



# **Submission to the Senate Inquiry into the Legalising Cannabis Bill 2023**

**October 2023**

## **About the Drug Advisory Council of Australia Ltd**

ACN 661 705 282

The Drug Advisory Council of Australia Ltd (DACA) was founded in 1996. One of its founders, Mrs Elaine Walters' OAM most recently published work is *Street Drugs: The New Addiction Industry*, 2023. DACA is committed to working in the harm prevention area of illicit drugs and their impact. DACA continues to bring to the community and policy makers, the latest, most authoritative international and local research on the deleterious impacts and harms of illicit drugs on individuals, families and society. DACA advocates for greater investment in drug rehabilitation services across the nation, state-wide triage services for individuals wishing to withdraw from drugs and for the provision of greater support for the grieving and aggrieved families of the drug affected. DACA will provide drug education to young people from the harm prevention perspective during 2024, on a peer to-peer basis delivered by our Youth Ambassadors.

DACA conducts webinars via *YouTube* on a range of relevant, often compelling topics with guest speakers from across Australia, the UK and North America.

DACA's work is both conducted and actively supported by a cohort of respected professionals, across the fields of child protection, law enforcement, bail justices, criminology, health sciences, medicine, dentistry, (including special needs dentistry), cyber security and the dark web, public policy development, community service and faith bodies. These specialists are well-known Australians and serve as DACA's Patrons, Executive Members, Board of Directors, and Public Fund Management Committee.

In 2021, DACA formed a coalition, known as the Taskforce for Drug Prevention, comprising five additional, anti-illicit-drugs organizations across Australia, all are committed to harm prevention.

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## Introduction

The Drug Advisory Council of Australia welcomes the opportunity to provide input into the Senate Inquiry into the Legalising Cannabis Bill 2023. As an organization that has aimed to raise awareness of the dangers of drug use and abuse, we are deeply concerned about the move to legalise cannabis for adult ‘recreational use’ across Australia.

In this submission, we use a human-rights based lens, and draw from up-to-date research evidence, to examine and present the multiple ways cannabis reduces the safety, health and wellbeing of cannabis users themselves, and children, families and the community. It is because of these cannabis related harms, and the likelihood that these harms will increase should it be legalised, that we urge against legalising cannabis.

We also present and discuss evidence related to the oft repeated claim that legalization of cannabis will reduce crime, by providing justice for the many individuals who are unjustly incarcerated as a result of their personal cannabis use and by eliminating the illicit cannabis market.

It is important to note that much of the research evidence we present in this submission is in the form of up-to-date systematic reviews. Systematic reviews constitute the highest level of evidence in the evidence ‘hierarchy’, where the results of numerous individual studies are put together into just one summary. By using systematic reviews, we endeavor to be as honest and unbiased as possible in our presentation of evidence. Our goal is to guard against selecting i.e., cherry picking individual studies that confirm our viewpoint, which is that *cannabis is harmful, that cannabis related harms will be multiplied if cannabis is legalized - therefore cannabis should not be legalized in Australia.*

### **1. Legalization of cannabis leads to increased cannabis use.**

There is high level consensus, that following recreational cannabis legalization, many people equate the legal status of cannabis with its safety, and start to use cannabis, or use cannabis more often (Athanassious et al, 2023, Farrelly et al, 2023, Hall et al, 2023). For example, Farrelly and colleagues (2023), in their systematic review, which combined the findings of 65 individual studies, found that legalization of cannabis results in increased cannabis use in the general population – particularly in the case of young adults, and perinatal users. Athanassious and colleagues (2023) in their systematic review of 32 studies similarly found the impact of recreational cannabis legalization to be, increased frequent cannabis use, and increased cannabis use disorder (CUD) prevalence in the adult population.

## **2. Cannabis use causes significant harm to people’s physical, mental and cognitive health.**

An overwhelming amount of evidence tells us that cannabis use causes significant harm to people’s physical, cognitive and mental health.

A systematic review of systematic reviews undertaken by Campeny and colleagues (2020) examined the results of 44 systematic reviews and found a clear association between cannabis use and psychosis, affective disorders, anxiety, suicide, suicide ideation, sleep disorders, cognitive failures, respiratory adverse events, including lung cancer, cardiovascular outcomes and gastrointestinal disorders.

Another systematic review undertaken by Power and colleagues (2021) examined 7 individual studies and found that frequent and dependent cannabis use in youth is associated with Intelligence Quotient (IQ) decline.

