

WE ALL PAY THE PRICE

**OUR DRUG LAWS ARE TEARING
APART AUSTRALIA'S SOCIAL
FABRIC, AS WELL AS HARMING
DRUG USERS AND THEIR FAMILIES**



Report of a high level national Roundtable
Parliament House Melbourne, 21 March 2018
Bob Douglas and Lyn Stephens

ABOUT AUSTRALIA21

Australia21 is an independent, not for profit think tank. We promote fair, sustainable and inclusive public policy through evidence-based research.

We inform public debate and policy makers by proposing effective solutions to real world 'wicked' problems that have complex inter-relationships and significant social, health, economic, environmental and national security impacts for all Australians.

Australia21 uses a multidisciplinary approach, connecting researchers, business leaders and policy influencers in leading-edge collaborative networks. This allows us to explore issues openly and laterally, including diverse perspectives and discovering new frameworks of understanding that lead to fresh strategies for tackling the challenges confronting Australia. It also underpins our reputation for balanced inquiry and objectivity. We are not aligned with any political party.

Australia21 is unique because we explore topics through the lens of mindfulness, empathy and compassion, recognising that the latest neuroscience supports better decision-making within organisations and governments. We also sponsor and mentor youth-led projects and integrate youth perspectives and involvement into all of our work, because young people are the stewards of the future.

OUR SPONSORS

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Title: We all pay the price. Our drug laws are tearing apart our social fabric, as well as harming drug users and their families

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Once in the criminal system, continued misuse of drugs and alcohol will for many, lead to repeated incarceration . . . Cumulative trauma and institutionalisation impacts dramatically on an individual's ability to gain control over their drug use and rebuild their lives upon release,

The interference of the law in what is a health issue can drive people away from the help they need.

current policies criminalise a sector of the young Australian population, most of whom would otherwise cease using drugs when they reach their mid-20s.

The shame, stigma and marginalisation which goes hand in hand with prohibition drug policies stops many families from speaking out or seeking help.

There is no question that Australia's drug policy settings create and exacerbate social problems beyond the drugs field . . . negatively impacting not just on [people's] experience as a drug user but their experiences of mental health issues, family violence and housing/homelessness.,

Whether we are interested in income security, housing, parenting, child protection, domestic and family violence, family breakdown, mental health, employment, crime, social welfare, recreation, or road safety, our antiquated approach to illicit drugs plays a hugely negative role.

Drug policy undermines the capacity of people to take responsibility for their own lives and compounds virtually all of Australia's most intractable and complex social problem.

People who use drugs are not just drug users they are also people who may have complex health needs and social disadvantage that often includes homelessness.

Drug law reform is one area that we can advocate for together.

PUBLIC STATEMENT ISSUED AFTER THE ROUNDTABLE, MARCH 2018

We call on Australia's federal, state and territory governments to treat drug use primarily as a health and social issue and to remove criminal sanctions for personal use and possession.

We make this call because our own professional experience supports overwhelming evidence that current Australian drug laws, although well-intentioned, create and/or worsen a wide range of health and social harms.

There are complex two-way interactions between the punitive approach to drug use and problems including poverty, social disadvantage, unemployment, homelessness, family violence, child protection interventions, mental illness, stigma and discrimination and suicide.

The human and financial costs of the negative impacts of the current drug laws are borne not just by people who use drugs, but by their families and communities, and the nation as a whole.

We have agreed to work together to improve public awareness of (a) the negative impacts of the current drug laws and the way they are interpreted and implemented, and (b) the real and tangible health and social benefits of drug law reform.

This Joint Statement was issued by health and social service providers and policy leaders who met for a national summit on drug harm reduction at Victoria's Parliament House on Wednesday 21 March 2018, convened by Australia21.

EXECUTIVE SUMMARY

In March 2018, Australia21 held a national summit of 36 experts in drug treatment, drug law, community welfare and the social effects of drug use, to explore the ways drug policies and practices across Australia impact on our society.

The purpose of the day-long Roundtable meeting at Victoria's Parliament House was to build on the conclusions of three previous high level Roundtable summits on Illicit drug policy that Australia21 had initiated since 2012.

