD: \$68) per offence per annum. Policy 4 lifts the current cost of processing from \$977 to \$1282 per offence per year (SD: \$321).

Conclusions: Extending the cannabis cautioning scheme to all drugs would reduce the cost of current policy by more than 50 %. A policy of issuing infringement notices or cautions for drug use/possession would save costs and generate income for the government.

1. Introduction

A number of governments have introduced various measures to relax the laws relating to the use, possession, and cultivation of cannabis (Beletsky et al., 2016; Bewley-Taylor, 2012; Greenwald, 2009; Jelsma, 2011; Kamin, 2012; Pardo, 2014; Plan & Power, 2011; Reuter, 2010; Rosmarin & Eastwood, 2012). Alternatives to conviction or punishment for drug and drug-related offences have improved public health out-comes (Fan, 2013; Hughes & Stevens, 2007), reduced stigma (Eastwood et al., 2013; Fan, 2013; Hughes & Stevens, 2007) and crime (Hughes & Stevens, 2007; Kennedy et al., 2011), shortened wait-times for court (Fan, 2013), and reduced costs to the government (Douglas & McDonald, 2012; Hughes & Ritter, 2008).

Concern about the large amount spent on drug law enforcement has prompted some influential commentators to call for reform of the law concerning illicit drug use and possession (Douglas & McDonald, 2012). In Australia, most Australian states and territories have established some form of scheme to divert minor drug offenders from court (Hughes et al. 2019). However, the number charged with drug possession continues to rise. Between 2010/11 and 2018/19, the number of people charged with possession of a prohibited drug and dealt with in the magistrates' courts of Australia rose by 73 %; from 20,711 to 35,809 (Australian Institute of Health and Welfare, 2020; NSW Bureau of Crime Statistics and Research, 2021).

Two economic evaluations have studied the Australian drug diversion programs. The first study found large differences in the cost of the alternative dispositions, with those charged costing, on average, \$733 to process compared with \$388 for those dealt with by way of a cannabis caution (Shanahan et al., 2017). This study, however, did not factor in the income/revenue from fines or the variable length of prison and supervised order terms by drug types (Shanahan et al., 2017).

The second study estimated the cost savings that resulted from the introduction of the criminal infringement notice scheme (CINS) for MDMA possession (Sutherland et al., 2021). The CINS scheme is a court diversionary scheme that allows police in certain circumstances to issue an on-the-spot fine for minor offences. They estimated that issuing CINS for all illicit drug possession offences where the person charged had no prior convictions would result in savings of approximately \$1.7 million per annum. The authors calculated the savings solely based on the cost of finalizing a criminal matter through the NSW Local Court (624 AUD- 648 AUD). However, they did not consider the costs and income generated by outcomes such as a fine, a supervised order, or a prison sentence (Sutherland et al., 2021).

We should note that although decision analytic models in drug diversion have been published in the UK (Hayhurst et al., 2015) and the United States (Bernard et al., 2020), no long-term decision analytic

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*My heartfelt thanks to
our local police officers
for your hard work and
dedication to the safety of
our communities.*

*Wishing you and your
families the very best
for Christmas and a
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Janelle Saffin MP
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On behalf of everyone in the South West and across Australia I say thank you and wish you all a very safe, happy and Merry Christmas and New Year.

NOLA MARINO MP
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model comparing different drug diversion policies has been built in the Australian setting. To overcome these limitations, we aim to:

1. develop a microsimulation model calibrated to the New South Wales (NSW), Australia, criminal justice system; and
2. use this model to examine costs saved from four alternatives to existing policy responses to people apprehended by police using or in possession of a prohibited drug

Policy 1 is the current policy. Policy 2 involves expanding the existing cannabis cautioning scheme to all drug use/possession offences. Policy 3 involves issuing an infringement notice to all those found using or in possession of a prohibited drug with no constraint on the number of infringements a person can receive. Policy 4 involves abandoning the current cannabis cautioning and criminal infringement notice schemes and prosecuting all drug use/possession offences in the courts. Given the unavailability of quality-adjusted life years (QALY) at the time we were implementing the model, the current study focused on costing data only. We will update the model to cost-effectiveness model when QALY data are available.

Is a simulation model necessary for this purpose? We could simply assume that the prevalence of cannabis use, the detection rate, and the proportions of cases dealt with in different ways by police and courts are all fixed and then simply add up the costs of dealing with detected cases of cannabis use in four different ways. The problem with proceeding in this way is that it is quite unrealistic. In reality, (as with all criminal cases) the outcome of detected cases of cannabis possession varies from case to case. This means the aggregate cost of a particular policy has both a mean value and a variance. The value of a simulation model is that it allows us to put upper and lower bounds on the cost of processing a particular cohort of cases under various legal scenarios.

2. Method

2.1. NSW criminal procedure act

Under the New South Wales (NSW) Drug Misuse and Trafficking Act, the maximum penalty for possession of a prohibited drug is a fine of \$2200 and/or a term of imprisonment for 2

years. Under the cannabis cautioning scheme (CCS), a person found in possession of cannabis can be issued with a police caution, if they have (a) received no more than one previous caution; and (b) are in possession of 15 g or less of cannabis; and (c) have no prior criminal record involving drugs, violence, or sexual assault.