Yet another systematic review undertaken by Sorkhou, Bedder and George (2021) put together the findings of 124 individual studies and found that frequent cannabis use can lead to range of adverse health outcomes in healthy individuals – the strongest evidence being for the relationship between cannabis use and psychosis and psychosocial functioning. They noted that as jurisdictions across the world are considering legalizing cannabis, the perceived risk of cannabis has been trending downward. They recommend further investigation of the effects of legalization on “usage patterns and related outcomes are a major public health concern” (Sorkhou et al, 2021, p. 14).

The evidence is clear. Any government choosing to legalise cannabis for recreational use – particularly in light of the health risks - is failing to advance, protect and promote the human rights of its people. It is a government which is failing in its obligation to create all conditions necessary to enable the “highest attainable standard of physical and mental health” of its population (Article 12 of the *International Covenant on Economic, Social and Cultural Rights*).

## **3. Cannabis use harms children, young people and families.**

Evidence reveals that cannabis use causes multiple types of risks and harms to children and families.

Campeny and colleagues (2020), for example, in their systematic review of systematic reviews found that child related harms that have been shown to occur as a result of cannabis use are family and child violence.

As previously stated, Farrelly and colleagues’ (2023) systematic review of 65 individual studies found that legalization of cannabis results in increased cannabis use in the general population – particularly amongst perinatal users. This is concerning, especially when considering the findings of another systematic review (Baía & Domingues, 2022), which put together findings

from 32 studies involving data from more than 25 million women. The review found that pregnant women using cannabis are at increased risk of having babies with low birth weight, preterm birth, and who are small for gestational age.

Farrelly and colleagues (2023) in their systematic review, also found a range of other harmful outcomes for children following recreational cannabis legalization, including an increase in emergency department rates in children and young people which related primarily to poisonings (i.e., unintentional ingesting of cannabis). The authors noted a particular concern regarding edible cannabis products, which come in forms that are attractive to children and can contain high amounts of THC.

Wilson and Rhee (2022), in their systematic review similarly found some “potentially causal effects of legalization on maternal use during pregnancy and breastfeeding, parental cannabis use, some adverse perinatal and postnatal outcomes, and children’s unintentional exposure to cannabis”.

Another important consideration raised by Wilson and Rhee (2022), is that a post legalization increase in cannabis use, is likely to lead to an increase in the number of parents using cannabis in the presence of their children. The American Academy of Pediatrics (AAP) opposes cannabis legalization for this reason. The concern is, and this is informed by an extensive literature, that parents who use cannabis are more likely to have offspring who use cannabis due to socialization processes e.g., parental modelling.

Again, the evidence is clear. Any government choosing to legalize cannabis while knowing the risks associated with child safety and child development, is neither protecting nor promoting the human rights of children. Frankly, it is a government that is failing in its obligation its own *Safe and Supported: National Framework for Protecting Australia’s Children 2021 - 2031* (Commonwealth of Australia, 2021) in that, it is not doing all it can to ensure Australia’s children are safe and well. It is also not meeting its obligations under Article 6(2) of the *United Nations Convention on the Rights of the Child*, to protect children from all forms of violence, abuse, neglect and maltreatment.

#### **4. Cannabis use negatively impacts public safety.**

There is emerging evidence to suggest that cannabis use impacts negatively on public safety.

Campeny and colleagues (2020) in their systematic review of systematic reviews found cannabis use to be a risk factor for motor vehicle collision. Farrelly and colleagues (2023), in their systematic review found that although there was some inconsistency across the reviews, the evidence does suggest a “modest increase” in motor vehicle accidents associated with cannabis legalisation. Athanassiou and colleagues (2023) in their systematic review found that in relation to post-legalization trends of motor vehicles crashes, the evidence is mixed, however indicates potential increases.

Additionally, Johnson and colleagues (2017) in their systematic review and meta-analysis found that dating violence is associated with marijuana use among youth, but the reasons are unclear.

The legalization of cannabis risks violating the human right of Australians to feel safe as they travel on the roads, and possibly for young people in their dating relationships.

## **5. Public health and safety outcomes in Colorado and Canada?**

Australia can benefit by learning from the experiences of other countries and jurisdictions where recreational cannabis has been legalized.

### **Canada**

In Canada, where recreational cannabis use was legalized in 2018, there are well established concerns about the damaging impacts on public health and child safety. According to Hall and colleagues' (2023) systematic review, in the five years since legalization there has been an increase in prevalence in:

- cannabis use among young adults
- in adult hospital attendances for psychiatric distress and vomiting
- unintentional ingestion of edible cannabis products by children
- hospitalizations for cannabis use disorders in adults.

The review found that presentations to emergency departments with psychoses and cannabis use disorders may have increased since legalization. There was conflicting evidence on whether there has been an increase in cannabis impaired driving.

