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Parliamentary Joint Committee on Law Enforcement
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Australian Psychedelic Society submission to the Inquiry into Australia's illicit drug problem: challenges and opportunities for law enforcement

About the Australian Psychedelic Society

The Australian Psychedelic Society (APS) is a grassroots and ACNC-registered not-for-profit organisation. APS is community-led, and our aims relate to: advancing education; promoting and protecting human rights; and to advocate for the interests of the community by strengthening public debate on the ways in which psychedelics and users of psychedelics are treated under Commonwealth, State and Territory laws and in society.

The APS was officially launched in 2017, incorporating as an association in 2018 and registering as a charity in 2020.

The APS aims to work with all levels of government to develop laws and policies which realise and maximise the health, social, and economic benefits of psychedelics, while respecting human rights and enhancing cognitive liberty.

We have active chapters in all states and the ACT. Our activities are concentrated in capital cities, but interest and participation in regional areas is rapidly increasing. Our online communications, including social media, reach thousands of Australians each week.

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Introduction

The Australian Psychedelic Society welcomes the opportunity to have input into the Joint Committee on Law Enforcement inquiry into Australia's illicit drug problem.

In multiple jurisdictions, decriminalisation is associated with marked reductions in drug-induced mortality and health burdens. Countries that have pursued it have significantly better drug-related health outcomes than Australia. On top of this, decriminalisation seems to cost less. In contrast, Australia's current approaches of criminalisation, prohibition, and incarceration are expensive, produce worse health outcomes, and are ineffective at reducing either supply or demand. It is our view that the best approach to drug use, illicit or otherwise, is to remove law enforcement as much as possible and provide health and social services where needed. Decriminalisation is an important step in the process of achieving this.

It is important to note that decriminalisation is not a panacea. Only fully legal and properly regulated systems can ensure a high-quality standardised dose of any substance (psychoactive, medicinal, or otherwise) and maximise the exclusion of criminal organisations from supply chains.

Summary of Recommendations

1. All drugs should be decriminalised in Australia.

We recommend the inclusion of the following features in a system of decriminalisation to maximise the potential benefits to the community:

- 1.1. People should be legally allowed to grow or gather reasonable amounts of natural sources of psychedelics and psychoactive substances. E.g., psilocybin containing mushroom species, *Salvia divinorum*, *Cannabis*, etc.
- 1.2. Personal possession weight limits should be high enough to not limit personal possession to a single dose, and be calibrated around standard doses of the pure substance, not on the total weight of drugs seized. Weight limits should be established in consultation with people familiar with the use of those substances.
- 1.3. Limits for growing and possession must take into account the relative risks of substances, i.e., substances with lower risk of harm such as psychedelics and cannabis should have higher limits.
- 1.4. Any fines, which we do not support as a response for personal possession, use, or growing, should be low enough to not disproportionately impose financial strain on people of low socioeconomic status.
- 1.5. Whether or not an incidence of personal possession, use, or growing of illicit substances falls within the remit of a regime of decriminalisation should not be at the discretion of police, due to their propensity to discriminate along racial and socioeconomic lines.
- 1.6. Substances should not be confiscated where they are under the personal use weight limits. This approach increases the risk of harm to vulnerable individuals.
- 1.7. Referrals to education or treatment programs should be voluntary for the individual. Mandating such programs leads to unnecessary burdens on services and is ineffective in changing patterns of substance use where the individual does not wish to engage. At the very least, these should not be required for everyone found in possession of a substance, particularly for the first time. Education and treatment services should also be allowed to dismiss referrals they do not deem necessary based on their assessment of an individual's circumstances.
- 1.8. It should be legal to give or trade (but not sell) an amount of substance no more than the personal possession limit, to another person.
- 1.9. Any person, whether they have been found in possession of illicit substances or not, who wants or needs assistance in reducing or managing their substance use, should be able to access the relevant services quickly and easily at minimal cost. Funding this can be achieved by redirecting a portion of the money saved from reducing policing costs.

Thank you for the opportunity to provide feedback on this Inquiry. Representatives of the Australian Psychedelic Society are available to provide further input to the Committee on the matters raised in this submission.

Response to the terms of reference

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

- Psychedelic use is increasing and the demographics of those interested in these substances is changing

The use of psychedelics in Australia has progressively increased in Australia since the first National Drug Strategy Household Survey in 1998. In 2019, 10.4% of the population reported having used a psychedelic in their lifetime and 1.6% had used a psychedelic recently. People who use psychedelic substances generally use them infrequently and most commonly use LSD and psilocybin mushrooms (Australian Institute of Health and Welfare, 2020).

