

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 17 August 2018

HOME AFFAIRS PORTFOLIO

(RCRC001) – In Australia where is the majority of cannabis that is being used illicitly coming from?

Asked:

As you say, it's your job to enforce the law, not to work out whether the law is correct in its policy effect. In Australia where is the majority of cannabis that is being used illicitly coming from?

Answer:

In Australia, the importation of cannabis and cannabis related products is relatively minor compared to its domestic production. The illicit cultivation of cannabis and the end user can also be in two different locations.

Domestically, the illicit cultivation of cannabis can occur in any outdoor location that meets the specific growing requirements of the plant. Cannabis can also be grown indoors, large scale illicit hydroponic cultivation production is undertaken in clandestine “grow houses” where the plant’s growing conditions are controlled to maximise production. This is largely the scenario in respect to the involvement of organised crime in the production of cannabis domestically.

Further to this, the Illicit Drug Data Report, produced by the Australian Criminal Intelligence Commission, gives a detailed breakdown on the origin of illicit cannabis. The report can be accessed at: <https://www.acic.gov.au/publications/intelligence-products/illicit-drug-data-report-0>

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 14 September 2018

HOME AFFAIRS PORTFOLIO

(RCRC/002) – synthetic cannabis

Asked:

Did you see any impact on cannabis and cannabis use when synthetic cannabis came in? What was the relationship of that to the cannabis market, if any?

Answer:

Synthetic cannabis, although subject to abuse, has had little impact on the Australian illicit cannabis market. The 2016 National Drug Strategy Household Survey found that 2.8 per cent of Australians aged 14 and over have never tried synthetic cannabinoids, and that 0.3 per cent had used synthetic cannabinoids in the year preceding the survey.

The Australian Criminal Intelligence Commission (ACIC) National Wastewater Drug Monitoring Program included two synthetic cannabinoids (JWH-018 and JHW-073) in analysis for Reports 1-3. However, these are no longer monitored, as they have not been detected at sites across Australia since monitoring commenced in 2016.

The ACIC has advised that it will commence testing for cannabis itself from report 6, which is scheduled for release at the end of 2018.

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 17 August 2018

HOME AFFAIRS PORTFOLIO

(RCRC/003) – comment in your submission

Asked:

I am somewhat intrigued by another comment in your submission:

This disconnect between Commonwealth, state and territory law would lead to a greater financial impost on state and territory law enforcement, as confusion arising from inconsistencies between Commonwealth, state and territory legislation will be exploited by organised criminal entities seeking to sell cannabis products in the Australian market.

I don't understand what the basis for that comment is?

Answer:

The Department of Home Affairs' submission notes the potential for perverse law enforcement outcomes if the Criminal Code and Other Legislation Amendment (Removing Commonwealth Restrictions on Cannabis) Bill 2018 (the Bill) is passed. These are likely to arise where States do not legalise the use of cannabis (and there is no indication they intend to do so). For example, an individual could import cannabis legally but be subject to State possession charges. This disconnect could frustrate State and Territory police efforts to reduce supply within their own jurisdiction.

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 17 August 2018

HOME AFFAIRS PORTFOLIO

(RCRC/004) – policies of preventing and reducing the harm that cannabis has on individuals, families and communities across Australia.

Asked:

Whoever put that in there—that's what I intended, yes. I'm not pointing the bone at you, individually, Ms Spencer. Another comment in here which I found intriguing was: States, territories, and the Australian Government have demonstrated a commitment to continuing the policies of preventing and reducing the harm that cannabis has on individuals, families and communities across Australia.

I'm interested if you have any information as to what those harms are, and, more to the point, what do you regard as the success of those policies in preventing and reducing those harms that cannabis has? The reason I'm asking that question is that we've heard from previous witnesses to this inquiry that cannabis use is quite substantial. The Australian Institute of Health and Welfare survey suggests that 10 per cent of adult Australians used cannabis in the last 12 months, despite the fact it's illegal—although technically not enforced in three jurisdictions—and has been for many, many decades. They found that 34 per cent of adult Australians have consumed cannabis at some stage in their life. Again, take that on notice by all means—

Answer:

This is not a matter for the Department of Home Affairs and should be referred to the Department of Health.