Police also have a discretion under section 333 of the Criminal Procedure Act 1986 (NSW) to issue a penalty notice (viz. an on-the-spot fine of \$400) in three different situations: (1) where they find a person in possession of a small quantity of MDMA/Ecstasy which does not exceed a small quantity and is in capsule form; (2) where they find a person in possession of MDMA/Ecstasy in some other form and the quantity concerned is less than a trafficable quantity; and (3) where the prohibited drug found in a person's possession is not MDMA/Ecstasy and the amount concerned does not exceed a small quantity.

As with cannabis cautions, police are not obliged to issue an infringement notice even if a person does meet the requirements for one. In practice they only exercise this discretion at music festivals. In other situations, they typically refer the person to court. From a costing perspective, the key difference between a cannabis caution and an infringement notice is that the former imposes a cost on government, whereas the latter has an offsetting financial benefit (the \$400 fine received by the government).

The definitions of "small" and "trafficable" quantity can be found in the Drug Misuse and Trafficking Act. The NSW Criminal Procedure Act deals with the question of which court jurisdictions deal with what classes of drug offence (in terms of drug quantity). The definitional and procedural rules under these acts, however, are not of any immediate concern here. The local court deals with all cases of drug possession where the quantity involved is small. In operational terms, a small quantity is any of the following: cannabis leaf (30 g), cannabis oil (2 g), cannabis resin (5 g), cocaine (1 g), heroin (1 g), ecstasy/MDMA (0.25 g), and Ice/Speed (1 g).

In sentencing an offender convicted of possessing a small quantity of a prohibited drug, the local court has several options, including release of the offender with the offence proved but with no conviction recorded, the

imposition of a fine, placing the offender on a supervised order (i.e., under the supervision of the probation and parole service), and imposing a sentence of imprisonment. Each of these sanctions imposes a cost but, as with infringement notices, only the imposition of a fine has an off-setting financial benefit (equal to the size of the fine imposed by the court).

2.2. The structure of the simulation model

The process by which users of illicit drugs (hereafter referred to as user[s]) come into contact with the criminal justice system is depicted in simplified form in Fig. 1.

The model has five health states: Free, Detected, Court, Prison, Su-pervised Order (Fig. 1). When drug users are detected, they could either receive a cannabis caution or an infringement notice; or are referred to court. Defendants attending court are either convicted or not convicted. Convicted offenders either receive a fine or a supervised order; or are sentenced to prison or receive some other outcome. The period spent on a supervised order or in prison varies with the type of drug found in a convicted person's possession.

In the model, once an offender completes their period on a super-vised order or in prison, they return to the Free state and remain in that state unless they are again detected in possession of a drug and the cycle begins again. The model was implemented by TreeAge Pro Healthcare 2021 version R2.1 software (TreeAge Software Inc, 2021) and is available in the Appendix. Our paper followed Consolidated Health Economic Evaluation Reporting Standards (CHEERS) checklist (Husereau et al., 2022).

2.3. Parameter estimation and data sources

Table 1 below lists the model parameters, their descriptions, and their values. Note the extremely small risk of detection for cannabis use. Note also that P4 is not equal to 1-P3 because only a subset of offenders is eligible for an infringement notice.

We determined variable P1 by dividing the number detected in possession of an illegal drug (NSW Bureau of Crime Statistics and Research, 2020) by an estimate of the number of persons who have used an illicit drug over the past 12

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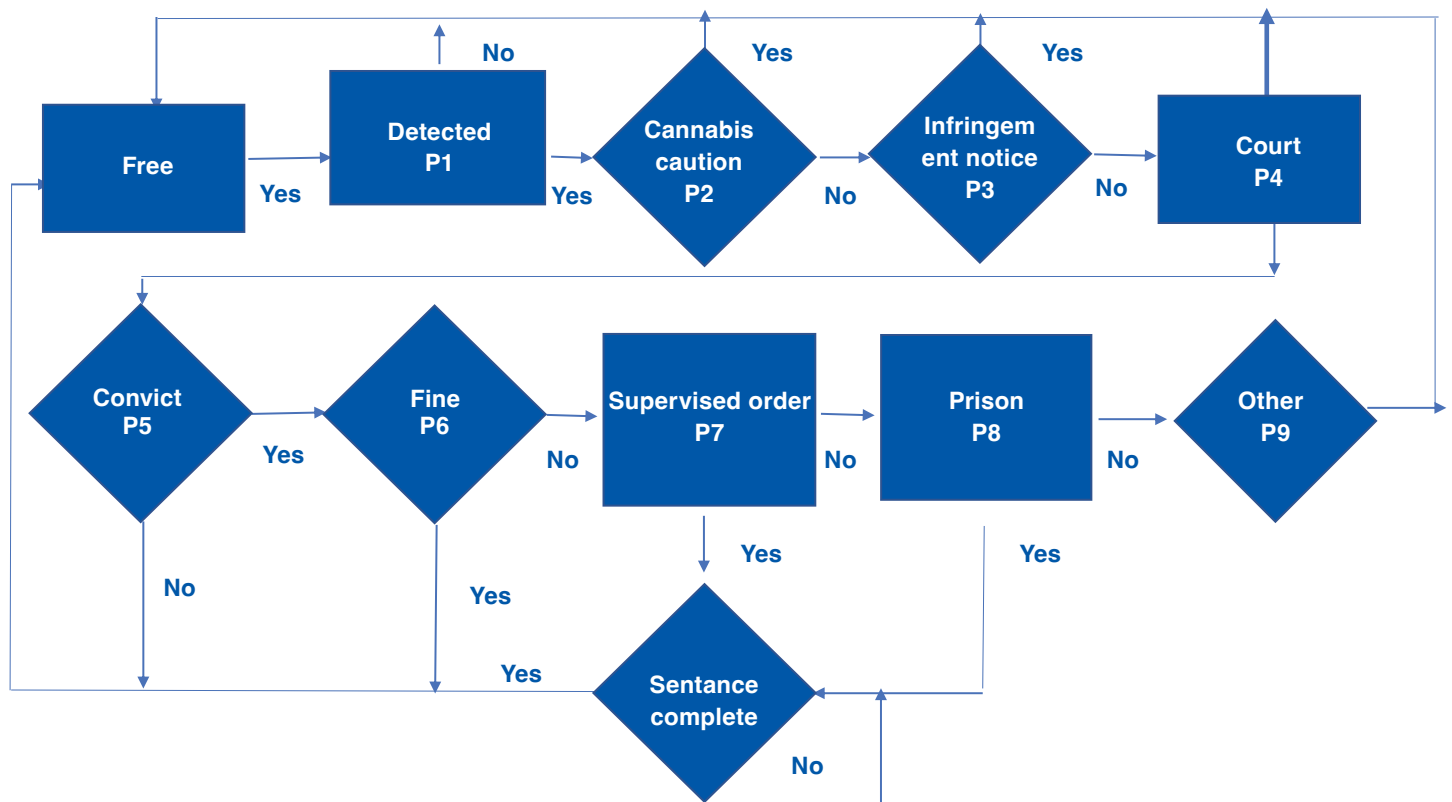


