



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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SELECT COMMITTEE ON THE DRUGS OF DEPENDENCE (PERSONAL USE)  
AMENDMENT BILL 2021

Mr Peter Cain MLA (Chair), Dr Marisa Paterson MLA (Deputy Chair),  
Mr Johnathan Davis MLA

## Submission Cover Sheet

Inquiry into the Drugs of Dependence  
(Personal Use) Amendment Bill 2021

**Submission Number: 34**

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**Burnet Institute**  
Medical Research. Practical Action.

DIRECTOR and CEO – Professor Brendan Crabb AC PhD  
PATRON-IN-CHIEF – The Honourable Linda Dessau AC, Governor of Victoria

Mr. Peter Cain, MLA  
Chair, Select Committee on the Drugs of Dependence Amendment Bill 2021  
ACT Legislative Assembly,  
GPO Box 1020,  
Canberra ACT 2601

11/6/21

Dear Mr. Cain

**Re: Inquiry into the Drugs of Dependence (Personal Use) Amendment Bill 2021**

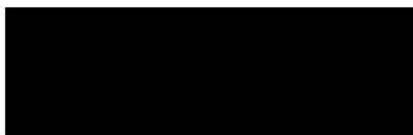
I am responding on behalf of the Burnet Institute to the call for submissions for the Drugs of Dependence (Personal Use) Amendment Bill 2021. Our submission is framed around the first two questions related to the Inquiry.

The Burnet Institute is one of Australia's leading Medical Research Institutes. Burnet Institute is in a unique position to provide information relevant to the Inquiry, having conducted research with people who use drugs since 1989. Our findings have greatly advanced knowledge of the nature of drug use, related harms, and responses. The research findings from the Burnet Institute's Alcohol and Other Drugs research group have greatly advanced the public health responses to the social, medical, and mental health issues experienced by vulnerable populations. The Burnet Institute applies a public health and harm reduction approach to its research on drug use, with the aim of improving the health and wellbeing of the people who consume drugs and the communities around them.

We welcome the opportunity to respond as this Inquiry is an important opportunity to examine current and future responses to drugs of dependence in the ACT.

Please do not hesitate to contact us if you have any queries about our submission. We would welcome the opportunity to discuss any of the recommendations with the Inquiry.

Sincerely,



Professor Paul Dietze  
Program Director, Behaviours and Health Risks  
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## **Burnet Institute Submission**

### *1. Best practice policy approaches and responses undertaken in other jurisdictions, including internationally, to reduce harm and societal impacts from drugs*

#### *Decriminalisation of drug use and possession*

Decriminalisation of drug use and drug possession for personal use refers to the removal of criminal penalties for these offences but does not legalise use and/or possession. Evidence suggests individuals who avoid a criminal record have improved social, educational, and employment outcomes.<sup>1</sup> Available evidence suggests that these improvements reduce costs to both the individuals involved and the wider community.<sup>1</sup>

Decriminalisation can also reduce the costs associated with law enforcement. Evidence suggests that decriminalisation leads to reduced need for and use of police, court, and prison resources. For example, in California, total law enforcement costs were substantially reduced (from \$17 million in the first half of 1975 to \$4.4 million in the first half of 1976) after decriminalisation in 1975.<sup>2</sup>

Various countries around the world, most notably Portugal, have decriminalised drug use and/or possession. Portugal decriminalised use and possession across all illicit drugs in 2001, to provide a comprehensive evidence-informed approach to drug use with the provision of drug treatment, harm reduction, and social reintegration programs. Since the reform there has been no evidence of major increases in drug use, and rather reductions in problematic drug use, drug-related harms, and drug-related criminal justice involvement.<sup>1,3,4</sup> Furthermore, this model allows for the reinvestment of funds towards prevention, demand reduction, drug treatment and rehabilitation. Exploring options such as those used in Portugal should be a priority for drug law reform in the ACT.

Consistent with the Bill, we recommend the decriminalisation of drug use and drug possession for personal use for all illicit drugs to be formally enacted by law (*de jure*). Further, we support the consistency and clarity on quantities and definitions of possession for personal use across substances, as outlined in the Bill, but believe they should reflect the quantities specified in previous work undertaken for the ACT Government by the Drug Policy Modelling Program.<sup>5,6</sup> Furthermore, the proposed sentences connected to quantities above these thresholds should be reviewed. Finally, any legislative change should be accompanied by a scheme to expunge historical criminal records that reflect new changes. Any changes should be closely monitored and evaluated, using an evaluation framework that captures the lived experience of people who use drugs and other stakeholders.