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HOME AFFAIRS PORTFOLIO

(RCRC/005) – state laws

Asked:

It might be, because I think there's plenty of precedent for suggesting that what you're describing is not actually a problem at all. I'll give you one example: nicotine e-liquid. It is permitted to come in under Commonwealth law; it's not permitted to be owned and used in some states. That doesn't lead to a major law enforcement problem. What it leads to, in many respects, is something that some of us regard as quite desirable, which is competitive federalism—in other words, the states doing different things and seeing which works—which is something that's supposed to be a good thing about federations. I'm happy for you to take that one on notice.

Answer:

The laws of the states and territories are a matter for respective jurisdictions. However, border controls are most effective when a prohibited or regulated good in a state or territory can be intercepted at the border under federal legislation.

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 17 August 2018

HOME AFFAIRS PORTFOLIO

(RCRC/006) increase in the consumption of cannabis

Asked:

Senator LEYONHJELM: The assumption in your submission is that consumption of cannabis would increase, and that would, therefore, be accompanied by health costs. Is that right?

Ms Spencer: That's right.

Senator LEYONHJELM: Okay. What's the basis of that assumption? I don't mind if you want to take that on notice.

Ms Spencer: I'm happy to take that on notice.

Senator LEYONHJELM: By all means.

CHAIR: I assume you will refer to the Department of Health.

Answer:

This is not a matter for the Department of Home Affairs and should be referred to the Department of Health.

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 17 August 2018

HOME AFFAIRS PORTFOLIO

(RCRC/007) – legalisation of cannabis

Asked:

Senator LEYONHJELM: There are states and countries which have legalised cannabis. Portugal decriminalised it almost 20 years ago. There are now nine American states that have allowed it for recreational use. Uruguay has allowed it. Canada has, although that is only just starting, so we wouldn't know there. Has it led to increase in use and greater harm to the community?

Ms Spencer: I understand you've had evidence from other organisations on that.

Senator LEYONHJELM: And they've said no, so—

Ms Spencer: It's not something the department would comment on.

Senator LEYONHJELM: Yet you have said in your submission that the bill: ... would increase its availability to the Australian community and reduce its cost, leading to greater harm to the individual and the Australian community more broadly. So you have taken a position on it.

CHAIR: We had the Department of Health here and I don't think any of us asked the Department of Health for their view—

Senator PRATT: I tried, but the part of the Department of Health that were here were on product regulation. They said that they just regulate the products that they're asked to. We did not have the part of the department that are responsible for the drug strategy or the harm minimisation work of the government. They weren't here.

CHAIR: Okay. I had forgotten you had asked that, Senator Pratt. I should have asked it as well. We might send that as a question on notice to the Department of Health, the relevant department. I would guess that the Department of Home Affairs is simply reflecting a view from the Department of Health, which, in the circumstances, would be appropriate.

Answer:

This is not a matter for the Department of Home Affairs and should be referred to the Department of Health.

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 17 August 2018

HOME AFFAIRS PORTFOLIO

(RCRC/008) – international obligations

Asked:

Senator LEYONHJELM: If a state legalised cannabis now, without any change in the current Commonwealth laws, would that alter Australia's international legal obligations or Australia's compliance with its international legal obligations?

Ms Spencer: That question on our international obligations would be best directed to the Department of Foreign Affairs and Trade.

CHAIR: Would you take it on notice?

Senator LEYONHJELM: You can take it on notice. Thank you. The purpose of the question is to clarify another statement in your submission which says:

... the Bill opens the possibility for states to enact laws which would directly contradict Australia's international legal obligations under these conventions.

I can't see how that can be accurate, but I am interested to know what the origin of it is. Take that one on notice.

Answer:

This is not a matter for the Department of Home Affairs and should be referred to the Department of Foreign Affairs and Trade.