Fig. 1. State transitions in the Drug Possession Model (DPM).
Note: 5 rectangles represent states while the 6 diamonds represent transitions.

months; data for which was sourced from the National Drug Strategy Household Survey (Australian Institute of Health and Welfare, 2020). We obtained the data required to estimate parameters P2 to P8, L1 to L12, DU1 to DU7, and C8 to C13 from the NSW Bureau of Crime Statistics and Research. Notice that the size of the fine for drug possession, the length of the prison term, and the length of supervised order vary with the type of drug found in a person's possession. Estimates of C1 and C2 were obtained from Shanahan (2011) but we have adjusted them for inflation. Data on real net recurrent expenditure per finalized criminal case in the NSW Local Court (C3) were obtained from the Australian Productivity Commission Report on Government Services (Productivity Commission, 2020). We obtained data on the cost per legal aid case (C4) from the NSW Legal Aid Commission. The standard infringement notice (C5) carries a penalty of \$400. The cost of processing an offender on entry into prison (C6) was obtained from Grant (2021). We sourced the daily cost of imprisonment (C7) from the Report on Government Services (Productivity Commission, 2020). The daily cost of a supervised order (C8) was also obtained from that report.

All costs were taken from the government perspective. The study

then applied a half cycle correction. The cycle length was one month to capture events over brief intervals (e.g., staying in prison for cannabis use [average 2.1 months]). We changed annual probability to monthly probability using following steps: one month rate = $1 - 1/12 * \ln(1 - \text{annual probability})$, one month probability = $1 - e^{-\text{one month rate}}$. The one-month probability of detection is therefore 0.0014 (Table 1). For some probabilities, we conducted model calibration so as to match the predicted cohort with the actual cohort after year 1. The time horizon is 10 years, and we employed a 5 % annual discount rate (Abelson & Dalton, 2018). Monthly discounted costs were calculated based on the formula: $\text{monthly rate} = (1 + \text{annual rate})^{(1/12)} - 1$. All costs were 2020 Australian dollars.

2.4. Model validation

If the model gives a realistic picture of the enforcement process underpinning enforcement of the prohibition against drug use/possession, we expect the model to reproduce the observed numbers of people in each of the model states. Model validation is done with the baseline scenario (after year 1), to ensure it reproduces the current situation before we use it to model alternatives. To determine the predicted cohorts, we run

1,000,000 simulations of the model in the first year. The results are shown below.

2.5. Sensitivity analysis

values, we ran a sensitivity analysis on the length of prison, the length of supervised order, and on all costs. Table S1 shows the range of variable values we employed in the sensitivity analysis. The range of variation for all variables in the sensitivity analysis was 30 %. The Tornado diagram (Fig. S2 but see also Table 2) presents the results. The diagram shows the effect on the output (incremental costs of alternative policy versus the current policy) of varying each input variable one at a time, keeping all the other input variables at their initial values. The red bar shows the increase in incremental costs, the blue bar shows the decrease in incremental costs. The variables have been ordered by the size of the impact, with the top variable being the most influential in terms of incremental costs.

3. Results

To estimate the cost of processing we take the number of distinct individuals in 2019 detected in possession of a prohibited drug ($n = 19,195$) and estimate the annual cost of processing them under the five policy scenarios outlined in the introduction. Fig. 2 shows the results.

Table 1
Model parameters.