### **Colorado**

In Colorado, where recreational cannabis has been legalized for more than ten years (since 2012), the harmful effects have been well studied. It has been found that the prevalence of cannabis use, particularly young adult use, has continued to rise (Hinckley et al, 2022). Many negative public health outcomes have been observed including increases in unintentional overdoses, electronic vaping-associated lung injury, and increased motor vehicle collisions related to cannabis consumption (Hinckley et al, 2022). There has also been an increase in cannabis-involved pregnancy hospitalizations (Wang et al, 2022a) and an increase in psychosis emergency department visits (Wang et al, 2022b). Hinckley and colleagues (2022) state that since legalization, cannabis has also become more potent and there is concern that this will increase risk for cannabis use disorders, mental health disorders – particularly cannabis-induced psychosis and suicidal behaviour. Wang and colleagues (2022b) suggest “that as more states legalize cannabis, there is the potential impact on the mental health of the population; this is something that legalizing states should prepare to address”.

## 6. Cannabis legalization and crime

One of the key arguments of supporters of cannabis legalization is that crime will decrease just by redefinition and that ancillary crimes connected to the illicit cannabis market will also decrease. Senator Shoebridge in the explanatory statement of the Legalising Cannabis Bill 2023 argues that legalizing cannabis for recreational use will “significantly reduce the harms caused to human rights by the war on drugs and the policing and incarceration that the community is currently subject to as a result of this”.

Callaghan and colleagues (2021) and Hall and colleagues (2023) agree that legalization has resulted in a reduction of cannabis related arrests. This appears to be because the legal status of cannabis (for personal use) has changed from illegal to legal. It is important to note that this does not necessarily mean that individuals who were previously, but not currently being arrested for cannabis possession or use, are not currently being arrested for other crimes.

Indeed, there is conflicting evidence about whether cannabis legalization results in a reduction of crime overall (Athanasios et al, 2023; Lu et al, 2021). Athanasios and colleagues (2023) in their systematic review of 32 studies found that some research studies found increases and others found decreases in crimes such as violent crime, property crime and sexual assaults after recreational cannabis legalization. They also point to the dearth of research with controlled designs related to the impact of legalization of cannabis on criminality. In other words, we do not yet know the impact of cannabis legalization on over-all crime rates.

In relation to the specific question about whether the legal cannabis market will drive out the illicit cannabis market and by doing so, reduce crime – the answer is, that this is unlikely to occur. Evidence shows that in many jurisdictions where recreational cannabis has been legalized, the illicit market has continued to thrive. Not only are more people using cannabis, many people are sourcing their cannabis from the illicit market. According to the Canadian Cannabis Survey (2021), for example, only 43% of cannabis consumers report always acquiring cannabis legally. Although it can be viewed as a positive that legal sourcing has increased over time. Concerningly, it is the frequent users who are more likely to purchase from the illegal market. Differences in prices and the amount of THC (the psychoactive component in cannabis) are the main reasons why people source their cannabis illegally. Wasisto and Jans (2022) report that in Canada illicit cannabis is 55% cheaper than legal cannabis.

These findings are important. Not only has cannabis legalization failed to achieve two of its key goals (to reduce crime, and to eliminate the illicit market), there is also the issue of some of our most vulnerable people being placed at greatest risk. Choudhary (2023) suggests there are two market segments of personal cannabis use, the relatively well-off users in party settings, and street users who are poor, unemployed, homeless, dependent on cannabis, or adolescents disengaged from school. It is this second group who are most likely to be targeted by black market sellers, and still be arrested.

## Discussion and conclusion

The evidence overwhelmingly shows that cannabis damages the physical and mental health of those who use it. Evidence also shows that when cannabis is legalized, more adults and children suffer various physical and mental health harms.

The important question, of course is whether these physical health, mental health and child related harms outweigh the predicted benefits of cannabis legalization. We argue that yes, most definitely, the harms outweigh the benefits – and this is why cannabis should not be legalized.

Senator Shoebridge in the explanatory statement to the Bill predicts a range of benefits that will come as a result of legalizing cannabis. He says that legalizing cannabis “would significantly reduce the harms caused to human rights by the war on drugs and the policing and incarceration that the community is currently subject to as a result of this”.

Our first response to Senator Shoebridge is that there is limited evidence from legalizing countries to use in support of this claim. Indeed, the oft repeated claim that cannabis legalization will bring justice to the epidemic of incarcerated non-violent cannabis users – the so-called victims of the war on drugs – is undoubtedly overstated. We ask: where are the data showing the number of Australians who are being incarcerated for personal use of cannabis and for this crime alone?