These trends have also been observed among people who use ecstasy and related drugs since the Ecstasy and Related Drugs Survey (EDRS) was first conducted in 2003. The EDRS also found that most people who consume LSD, MDMA, ketamine and DMT find these substances easy to obtain with no significant changes in ease of access since 2003 (Sutherland et al., 2022a).

It is interesting that the group seeing the largest increase in psychedelic use are those over 40 (Australian Institute of Health and Welfare, 2020). This represents a significant change to the pattern of use of these substances. We firmly believe this is related to the increasing interest in the use of psychedelics for improving or maintaining psychological wellbeing and to address psychological distress, burnout, and particular psychological conditions.

The use of psychedelics for these beneficial purposes is supported by a substantial body of scientific evidence that has repeatedly and consistently linked psychedelic use to improvements in mood, anxiety, coping abilities and spontaneous reductions in the problematic use of alcohol and other drugs.

The majority of this evidence was not from studies exploring their medically supervised use to treat specific psychological disorders, but from administration studies in otherwise generally well adults or from surveys of the effects of people's psychedelic use in general community populations.

It is worth noting that the evidence for the medical use of psychedelics for treating many high prevalence, high burden psychological disorders such as depression, anxiety, PTSD and substance use disorder is also rapidly growing and suggests a massive potential for their use in clinical populations.

The Australian Psychedelic Society is clearly seeing this increase in interest in the potential benefits of psychedelic use. This is driven by frequent reports in mainstream media about new research findings and influential people publicly discussing their own experiences with the beneficial effects of psychedelic use. This is significantly changing the demographics of those seeking to use psychedelic substances. People from a wide range of demographics are increasingly voicing their frustration over the legal barriers to the personal and clinical use of psychedelics.

2. Emerging trends and risks, such as new psychoactive substances, adulterated drugs and other new sources of threat

- Prohibition and policing are the biggest drivers of risk from novel psychoactive substances, adulteration, and variations in potency

Prohibition has been, by far, the single largest driver of the development of novel psychoactive substances, adulteration of common illicit substances and dangerous variations in potency.

While users of psychedelics generally find them easy to obtain, adulteration is a concern. Novel psychoactive substances such as 25i-NBOMe have been found as adulterants in MDMA and LSD. The latter two have well documented safety profiles and their potential adverse effects are well understood and therefore generally preventable where education can be provided, and other established harm reduction strategies are effectively implemented.

Conversely, the novel psychoactive substances have little or no safety information available and many have much higher risks of significant toxicity than the psychedelics that were commonly used before their emergence. The lack of safety information makes it difficult to provide harm reduction interventions, particularly where drug checking programs are not available.

Legalisation and regulation of supply is the most effective approach to addressing the issues of adulteration, toxic novel psychoactive substances and variations in potency. Establishing and supporting drug checking programs is another effective intervention to address these issues. The latter should be implemented along with measures like depenalisation of possession to maximise the benefits associated with the intervention by increasing the likelihood of access.

Canberra's first fixed site drug checking program has been overwhelmingly effective at reducing the harms associated with the adulteration and misrepresentation of substances tested by the service including providing timely and critical data on purity and dangerous adulterants.

Any suggestion that drug checking programs will increase rates of use are not based on any available evidence. In fact, the vast majority of available evidence points to the contrary, with data going back as far as the start of the earliest such government funded program initiated in the Netherlands in 1992.

These programs, which have run for many years and in some cases decades in many European countries, have been found to reduce the consumption of adulterated or misrepresented substances and reduce the harms of those substances. The programs have prevented deaths seen from adulterated products in neighbouring countries without drug checking programs or systems to warn people who use drugs about dangerous substances in circulation (Brunt, 2017).

Conversely, in Australia, police forces have previously withheld information about testing results confirming the adulteration of a powder sold as ecstasy despite the adulterated product causing two multiple fatality events in a three-month period across two states. This came to light when an internal police memo was leaked to the media at which time Victoria Police responded that they had not issued a public warning about the adulterated MDMA because:

“...synthetic drugs can take a variety of forms. If we issue a warning for one particular lot, that does not mean the drug isn't also doing the rounds in other forms and so it is inappropriate to provide a specific warning” (Connaughton, 2017).