Parameter labels	Parameter descriptions	Parameter values	Source	Parameter used in the modelcalibration
Annual transition probabilities				Monthly probabilities
p1	Probability of being detected (arrested)	0.017	NSW Bureau of Crime Statistics and Research 2020 Australian Institute of Health and Welfare, 2020	0.0014
p2	Probability of receiving cannabis caution	0.239	NSW Bureau of Crime Statistics and Research	0.242
p3	Probability of receiving infringement notice	0.025	NSW Bureau of Crime Statistics and Research	0.026
p4	Probability of going to court	0.736	NSW Bureau of Crime Statistics and Research	0.752
p5	Probability of being convicted, after detection	0.796	NSW Bureau of Crime Statistics and Research	0.860
p6	Probability of getting a fine, after court	0.548	NSW Bureau of Crime Statistics and Research	0.590
p7	Probability of having supervised order, after court	0.046	NSW Bureau of Crime Statistics and Research	0.050
p8	Probability of being in prison, after court	0.008	NSW Bureau of Crime Statistics and Research	0.010
p9	Probability of having other court outcome	0.398	NSW Bureau of Crime Statistics and Research	0.398
p10	Probability of completing a sentence (supervisedorder/prison)		NSW Bureau of Crime Statistics and Research	

Parameter labels	Parameter descriptions	Parameter values	Source
Length of stay parameters			
Prison (months)			
L1	Cocaine	4.5	NSW Bureau of Crime Statistics and Research
L2	Narcotics	2.8	NSW Bureau of Crime Statistics and Research
L3	Cannabis	2.1	NSW Bureau of Crime Statistics and Research
L4	Amphetamines	3.2	NSW Bureau of Crime Statistics and Research
L5	Ecstasy	0	NSW Bureau of Crime Statistics and Research
L6	Some other drug	0	NSW Bureau of Crime Statistics and Research

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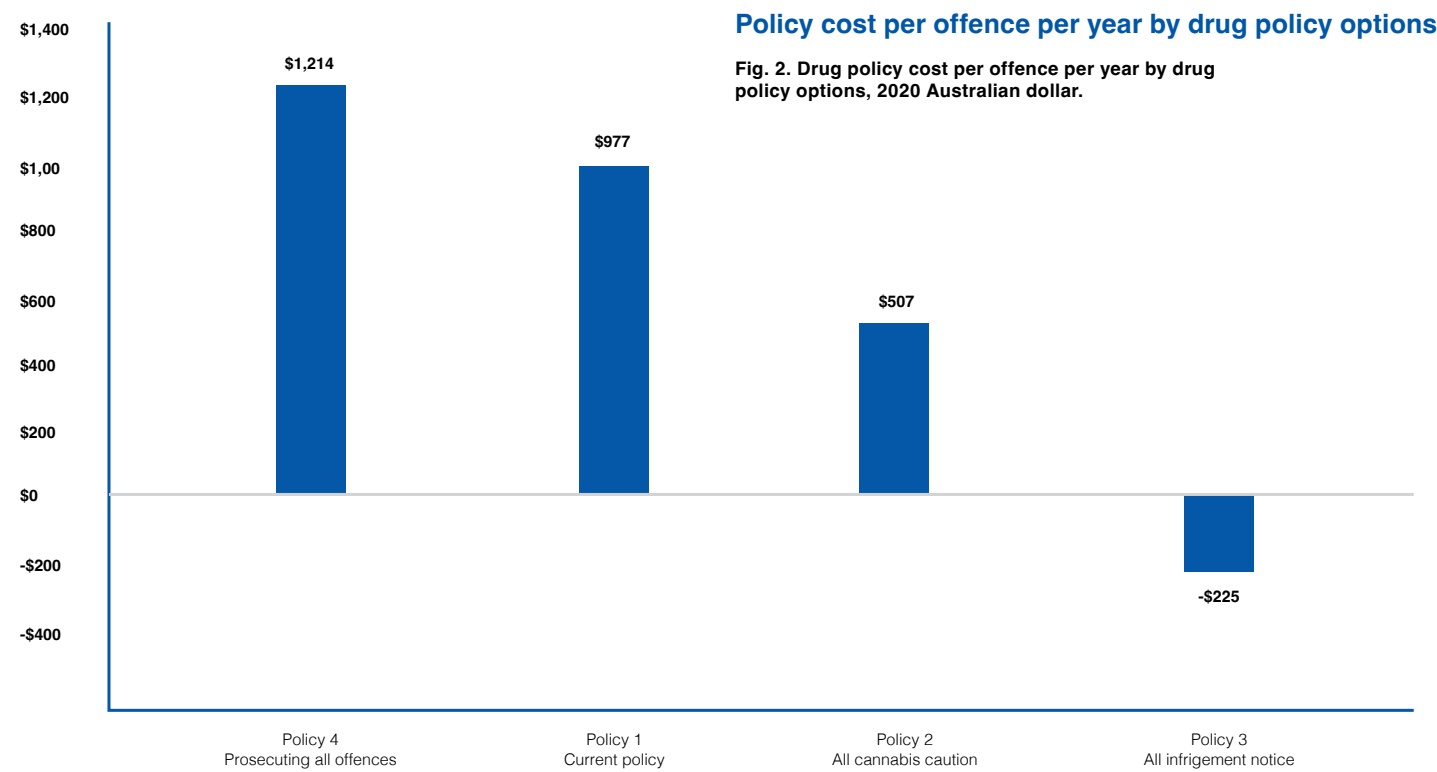
Supervised order (months)			
L7	Cocaine	14.2	NSW Bureau of Crime Statistics and Research
L8	Narcotics	11.6	NSW Bureau of Crime Statistics and Research
L9	Cannabis	12.5	NSW Bureau of Crime Statistics and Research
L10	Amphetamines	12.6	NSW Bureau of Crime Statistics and Research
L11	Ecstasy	15.2	NSW Bureau of Crime Statistics and Research
L12	Some other drug	12.7	NSW Bureau of Crime Statistics and Research