All 36 participants were sent a discussion paper entitled "Can we impact positively on apparently intractable social problems through improved social policy to address the currently illegal drugs?" The paper argued that our current drug policy settings, with their heavy emphasis upon drug prohibition and drug law enforcement, produce harmful outcomes for people who use drugs, as well as their families and indeed, the broader community.

Problems associated with illicit drugs in our community are complex, multifactorial and interrelated, and there was firm consensus among the Roundtable group that some of these problems are more the result of our drug policies than the drugs themselves. The prohibition of specified drugs perversely promotes criminal markets, encourages the growth of prison populations and damages the lives of many Australian families. The group shared evidence of current drug laws directly and disproportionately harming people who are convicted for personal use and possession, as well as having many other adverse consequences for income security, housing, parenting, child protection, domestic and family violence, family breakdown, mental health, employment, crime, social welfare, recreation, road safety and the environment. They noted that drug offences are dealt with inconsistently, so Australians in some jurisdictions are more likely to be negatively impacted than others. The group also expressed overarching concerns about the diversion of scarce human and financial resources from managing health and social issues into drug law enforcement that is unproductive, wasteful and too often harmful. Ultimately, we all pay the price for policies that are poorly targeted and even counter-productive to harm reduction.

There is no magic bullet for solving problematic drug use, but there is a vast amount of strong evidence and international experience to support an approach which treats it primarily as a health and social issue and not as a criminal matter. The group noted the success of this approach in Portugal, with significant reductions in harms since its adoption in 2001. While recognising the different circumstances in the two countries, the group agreed that implementing a similar approach would be desirable for Australia, contributing to a more just, more harmonious, more inclusive and more compassionate society.

The participants agreed that a range of diverse social outcomes could be improved rapidly and efficiently through a combined strategy of:

- identifying drug use as a health and social issue and therefore removing criminal sanctions for personal use and possession; and
- concentrating drug law enforcement on the activities of those who illegally manufacture, import, promote and traffic in drugs; and
- redirecting any savings from a narrower law enforcement focus into treatment and rehabilitation; and
- creating new infrastructure to build treatment and rehabilitation services, as a key pillar in the management of drug dependence.

It was also agreed that long-term legalisation of drugs should be a carefully evaluated, incremental process, commencing with officially recognised “decriminalisation” of some currently illicit drugs and removal of sanctions for possession and use of specified limited amounts of the substances. The aim would always be to manage the inevitable ongoing use of psychoactive drugs so as to reduce the harm done to users and the community at large.

It was recognised that after many decades of prohibition, this approach will seem counter-intuitive to some members of the community. Even some colleagues in the health and social services sectors will not yet be comfortable about supporting the removal of criminal sanctions for use and possession. Also, if the community is ambivalent or opposed, it will be very difficult for even those politicians convinced of the need for drug law reform to initiate and support the legislative action necessary for change.

So this new approach would require more than just an act of legislation. It would need substantial collaboration across the health, welfare and drug law reform communities. It would need a campaign with clearly defined aims that are attractive to Australians and have tangible benefits for the entire community. It would need a nuanced communication program that deals effectively with public fears and uncertainties about giving up a punitive approach and appearing to be “soft on drugs and crime.” Achieving such bold change is usually difficult and often slow, so it would also need bold leadership.

Consequently, the Roundtable focused much of its discussion on what it would take to bring the Australian community along the path to reform. Several priorities emerged:

- Show how a focus on law enforcement and criminalisation feeds disadvantage in already vulnerable groups and hurts the whole community.
- Acknowledge community fears about drugs and demonstrate the benefits of supporting more access to prevention and treatment rather than relying heavily on punishment as the way to reduce harm from drugs.
- Reframe how drug use and people who use drugs are seen in the community so the discussion is about ‘us’ not ‘them’, and communicate this in ways which appeal to different demographics and political frameworks.
- Listen to the issues and concerns raised by the broader health and social services sector and engage with them on their own terms to support drug law reform.
- Share information, work in collaboration across a network of agencies and individuals committed to the reform of policy and practice around drugs, and support each other and the champions of change, including those politicians willing to step up for reform.