#### *Prison harm reduction programs*

Crucially, ACT prisons lack needle and syringe programs (NSPs). Community NSPs are effective and, given the overrepresentation of people dependent upon injectable drugs in prison and consequently the high prevalence of hepatitis C, and the acknowledged availability of drugs in prison, the absence of prison NSPs is inconsistent with international law that ascribes people in prison the right to health care standards equivalent to those in the community.<sup>7</sup> Contrary to concerns expressed by some, across nearly 25 years of international experience, prison NSPs have not increased attacks on prison staff or other people in prison or been associated with safety problems related to syringe disposal.<sup>8</sup> Prison NSPs should be trialed in ACT prisons, with careful consideration of prison operational environments and appropriate systems to control and monitor the location of injecting equipment to ensure the safety of people in prison and prison staff.

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Prison NSPs are endorsed by Australian health and medical peak bodies, including the Australian Medical Association, Australasian Society for HIV Medicine, the Public Health Association Australia, the Royal Australasian College of Physicians, and the Australian Ministerial Advisory Committee on Blood-Borne Viruses. Prison NSPs are also endorsed by major global bodies like the United Nations General Assembly, the World Health Organization, UNAIDS and the United Nations Office on Drugs and Crime.

### *Medically supervised injecting rooms*

Our previous work identified one key initiative for reducing harms related to drugs in the ACT is a Drug Consumption Room (DCR). DCRs enable people who use drugs to consume drugs acquired from illegal sources in an environment that minimises potential harm. They reduce fatal and non-fatal overdoses,<sup>9, 10</sup> improve linkages to other services<sup>11, 12</sup> and improve public amenity by regulating public injecting.<sup>11, 13</sup> They are acknowledged as an evidence informed intervention in the National Drug Strategy.<sup>14</sup> Our work has shown that available evidence supports the feasibility and acceptability of the establishment of a DCR in the ACT.<sup>15</sup> Importantly, as the ACT already has a legislative instrument for establishing a DCR in the form of *the Supervised Injecting Place Trial Act 1999* only minor amendments are needed to implement the model proposed.

## *2. The health, criminal justice, and social impacts of current policy and legislation approaches to drug use in the ACT*

Imprisonment has historically been accepted on the principle of reducing crime through deterrence and rehabilitation, however, extant literature suggests imprisonment neither deters crime, nor reduces recidivism;<sup>16, 17</sup> which is evident from Australia's high reimprisonment rates (45% of people return to prison within two years of release).<sup>18</sup> Furthermore, the reliance on prohibition and criminal sanctions of minor drug-related offences fails to reduce organised crime and has resulted in increased drug market violence and imprisonment for minor drug-related offences.<sup>19</sup>

In 2019–20 the total net operating expenditure and capital costs for imprisonment in the ACT was \$90.6 million dollars, with an estimated \$550 per person in prison per day;<sup>20</sup> figures that do not include indirect costs to social and health systems or families. People who use drugs are disproportionately over-represented in Australian prisons. Almost two-thirds of people in prison in Australia report using illicit drugs in the past year and almost half report a history of injecting drug use.<sup>21</sup> Moreover, people who use drugs have been shown to have a rapid return to crime after release from prison,<sup>22</sup> and drug use has been identified as a risk factor for reimprisonment,<sup>23</sup> with 84% of people who inject drugs reimprisoned within two years of release.<sup>24</sup>

In this context, interventions to reduce imprisonment and reimprisonment among people who use drugs, such as decriminalisation, are urgently needed. Such interventions could improve outcomes associated with cycling in and out of prison, such as strain on social supports,<sup>25</sup> sustained and persistent housing instability,<sup>26, 27</sup> unemployment,<sup>28, 29</sup> and disruptions to health treatments (e.g., opioid agonist therapy<sup>30, 31</sup> and mental healthcare). Furthermore, this would also likely reduce the costs associated with imprisonment and allow for the reallocation of funds into safe and secure housing and harm reduction measures for drug use.

Monitoring processes for individuals on community orders and responses related to breaches of community orders also need reform. This raises the question of strategies that promote abstinence rather than those that aim to reduce the frequency of substance use. Abstinence based programs

continue to be a primary objective for programs such as drug courts, diversion programs, and parole requirements. Previous research has illustrated the shortfalls of abstinence based programs, highlighting program disengagement<sup>32</sup> and lower success rates.<sup>33</sup> Relapse characterizes typical trajectories for people who use drugs, despite whether individuals are involved with the justice system,<sup>34, 35</sup> and such relapses should be expected among people within community-based orders. Responses to relapse, which currently typically involve punitive responses such as reimprisonment, should instead focus on reasons for relapse and provide effective responses to minimise their recurrence.

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