Parameter labels	Parameter descriptions	Parameter values	Source
Proportion of drug use in a simulation cohort			
DU1	Cocaine	12%	NSW Bureau of Crime Statistics and Research
DU2	Narcotics	9%	NSW Bureau of Crime Statistics and Research
DU3	Cannabis	39%	NSW Bureau of Crime Statistics and Research
DU4	Amphetamines	26%	NSW Bureau of Crime Statistics and Research
DU5	Ecstasy	13%	NSW Bureau of Crime Statistics and Research
DU16	Some other drug	2%	NSW Bureau of Crime Statistics and Research
DU7	Proportion with prior sex, drug, or violence offences	32%	NSW Bureau of Crime Statistics and Research
Costs/income (AU\$)			
C1	Cost of each detection (police caution)	143	Shanahan (2011), inflated to 2020
C2	Cost of each detection (court attendance notice)	547	Shanahan (2011), inflated to 2020
C3	Cost of each court appearance	811	Productivity Commission 2021
C4	Cost of one legal aid case	170	Productivity Commission 2021
C5	Income from each infringement notice	400	NSW Bureau of Crime Statistics and Research
C6	Cost of prison flag fal	700	Grant 2020
C7	Cost of prison per day	220	Productivity Commission, 2020
C8	Cost from supervised order (per day)	19	Productivity Commission, 2020
Penalty amounts (AU\$)			
C8	Average income from each cocaine possession fine	486	NSW Bureau of Crime Statistics and Research
C9	Average income from each narcotics possession fine	456	NSW Bureau of Crime Statistics and Research
C10	Average income from each cannabis possession fine	375	NSW Bureau of Crime Statistics and Research

Parameter labels	Parameter descriptions	Parameter values	Source
C11	Average income from each amphetamine possession fine	459	NSW Bureau of Crime Statistics and Research
C12	Average income from each ecstasy possession fine	421	NSW Bureau of Crime Statistics and Research
C13	Average income from each other drug possession fine	467	NSW Bureau of Crime Statistics and Research

Table 2
 Predicted versus actual cohort among 1,000,000 hypothetical cohort.

		Actual	Predicted	Lower	Upper	Difference
User population (last 12 months)	1,139,112	1,000,000	1,000,000	-	-	-
Number detected	19,195	16,851	16,460	16,380	16,909	-2 %
Criminal infringement notice	472	414	403	379	422	-3 %
Cannabis caution	4597	4036	3794	3472	4385	-6 %
Court	14,126	12,401	11,250	11,016	12,506	-9 %
Number convicted	11,251	9877	8824	8820	9906	-11 %
Number imprisoned	89	78	76	74	84	-3 %
Supervised order	514	451	451	420	600	0 %
Fined	6165	5412	5244	4908	6118	-3 %



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Table 3

Break-down costs by components for drug policy options, 2020 Australian dollar.

	Policy 1- current policy Costs (%)	Policy 2-all cannabis caution Costs (%)	Policy 3-all infringement notice Costs (%)	Policy 4-prosecuting all offenders Costs (%)
Costs of detection	\$393 (40%)	\$249 (49 %)	-\$225 (100 %)	\$493 (38 %)
Costs of court	\$434 (44%)	\$186 (37 %)	-	\$581 (45 %)
Costs of supervised order	\$77 (8 %)	\$34 (7 %)	-	\$104 (8 %)
Costs of prison	\$73 (7 %)	\$38 (7 %)	-	\$104 (8 %)
Costs per offence	\$977	\$507	-\$225	\$1282

The current estimated annual cost is \$977 (SD: \$293) per offence (policy 1). Policy 2 shows the cost if all those detected in possession of a prohibited drug and who have (a) received no more than one previous caution and (b) have no prior criminal record involving drugs, violence, or sexual assault. The cost of processing one offence per year now falls to \$507 (SD: \$106). Policy 3 shows the cost if, instead of giving those convicted of possessing a prohibited drug a caution (as in policy 2), they are all given an infringement notice. The restrictions on eligibility in this case remain those that applied in the simulation of policy 2. The public outlay on drug law enforcement turns into a net revenue gain of \$225 per offence per annum (SD: \$68). Finally, policy 5 shows the effect of abolishing cautions and infringement notices and prosecuting all those convicted of possessing or using a prohibited drug (Fig. 2). This would lift the current cost of processing from \$977 to \$1282 per offence per year (SD: \$321).

For policy 1 and 4, court attendance is the main driver of costs, accounting for 44 % and 45 % of unit costs, respectively. The second largest costs were detection costs, which are 40 % and 38 % of unit costs, respectively. For policy 2, costs of detection were largest (49 %), following by costs of court (37 %). Policy 3 had 100 % income from infringement notice (Table 3).