The group agreed to support the development of collaborative networks of leaders, researchers and peak bodies in the health and social welfare field in order to promote acceptance in Australia of evidence-based approaches to managing drug use. As a first step, the participants issued a public statement calling on Australia's federal, state and territory governments to treat drug use primarily as a health and social issue and to remove criminal sanctions for personal use and possession of illicit drugs – warning that there are complex two-way interactions between the punitive approach to drug use and problems including poverty, social disadvantage, unemployment, homelessness, family violence, child protection interventions, mental illness, stigma, discrimination and suicide. Since the Roundtable, the launch of the Noffs Foundation's *Take Control* campaign and Uniting's *Fair Treatment* campaign have provided further encouraging examples of whole-of-sector approaches.

The Roundtable was co-hosted by Victorian parliamentarian Fiona Patten, a member of a seven person Victorian parliamentary inquiry which tabled the report of its year-long study into illicit drug policy a few days after the Australia21 summit. That report proposed very substantial reforms to drug policy and contained 50 recommendations for change, including Recommendation 13 (p.xxiv), that the Victorian government should “treat the offences of personal use and possession of all illicit substances as a health issue rather than a criminal justice issue”. The hope is that this action proposed to the Victorian Parliament will be considered in other states and territories as well.

In summary, the personal use and possession of drugs in specified limited amounts should no longer be dealt with under criminal law, but instead should be treated primarily as a health and social issue. To do this, substantial investment will be needed across Australia in local prevention, treatment, rehabilitation and harm reduction services. Law enforcement should restrict its drug focus to criminal trafficking of substances. In the longer term, and with due consideration given to local and international evidence, the objective may be to legalise, regulate and tax selected psychoactive drugs – as happens with currently legal drugs like alcohol, nicotine and therapeutic opioid preparations. The political and other difficulties of achieving these reforms should not be underestimated, but nor should the costs of continuing current policy: we all pay the price.

1. INTRODUCTION

The world is changing rapidly on drug issues and Australia has lagged behind with its policies on illicit drugs. It has failed to take into account that many policies affecting people who use drugs are not considered drug policy, and many specific drug policies have large effects outside the drug domain. It also ignores evidence suggesting that many people who use drugs will not experience harm unless they come in contact with the criminal justice system.

There is now substantial international experience demonstrating that there are more effective ways of dealing with psychoactive drugs, with less serious adverse effects, than relying on the prosecution of people who use them.

These have been highlighted in Australia21's previous reports, *Can Australia respond to drugs more effectively and safely?* (2017), *The prohibition of illicit drugs is killing and criminalising our children and we are all letting it happen* (2012) and *Alternatives to prohibition: Illicit drugs: How we can stop killing and criminalising young Australians* (2012).

In 2018, two other important reports on drug law in Australia were released. The first, prepared by the Law Reform, Road and Community Safety Committee of the Victorian Parliament, was tabled on 27 March. On the same day the Federal Government's Joint Committee on Law Enforcement tabled its second report on the Inquiry into Crystal Methamphetamine (ice).

The bipartisan Victorian inquiry included visits to facilities in Melbourne and Sydney as well as Geneva, Lisbon, London, Vancouver, Denver, Sacramento and Wellington. They studied how different jurisdictions manage the problems of substance use and social impacts and also met with agencies involved in drug policy and control. The committee received 230 submissions and held nine days of public hearings.

The report's 51 recommendations are wide ranging and worthy of discussion across the nation. Recommendation 13 resonates particularly with the outcomes of Australia21's 2018 Roundtable:

The Victorian Government, while maintaining all current drug offences in law, treat the offences of personal use and possession for all illicit substances as a health issue rather than a criminal justice issue. This approach will ensure appropriate pathways are in place for the referral of people to health and treatment services in a timely manner where required. Mechanisms to achieve this should include:

- *exploring alternative models for the treatment of these offences, such as the Portuguese model of reform;*
- *removing the discretion involved with current Victoria Police drug diversion processes by codifying them;*
- *reviewing all threshold amounts for drug quantities in order to appropriately distinguish between drug traffickers and people who possess illicit substances for personal use only;*
- *conducting education and awareness programs to communicate with the public about the need to treat drug use as a health issue.*

The Federal government's final report from the Inquiry into Crystal Methamphetamine (ice) examined the treatment and harm reduction measures that are in place in Australia to assist people who use crystal methamphetamine, their families and communities. The report also considered the funding of treatment services as part of the National Ice Action Strategy and the decriminalisation of illicit drugs, drawing on a visit by the committee to Portugal.