Secondly, and importantly, addressing criminalization (if it exists) can be accomplished without legalization. Utilization of drug diversion programs is the most obvious way of diverting cannabis users away from the criminal justice system toward the health services they need. However, although there is a strong evidence base showing the benefits of diversion, and although diversion is advocated in Australia’s own *National Drug Strategy 2017 – 2026*, evidence tells us that there is a dire shortage of services for police and magistrates to divert individuals to. For example, the Australian Institute of Criminology (2021) report there are not nearly enough drug education and treatment services to divert people to. The National Drug and Alcohol Research Centre UNSW (2019) reports the same findings. They even found a pattern, across Australia, of declining rates of diversion, because of the lack of services to refer people to.

Senator Shoebridge also argues that legalization of cannabis will advance the human rights of Australians to equality, non-discrimination, and to work – by providing employment, and by providing special positive discrimination measures to encourage Indigenous involvement in a newly developed and regulated cannabis industry.

We, at DACA, find Senator Shoebridge’s claim about advancing the rights of Australia’s Indigenous people to be particularly concerning. Given the large body of evidence showing the gap between Indigenous and non-Indigenous life expectancy and range of other health outcomes, it is crucial for governments to do all they can to close the gap by bringing in laws that will promote the health, safety and wellbeing of Indigenous people. It should go without



saying that the Australian Government should not be introducing laws and policies that place Indigenous people's health at greater risk. According to the AIHW (2022) the leading 5 disease types contributing to burden of disease in Indigenous Australians in 2018 were:

- Mental and substance use disorders
- Injuries such as falls, road traffic injuries and suicide
- Cardiovascular diseases
- Cancers such as lung cancer
- Musculoskeletal conditions.

The proposition that legalizing cannabis will be good for Indigenous people frankly beggars belief. Particularly when legalization is likely to increase the prevalence and severity of the first four above listed disease types (mental and substance use disorders, injuries, suicide, cardiovascular disease and cancer) all of which have evidence-based links to cannabis use.

Importantly – we look forward to reading about consultations that have occurred with Indigenous people themselves. We ask: what do Indigenous leaders and community members have to say about the Legalising Cannabis Bill 2023? What do they say about the positive discrimination measures that others are recommending for them? Do Indigenous leaders and community members believe that this legalization plan is likely to contribute to their right to achieve the “highest attainable standard of physical and mental health” (Article 12 of the *International Covenant on Economic, Social and Cultural Rights*)? Given Indigenous people are the experts of their own lives it is crucial that a broad range of their views be used to inform the government's response to this Bill.

In relation to Senator Shoebridge's claim that legalizing cannabis will advance Australian's right to work, there are a couple of important points to be made. Firstly – that there can be no assurance, given the experiences of other legalizing jurisdictions, that a legal cannabis market can ever thrive. As previously stated, many people in jurisdictions where cannabis is legalized, continue to buy cannabis from the illicit market – because they can get it cheaply and with higher THC content.

Secondly – and much more importantly – the question about whether cannabis should be legalized should primarily be about whether legalization will contribute to human flourishing. The question about whether legalization will contribute to economic gain is a lower order question and a very cynical position to take. Even if cannabis markets have potential to make billions of dollars in revenue, there are obvious ethical problems associated with governments encouraging business success that we all know will result in more cannabis use disorders, poorer public health, and much more human suffering.

We argue that drugs policy should be shaped in terms of human rights, with consideration given to a hierarchy of rights. We argue, by drawing from the Universal Declaration of Human Rights (1948), that the right to life, health and safety are particularly important rights and should be prioritized by governments. Other rights, such as the right to be not criminalized,

and the right to work while important, can be achieved in other ways, without legalizing cannabis. There are many safer options for job creation, and successful diversion of cannabis users from the criminal system can be achieved through greater investment in drug treatment services.

Another important human right is the right to medical care and this includes medical care in the form of drug treatment support and care (article 25 of the Universal Declaration of Human Rights, 1948). All governments across Australia must make a greater commitment and investment into drug education and treatment services.

It should go without saying that there is no such human right as the right to use cannabis, to risk developing a cannabis use disorder, to damage one's own health, to risk the health and safety of others – particularly children, and to place increased burden on the health system.

In summary, we have grave concerns about the Legalising Cannabis Bill 2023, and the move to legalise recreational use of cannabis across Australia. We have evidence-based concerns that legalisation will result in poorer public health, and poorer public safety. The safety and wellbeing of children, including the health and development of unborn babies, will also be placed at risk. The predicted health and safety harms significantly outweigh any predicted benefits. Australia doesn't, as we currently stand, have sufficient treatment services to offer drug users, and those with substance abuse disorders. Nation-wide we have only a handful of drug rehabilitation centres which cater for drug using parents and their children. How much more dire will the shortage of drug treatment services be if cannabis is ever legalised?

If the Australian government is committed to taking the legal steps necessary to protect and promote the human rights of all Australians, it must reject the Legalising Cannabis Bill 2023.

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