3.1. Model validation

Table 2 shows the predicted and actual cohorts along with the 95 % confidence intervals surrounding the prediction. The table also shows the percentage difference between predicted and observed values.

All observed cohorts bar one are within the 95 % confidence interval

band surrounding the predicted cohort values. The exception is the number of cannabis cautions, which lies just outside the upper 95 % confidence interval or 6 % over the predicted value. The observed co-horts are also within 10 % of those predicted, except in the case of the number convicted, where the model underestimates the conviction rate by 11 %. Considering the complexity of the criminal justice process as described in Section 2, this is a good fit.

3.2. Sensitivity analysis

Table S2 shows the change in incremental costs when all the chosen variables are at their lower (−30 %) bound or at their upper (+30 %) bound. The main driver of the incremental costs of policies 2, 3, 4 versus policy 1 (current policy) is the value of a fine. When the value of a fine increases (resulting in a higher income to government), the incremental cost of alternative policies compared to the current policy decreases.

4. Discussion

We find that the current annual cost in New South Wales of prosecuting a person for use and/or possession of a prohibited drug is \$977 (95 % CI: \$490–\$1629). This would rise to \$1282 (95 % CI: \$732–\$1984) per offence, if all those found in possession of a prohibited drug were prosecuted in court. It would fall to \$507 (95 % CI: \$321–\$735) if the current policy concerning cannabis cautions was extended to all drugs. If, on the other hand, parliament extended the current infringement notice scheme to all drugs, the government would receive \$225 (95 % CI: \$112–\$377) per offence.

The current estimated annual cost \$977 (95 % CI: \$490–\$1629) of processing an offence for using or

possessing a prohibited drug, though significant, is smaller than many might have suspected. We identified three reasons for this. First, the drug most often detected among those apprehended for possession of an illegal drug is cannabis. In New South Wales, more than a quarter of those found in possession of cannabis receive nothing more onerous than a police caution (NSW Bureau of Crime Statistics and Research, 2021). Second, in the absence of data to the contrary, we assume that everyone who receives a fine pays the fine in full. In NSW, 62 % of those prosecuted in the Local Court for drug use and/or possession receive a fine (NSW Bureau of Crime Statistics and Research, 2021). The income from fine payment helps defray police, court, and prison costs. Third, drug use/possession charges are almost always dealt with in the local court. Because the majority of local court cases are finalized on a plea of guilty, criminal cases in the local court are not especially expensive compared with those finalized in the higher criminal courts where a defended cause usually results in a trial by jury (NSW Bureau of Crime Statistics and Research, 2021; Productivity Commission, 2020).

Even so, clear differences exist between methods of proceeding against persons apprehended for using or possessing a prohibited drug. At one extreme (all drug use/possession offences dealt with by an infringement notice), the \$977 (95 % CI: \$490–\$1629) cost of processing one offence apprehended in 2019 for using or possessing a prohibited drug, would turn into an annual revenue gain of \$225 (95 % CI: \$112–\$377) per offence. Extending the cannabis cautioning scheme to all drugs would reduce the cost of current policy by more than 50 %. A policy of issuing infringement notices

or cautions for drug use/possession might be seen by some as substantially reducing the deterrent effect of existing penalties. Evidence exists that removal of all criminal sanctions would increase the consumption of cannabis (Sutherland et al., 2021). There is no evidence, however, that replacing criminal prosecution with the issue of an infringement notice would influence the prevalence or incidence of illicit drug use. Increasing sanction severity has been found in numerous studies to exert very little deterrent effect (Chalfin & McCrary, 2017; Nagin, 2013), especially when the risk of detection is very low, as it is in the current case (see parameter P1 in Table 1).

As with all simulation models, the simulation model presented here rests on several key assumptions. We assume that the method of proceeding against drug use/possession offenders has no effect on the prevalence or incidence of prohibited drug use. This assumption, as just noted, appears well supported by evidence. We assume that all those fined pay the fine imposed on them by the courts or police. We were unable to obtain data on the proportion of penalty notices and court-imposed fines that are never paid, however some proportion of those who are fined fail to pay their fines on time (Visentin, 2019). The effect of this on our costing estimates will depend on whether the fine delinquency rate is lower for court-imposed fines than for police-issued infringement notices and the size of any difference in nonpayment between these two methods for issuing a fine.

We used average length of stay in prison and average length of supervised order to calculate the costs. This could overestimate or underestimate the costs. Using distribution of length of stay for L1–L12 to calculate the costs would be more accurate. We were not able to obtain the detailed data to explore the distributions but consider this option for future studies. We also used average supervised order per day as costs (\$19) and assumed no other costs for this group. Supervised orders include (1) Intensive Correction Order, (2) Community Correction Order with supervision, (3) Conditional Release Order with conviction, with supervision, (4) Conditional Release Order without conviction, with supervision. These subgroups might have different costs due to different activities involved. This difference needs to be further

investigated. We used a fixed detection rate, which would be expected to vary across the scenarios, generating substantial variation in the volume of cases handled.