Here is a key statement from the Federal report:

Although many of the issues outlined in this second report are outside the committee's core law enforcement focus the evidence before the committee reveals a consistent message articulated by alcohol and other drug experts, governments, the National Ice Taskforce and law enforcement agencies that is: a person's drug use is a health issue and for this reason Australian governments and law enforcement agencies cannot arrest their way out of it.

The report concludes with a consideration of decriminalisation in the Australian context:

What is clear to the committee is that the current approach in Australia is not working. Methamphetamine abuse can have devastating effects on individuals, their families and communities and has broad social and economic impact. ...The committee urges Australian governments to implement the recommendations in this and the committee's first report. Improvements can and must be made to address methamphetamine use in Australia. In the committee's opinion this should be done by shifting the focus on methamphetamine from a law enforcement problem to a health issue within an environment where treatment and support are readily available and without stigmatisation. Concerted attention must also be paid to improving the services and support available to indigenous drug users, drug users in regional and remote areas, prisoners and drug users with young children.

Although the intellectual debate about the failure of prohibition and law enforcement approaches may be over in specialist arenas, many aspects of drug law reform – such as removing criminal sanctions on personal possession and use – may not make sense to the general public who have been schooled to the view that the way to avoid problems with the use of psychoactive drugs is to ban them and criminalise those who use them. Consequently, the struggle for hearts and minds in the community is not yet won, and this means that the political debate on which drug law reform depends is not yet happening.

Staff in the health and social services sector often have firsthand exposure to the human fall-out of current drug policies. They are very well placed to generate a national conversation about more effective and less counter-productive policy options that have been implemented in some other countries with great benefit. Australia21 supports an approach based on four assumptions:

1. Problematic drug use is often associated with a number of difficult social and health problems including homelessness, unemployment and domestic violence. These extend well beyond the most commonly cited associations such as crime, drug overdose deaths and blood borne virus infections.
2. Australian and overseas experience suggests that many of the social harms of drug use are often exacerbated, if not initially caused, by existing drug policy settings. There is enough evidence to indicate that drug policy itself is an active factor in a wide range of harms. In other words, well-intended policy settings to combat illicit drugs are having unintended negative consequences.
3. Australia could impact positively on apparently intractable social problems by designing and implementing improved policy addressing currently-illegal drugs.
4. A multi-sectoral alliance of people and organisations advocating for drug law reform and people and organisations in sectors that advocate for improved social policy settings across the nation is needed. The aim would be to reduce the prevalence and seriousness of social problems generally and to reduce their human and financial costs to the Australian community.

The first step was to engage, via the Roundtable, with the broader health and social services sector and to explore with them how drug law reform, as an integral part of social and health policy, could help to deliver better outcomes across diverse domains, at the individual, family and community level.

Thirty-six people attended the Roundtable, representing a range of organisations from the health and social services sector and from the research community. A list of participants is provided at the end of this report.

The Roundtable was conducted under the Chatham House Rule, allowing a transcript of the day's discussion to be prepared without identifying who made each comment. From this material, along with dot point summaries provided by the participants and information drawn from research and current developments, a draft report was compiled and distributed to all participants for their feedback before being finalised.

While this report draws heavily on input from Roundtable participants, it is published under the sole auspices of Australia²¹. Where italics are used, the words are drawn from the transcript of the Roundtable.

Our hope is that the information, findings and recommendations contained in this report, together with the active support of our colleagues in the health and social services sectors, will trigger wide community support for the changes in drug law and policy that the evidence and our consultations suggest could yield many benefits across Australia.

2. HOW CURRENT DRUG POLICY INTERACTS WITH SOCIAL DISADVANTAGE AND HARM

The first question the Roundtable addressed was 'Can drug law reform produce valued social outcomes in diverse areas of social policy and could it do so more quickly and at lower cost than other upstream social interventions?'

There was agreement that support seems to be growing in Australia for a positive response to this question, but assigning specific benefits to drug law reform can be problematic.

