



**LEGISLATIVE ASSEMBLY**  
**FOR THE AUSTRALIAN CAPITAL TERRITORY**

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STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES  
Ms Bec Cody MLA (Chair), Mrs Vicki Dunne MLA (Deputy Chair)  
Ms Caroline Le Couteur MLA

## Submission Cover Sheet

Inquiry into Drugs of Dependence (Personal Cannabis  
Use) Amendment Bill 2018

**Submission Number: 32**

**Date Authorised for Publication: 26.03.2019**



**The Standing Committee on Health, Ageing  
and Community Services - Inquiry into *Drugs  
of Dependence (Personal Cannabis Use)*  
*Amendment Bill 2018***

**Submission Prepared by:**

**Australian Federal Police Association**

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**AFPA**  
Australian Federal  
Police Association

22 March 2019

The Committee Secretary  
Standing Committee on Health, Ageing and Community Services  
Legislative Assembly for the ACT  
GPO Box 1020  
CANBERRA ACT 2601

By email: [LACommitteeHACS@parliament.act.gov.au](mailto:LACommitteeHACS@parliament.act.gov.au)

Dear Committee Secretary,

**SUBMISSION TO THE INQUIRY INTO DRUGS OF DEPENDENCE (PERSONAL CANNABIS USE)  
AMENDMENT BILL 2018**

**Introduction**

The Australian Federal Police Association ('AFPA') welcomes the opportunity to make a submission to the Standing Committee on Health, Ageing and Community Services ('the Committee') regarding its inquiry into the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* ('the bill').

We note that the bill was presented to the Legislative Assembly by Mr Michael Petterson MLA in September 2018 and was subsequently referred to the Committee for inquiry and report by 6 June 2019.

**Background**

The AFPA represents the professional, industrial and welfare interests of over 4000 Australian Federal Police ('AFP') and law enforcement employees across a range of agencies. As an autonomous sub-branch of the Police Federal of Australia ('PFA') the AFPA is a registered Trade Union operating under the *Fair Work (Registered Organisations) Act 2009*.

**AFPA Position**

The AFPA has reviewed the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* and **does not support** the proposed legislation.

It appears that not enough consideration has been given by the ACT Government and Mr Petterson MLA on the ramifications and impact of this legislation. The AFPA is concerned about the apparent rush to pass this legislation, which we believe will have a significant impact on the ACT.

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The AFPA questions the commentary that many people are being arrested for possession of small amounts of cannabis in the ACT. This is simple not the case. If a person is arrested in relation to possession of a small amount of cannabis, it is typically a secondary offence and usually comes as a result of someone being taken into custody for a more serious offence.

The AFPA believes that the current Simple Cannabis Offence Notice (SCON) legislation and program works well and is adequate in the current environment. If the consumer pays the SCON within the required time frame, then no conviction is recorded against them and it does not appear on their criminal record. This system also allows for ACT Policing officers to refer people to an education/health program as a form of diversion and a possible 'clear-up' of the offence, without referring the matter to court. If the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* was passed, then this diversion to an education/health provider would not be available unless the person specifically volunteers for it, which removes the chance of immediate diversion and commencement of the rehabilitation process.

If one of the aims of the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* is in relation to reducing the number of people being convicted for small amount of cannabis possession, then the AFPA believes that the ACT Government should engage with the ACT judicial system and Chief Magistrate in relation to this. A magistrate has an option to find that the offence was proven, and not record a conviction against the person, thus alleviating the impact of a person having a drug offence conviction.

## Issues

Some of the larger issues and concerns that the AFPA have, include:

- The AFPA believes that *section 109* of the *Constitution of Australia* places the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* into question as it does not comply with this section of the Constitution and is not compatible with *section 308.1* of the *Criminal Code 1995*. Where ACT legislation is inconsistent with Commonwealth legislation, then Commonwealth legislation takes precedence.
- Cannabis is currently on the *Commonwealth Poisons Standard*, which is applicable to the ACT. The standard lists cannabis as a *Schedule 9 Prohibited Substance* and ties into *section 308.1* of the *Criminal Code 1995*.
- If this legislation is passed, an exemption or direction may be required from the Australian Federal Police to ACT Policing officers in relation to not prosecuting people as per *section 308.1* of the *Criminal Code 1995*. It is difficult to imagine such an exception or direction being approved by the Australian Federal Police Commissioner, Home Affairs Minister and/or Federal Government.
- There is no consideration given to current drug driving legislation *section 20* of the *Road Transport (Alcohol and Drugs) Act 1977* and the impact this will have on the community and the already understaffed and overworked judicial system.
- There are no apparent regulations or framework for the procurement of cannabis seeds or plants for people who wish to cultivate plants if the legislation is passed.

- There is no apparent regulation or framework about the size of cannabis plants that people can cultivate, likewise, there is no regulations or framework of how people can legally dispose of 'excess' cannabis.
- There appears to be no consideration given in relation to the different uses of cannabis as a food ingredient and how this relates to possession.
- There appears to be little to no reflection of how this legislation will impact on industries. Will ACT Government introduce mandatory drug testing for ACT Government employees such as teachers, fire fighters, paramedics and other industries or professions where the consumption of illicit substances is frowned upon and against internal guidelines.
- Possible increase in reports of property theft to ACT Policing in relation to people stealing cannabis plants from backyards. The chance of an offender being identified for this offence is limited, but police would we required to take a report on the matter, tying up valuable police resources.

## Conclusion

The AFPA welcomes the invitation extended by the Committee to appear at the public hearing and is looking forward to expanding on the issues that the AFPA sees with this legislation.

Yours sincerely



Australian Federal Police Association