The most important assumption we make is that a change in the volume of cases proceeding to court does not affect the probability distribution over outcomes. We assume, for example, that an increase in the number of cannabis possession cases arriving at court instead of being dealt with by way of a cannabis caution does not affect the probability of a prison sentence. This assumption would result in an overestimation of the cost of policy four, if those arriving at court were at the lower end of the seriousness spectrum (e.g., if they had fewer prior convictions on average than those currently referred to court). It could result in an underestimation of the cost of policy 4 if courts took the removal of drug diversion schemes as a signal of the need to take a tougher line against those convicted of illicit drug use and possession. We cannot know which of these two outcomes is more likely, let alone quantifying the change. We make the simple assumption that prosecuting all those detected in possession of cannabis has no effect on the probability of prison and invite others to test this assumption empirically. For the moment, we simply note that our model gives a fairly accurate picture of the processing of cannabis possession cases by police and courts (see Table 2).

In their report on drug policy expenditure, Ritter et al. (2013) estimated that Australian state and territory governments spent \$1.61 billion on illicit drug policy during the financial year 2009/2010 (Ritter et al., 2013). On their estimates, law enforcement made up about 64 % of this expenditure, with the rest divided between prevention (9.7 %), treatment (22.5 %), and harm reduction (2.2 %). Although no more recent estimates are available, the prevalence of illicit drug use increased between 2007 and 2019 (Australian Institute of Health and Welfare, 2020). Therefore the Australian state and territory government's spending on drug policy has likely increased since the Ritter et al. study was published.

Taken as a whole, the current findings suggest that the monetary savings should be regarded as a consideration in deciding whether to decriminalize illicit

drug use or remove cases of prohibited drug use/possession from the court system. Minor drug offenders may make up the bulk of those appearing in court, but a large part of the drug law enforcement budget appears to be directed at apprehending those involved in the importation, cultivation, manufacture, and trafficking of drugs (Jiggins, 2005). An arguably more relevant consideration is whether the costs imposed on those convicted of using illegal drugs for possessing a small quantity of illicit drugs for personal use is worth the benefit gained in terms of public safety. Considering the adverse consequences of criminal conviction on an individual's employment and earnings prospects (Borland & Hunter, 2000; Nagin & Waldfogel, 1998; Pleggenkuhle, 2018; Waldfogel, 1994), and the evidence that more severe sanctions are not a deterrent to drug use (Green & Winik, 2010; Mitchell et al., 2017; Weatherburn & Yeong, 2021), this seems doubtful.

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CRediT authorship contribution statement

ADT designed study method, built, implemented, and reported model, wrote the manuscript, DW designed study aims, collected data, wrote the manuscript, SP designed study aims, collected data, wrote part of the manuscript.

Conflict of interest

No conflict declared.

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Appendix A. Supplementary data

Supplementary data to this article can be found online at <https://doi.org/10.1016/j.josat.2023.208983>.

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Decriminalisation but no safe supply - So how do we close that care gap?

The Australian Capital Territory (ACT) is the first jurisdiction in Australia to pass legislation to decriminalise all illicit drugs for personal use (based on the Portugal's successful policies).

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This legislation adds to previously decriminalization of cannabis for personal use. Decriminalization of a small amount of substances for personal use reduces the number of people swept into the criminal justice system (and deportations) and does not appear to increase substance use. Decriminalization, takes the 'drug problem' away from the criminal system and allows people to be cared by the social and health care system. The opposite continues to have disastrous consequences for the well being of citizens and communities. History tell us the effect of the opposite approach with natural experiments. When alcohol became prohibited, wine become less prevalent and there was a shift to more potent products, like spirits. People did not stop drinking, substances became more dangerous, as well as the social context to drink them and obtain them (e.g., risking imprisonment).

In the last decade Canada has been fighting an overdose crisis, led by the toxic street drug supply. People using substances acquired in the street at the higher risk. While substances of unknown potency and content are consumed by people of all walks of life, not everyone is affected in the same way, and those with less resources either structural or personal, are the most exposed. These include youth, people living in isolation, marginalized groups, people with disabilities, minorities.

Although there are many measures in place, such as safe consumption sites, regulations of prescription opioids that reduce over prescription, and increased accessibility of opioid agonist treatment, the problem of a toxic drug supply is not yet addressed in North America,

attested by the continue surge in the number of deaths. Using the words of the Australian scholar Robin Room, one might say that part of the solution would be offering clients "the substance for which the user has already developed a taste and a habit". Prescribing diacetylmorphine (pharmaceutical-grade heroin), hydromorphone, fentanyl and other substances that people might be using in the street, could be a way to protect those that are turning to the toxic drug supply to meet their opioid needs. In Canada, two of these medications are licensed for the treatment of opioid use disorder (OUD): injectable diacetylmorphine and injectable hydromorphone.

Opioid use disorder is a chronic medical condition. There are good treatments today, well studied, such as oral methadone and Suboxone, standard treatments. However, they don't work for everybody and they don't work all the time. For many years, European countries and Canada have been providing evidence that prescribing pharmaceutical heroin works. Starting in the United Kingdom, where they provide prescription heroin to a few hundred people for nearly a century. People go to pharmacy, pick up powdered diacetylmorphine, they take it home and self-administer in the comfort of their homes, go back to the pharmacy in a week.