As representatives of a community of people who use psychedelics, we know that people will take what they have purchased unless there is a reason to believe the substance is not what they thought it was. In that case many people who use drugs, particularly psychedelics, will opt not to ingest the misrepresented or adulterated substance.

3. 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

A 2020 report by the Australian Institute of Criminology concluded from a review of the available evidence that supplier arrest and drug seizure do not have consistent evidence supporting any significant impact on availability, price, or purity. These actions also did not improve drug harms and had been associated with increases in several types of substance use related harm (Eggin et al, 2020).

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

- Prohibition impedes real harm reduction strategies.
- Law enforcement have been objectively ineffective in reducing supply or demand despite massive resourcing over five decades
- Law enforcement do not currently have the necessary expertise or community engagement to have a beneficial role in harm reduction
- Many law enforcement interventions around substance use significantly erode public trust in those institutions and increase the potential risks associated with substance use
- The Australian public support a shift away from criminalising substance use and the provision of more resources to education than to law enforcement

With regard to the risk of harm associated with psychedelics, MDMA and LSD have more than 50 years of documented use and plant-based psychedelics such as mescaline and psilocybin mushrooms have thousands of years of documented use.

They have a low risk of individual or social harm when established harm reduction principles are adhered to (Nutt et al., 2010). This includes being adequately educated about the expected effects

and being mindful of where, when how and why the person is taking the substance. It also includes being certain of the identity of the substance to be consumed and the dose being consumed.

As previously noted, law enforcement approaches employed to date have been completely ineffective at reducing demand or significantly reducing supply for any sustained period.

The National Drug Strategy Household Survey, conducted every three years by the Australian Institute of Health and Welfare, has found an increase in lifetime illicit drug use between 2001 and 2019 from 37.7% to 43.2% of the population, and no significant reduction in substance use within the past year, month or week since 2001 (Australian Institute of Health and Welfare, 2020).

The National Illicit Drug Reporting System and Ecstasy and Related Drugs Reporting System consistently find that the majority of people who use illicit substances find these drugs to be easy or very easy to obtain. This hasn't changed significantly over the past two decades (Sutherland et al., 2022a; 2022b).

By far the most common reason people report for not using substances that are currently illegal is that they do not want to, not because they fear legal consequences (Australian Institute of Health and Welfare, 2020).

Law enforcement have consistently opposed real harm reduction measures like drug checking programs, depenalisation of possession of illicit substances, legalisation and regulation of supply, safe drug consumption centres and the design and delivery of evidence-based harm reduction education.

To varying degrees in different states, law enforcement has continued to use drug detection dogs, despite three quarters of those searched based on this strategy not being found to possess any substances and only 0.2% of those searched being prosecuted for a supply related offence (NSW Ombudsman, 2006).

Drug detection dogs lead to risky consumption behaviours to avoid detection. They do not act as significant deterrents against substance use. They significantly increase adversarial contact between the police and the general population, eroding public trust. They lead to a substantial number of unnecessary and traumatic searches including strip searches of minors, also significantly eroding public trust (Dunn & Degenhardt, 2009; Agnew-Pauley & Hughes, 2019).

Law enforcement and public health agencies have consistently used stigmatising and fear-based messaging around illicit substances. This approach is ineffective and reduces the impact of evidence-based harm reduction messages by eroding public trust in government delivered drug safety messaging and education. It also causes dramatic harm by way of the impacts of stigma on people who use drugs including psychedelics, often disproportionate to the harms associated with the use of those substances. This is particularly true of lower risk substances like cannabis and psychedelics.

Considering the resources allocated to supply and demand reduction, these approaches must be objectively considered to have failed. They must also be recognised as having caused significant harms to people who use drugs and their communities, contrary to the stated policy intentions.

Experts have long advocated for alternative approaches to the policing led policies that currently exist. These evidence and health-based approaches must be adopted as a matter of urgency to reduce the harms associated with the current policies and lessen the unnecessary burden of ineffectively attempting to enforce existing policies where resources could be better spent elsewhere by law enforcement, the justice system and public health agencies.

Australians support real harm reduction. Publicly accessible drug checking programs are supported by a majority of Australians. Australians believe more money should be allocated to education as a response to substance use than law enforcement. Support for incarceration for possession or use of a substance represents a small minority view and is decreasing. A majority of Australians now feel no action should be taken against an adult who possesses cannabis. More Australians now support referrals for education or treatment as the response to possession of an illicit substance than any other approach (Australian Institute of Health and Welfare, 2020).