In the 1990's many cities faced an outbreak of HIV, due to the spread of heroin injection in unsafe conditions. Some European countries responded and successfully contained the incidence of HIV through the provision of clean injection materials, safe environments

to inject, decriminalization of the use of drugs and treatment with oral methadone. As the open drug use scene continue in some countries, Switzerland followed the steps of the UK, although with a twist. They opened clinics where people could come and inject pharmaceutical-grade heroin but this time under supervision, to support engagement with the health care system. Since then, many other countries have tried to implement this approach. Canada being one of them, as well as Australia.

The first Canadian protocol was written in 1987, however the trial actually started in 2005. In the initial protocols, 3 cities from the United States were planned to participate, although very soon they succumbed to the regulatory barriers and impossibility to secure funding. The Canadian trial was set up in Vancouver and Montreal. Like their predecessors in Europe, no "honey pot" effect (ie., attracting people from other places to come to the clinic), and no disturbances around the site were reported. NAOMI, the name of the study, had a dedicated line for the neighbours or concerns citizens to call to report any issues regarding the trial. It did not receive a single call. The study asked the question: In a population not benefiting from current treatments, is prescription heroin, injectable diacetylmorphine, superior to methadone? The answer was yes, and it was published in the most prestigious scientific medical journal (The New England Journal of Medicine) in 2009. However, that did not seem to be enough for the Canadian government at the time. But Denmark looked at those results, Canadian and European, and

wisely concluded they did not need more evidence to open a program and integrated it into the healthcare system.

Coming back to Canada, looking for alternatives, we tested another opioid analgesic medication, hydromorphone, relevant for many countries in the world where prescription heroin will pose too many hurdles to be accepted. Our follow-up study – SALOME –asked the question: is hydromorphone as good as diacetylmorphine? The answer was yes. As time passed and government changed, in Canada we now have diacetylmorphine available to any jurisdiction or province that might want to access it, as well as hydromorphone, for the treatment of OUD.

Offering people the medication they want has shown to be effective at attracting and retaining them into care. In the example of diacetylmorphine, it has shown to be more effective than methadone in that population that continues to inject. It also reduces societal costs over a lifetime, and reduces crime. While there are many benefits for those that receive the care

they need, in most places the decision to expand prescription heroin seems to be the improvement in public disorder. It is not surprising that the data shows a remarkable decline in the involvement in illegal activities among those engaged in treatment with prescription heroin or injectable hydromorphone. We have one client in our program that had been in and out of jail over 200 times and since he's been in our program he's not been back to jail. That's just one example.

So how do we close that care gap? We've got good options on the recovery abstinence side of the continuum. But there's thousands of people that aren't ready for that option yet. We need to normalize options like prescription heroin. We need to offer it in a person-centred way. If somebody was looking for a safe opioid high, the system needs to be ready to support a person-centered approach. Prescribers need to feel that they have all the tools they need to meet people where they are at. As we move in the direction of the rights of a person to receive treatment

and a person-centered approach, the outcomes also need to be geared towards what clients and families are seeking, not just abstinence as a measure of success.

The models are out there. There are countries like Netherlands, Switzerland, who've integrated this kind of approach into their healthcare system. There's probably 100,000 people in BC would meet the criteria for opioid use disorder and there's probably a few thousand – 10,000, 12,000 – who might need this kind of a treatment.

Treatment with diacetylmorphine, and later on hydromorphone, is not new. There is robust evidence, there is a need for it, and clients, providers, even law enforcement have been supportive of it. It is time to normalize it, and take the novelty out of it. In Canada it is offered in very diverse ways, in order to meet the needs of the clients, together with other services and other medications. We need more tools in the toolkit. The clients are evolving, and so, the treatment needs to evolve with them. The examples are all around us.

During this festive season, I want to express my heartfelt gratitude for your unwavering dedication to keeping our community safe. Your service and sacrifice do not go unnoticed, and I am grateful for your tireless efforts. Wishing you a Merry Christmas filled with joy and warmth, and a heartfelt thank you for all that you do.

Dan

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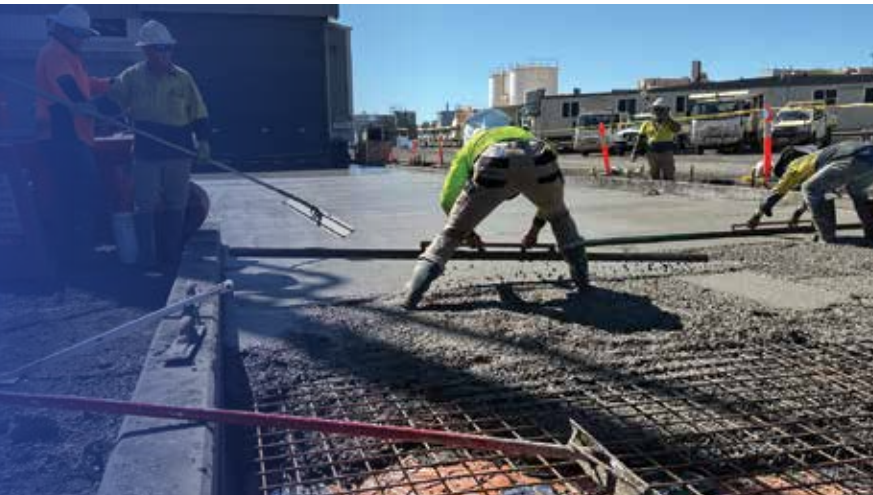
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