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

- Decriminalisation produces better health outcomes at a lower cost
- Criminalisation actively harms individuals, their families, and communities

Decriminalisation is a policy approach where the possession, use and sometimes non-commercial trade of controlled substances are not criminally penalised. Alternative interventions such as referrals for education or treatment programs, where appropriate, may be implemented. This is different from legalisation and regulation of supply.

In the Netherlands, psilocybin-containing sclerotia 'truffles' are legal, and are used at psilocybin retreats, which vary widely in their clinical approach. They are also available for purchase in 'smart shops', predominantly in Amsterdam. This appears to have not resulted in any significant numbers of hospitalisations or public health emergencies, with fewer incidents occurring than for any other category of drug, illicit or otherwise (Laar et al., 2015).

In recent years, numerous jurisdictions at municipal and state level in the US and Canada have enacted varying regimes of decriminalisation, either of all illicit substances or a specific list of psychedelics and natural psychoactives. Noteworthy municipal examples include Denver, Colorado; Oakland and Santa Cruz, California; Washington DC and Seattle, Washington. States & provinces that have enacted similar decriminalisation include British Columbia, Oregon, and Colorado.

Regarding the impacts of decriminalisation that goes beyond psychedelics and includes all illicit drugs, the most well-known example is Portugal. Since enacting this change to drug policy in 2001,

the consumption of narcotics and psychoactive drugs has decreased along with rates of HIV in drug users, and deaths from overdose (Cabral, 2017). Youth drug use in Portugal is among the lowest in Europe.

This isn't the only example of the benefits of thoroughgoing decriminalisation. Czechia decriminalised possession of small amounts of all drugs in 2010. During this time, overall trends on drug use in that country have remained stable. However, many drug health related outcomes are far superior in Czechia than in almost all other EU states (EMCDDA, 2019a).

The comparison of these examples to the situation in Australia suggests that these approaches are worth considering. The rates of drug-induced deaths in both Czechia and Portugal were less than one-tenth of Australia (EMCDDA, 2019a, 2019b; Australian Institute of Health and Welfare, 2022). Similarly, the rates of HIV infections attributable to injecting drug use were almost 80% lower in Czechia and Portugal than in Australia. It is clear that broad decriminalisation has the potential to reduce the number of lives lost to illicit drug use, as well as reducing a range of health burdens.

While decriminalisation should be paired with appropriate spending on health and welfare services to achieve the best results, it is worth noting that this does not need to cost more than our current approach. In Portugal and Czechia recent public expenditure relating to illicit drugs has been approximately 0.03% of their GDP (EMCDDA, 2019a, 2019b). During a similar period, Australian governments are estimated to have spent 0.13% of GDP, 66% of this on enforcement (Ritter et al, 2013; Roche & Nicholas, 2019).

It should not be overlooked that the consequences of being charged or convicted of crimes in relation to psychedelics or other illicit drugs constitutes harm. In 2017-2018, there were 995 arrests reported for hallucinogens (including psilocybin) and 5,739 for MDMA, with over 80% being consumer rather than provider arrests in both cases (Australian Criminal Intelligence Commission, 2019).

Although many first-time and minor offences do not attract custodial sentences, any recorded conviction may impact upon the ability of an individual to gain employment or travel overseas. Fines and court costs can cause financial hardship. And for more serious offences, incarceration psychologically harms the person in jail, as well as their family, friends and community. As previously mentioned, all of this comes at considerable cost to the Australian taxpayer.

If completely enforced, the current laws would mean 43% of the population aged 14 or older would have faced legal consequences for substance use in their lifetime. As noted in response to point 4, the majority of the Australian public no longer supports this approach to substance use (Australian Institute of Health and Welfare, 2020).

As previously noted, the lack of quality controls and standardisation associated with a regulated system means that relatively safe psychedelics are sometimes adulterated with more dangerous substances. E.g., it is almost impossible to fatally overdose on LSD, but adulterants such as 25i-NBOMe have been responsible for many deaths. Criminalisation is a significant factor in such a lack of regulation and presents a barrier to drug-checking and harm reduction services.

Thank you for the opportunity to provide feedback on this Inquiry. Representatives of the Australian Psychedelic Society are available to provide further input to the Committee on the matters raised in this submission.

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