A few countries have pursued reform, but because reform means different things in different countries, we have difficulty in attributing the effects that we see to definite changes in policy. Nevertheless, I think there is enough evidence of clear benefit in reform countries to be confident that drug law reform is going to produce considerable social benefit including more cohesion, less division, more inclusiveness, less stigma and discrimination, less official corruption and less violence.

Some law reform advocates argue that drug policy is implicated in virtually all of Australia's most intractable and costly social problems – extending beyond health and crime to issues including child protection, school dropout rates, suicide, mental illness, homelessness and poverty. While they acknowledge that the relationship between problematic use of illicit drugs and social problems is often bidirectional, they argue strongly for a Productivity Commission Inquiry into the extent to which the economic and social cost of many serious social problems could be reduced by adjustments to illicit drug policy.

Reaching out to the health and social services sectors and to the community should be part of constructive efforts to improve Australia's drug policy. The issues are often not straightforward.:

...Whether these reforms would save money for the community is an important part of the equation, but we also need to think about the potential unintended consequences and the effects of focusing too much on the economics. If people are spoken about purely in terms of being economic units, we risk reinforcing the marginalisation of people who are already seriously stigmatised and marginalised by the community. ...I think that the lack of compassion and empathy for our fellow human beings is manifest in current drug law and policy and I'm not sure that focusing purely on the economics of it is the solution.

Removal of criminal sanctions for personal possession and use of currently illegal drugs is a critical part of progress in drug policy. In promoting the social benefits of this reform, it is important to avoid inadvertently reproducing the idea that drugs themselves are necessarily the cause of some of the problems discussed. People who use drugs may be experiencing overlapping and interlocking challenges including problems associated with poverty, mental and physical health issues, discrimination, alienation, and difficulties with the welfare system itself.

THE RELATIONSHIP BETWEEN SOCIAL POLICY AND DRUG POLICY

The influence of drug use and drug policy on social problems and of those social problems on drug use is not straightforward. Dependence on illicit drugs, and other drug-related harms, are generally (though not always) influenced by risk factors commonly associated with disadvantage such as poor health, poverty and crime. For example, the larger the number of young people experiencing squalid housing, poverty, discrimination, poor healthcare, limited education, high levels of unemployment, underemployment and dismal future prospects, the more attractive a brief chemical vacation or lucrative illegal activity becomes. Developing harmful drug use behaviour then becomes a risk factor for acquiring or compounding the risk factors associated with disadvantage.

As one participant emphasised:

Drug laws need to be understood within the broader legislative and policy frameworks, which force some people (especially those receiving social security payments) into inadequate, heavily scrutinised and stigmatised circumstances. Current proposed changes to welfare regimes such as drug testing and cashless welfare cards are made intelligible by ongoing efforts to construct people living in poverty as defective and needing paternalistic protection.

Another participant added:

Drug policy undermines the capacity of people to take responsibility for their own lives and compounds virtually all of Australia's most intractable and complex social problems.

The importance of considering the complex interactions of drug policy and social policy was highlighted by a participant's comment that:

The harms from illicit drug use in society are inextricably linked to drug laws and drug law enforcement, but also to social policy including levels of inequality in society and social welfare policies. For example, cross-national research shows that nations that have removed criminal penalties from drug use tend to be associated with lower levels of health, social and economic harms, but so too do nations that have lower levels of inequality or higher social welfare nets (e.g. unemployment benefits).

Unfortunately, the role of social policy in facilitating or reducing harms from illicit drugs has been neglected to date. This has stymied the capacity to improve responses to people who use drugs and to reduce the harms from the use and supply of drugs in society.

This is an issue addressed by the famed trauma psychiatrist Bessel van der Kolk: "We need to talk about what drives people to take drugs. People that feel good about themselves don't do things that endanger their bodies ...Traumatized people feel agitated, restless, tight in chest. ...They take drugs in order to stabilize their bodies."

This drive to regulate one's body and mind to escape distress activates all addictions, substance-related or not, mild or severe. Experienced practitioners tell us that when people who use drugs are asked what they gain from the practice they say things like 'It helped to escape emotional pain ...it numbed me ...helped me deal with stress ...gave me peace of mind ... a sense of connection with others ...a sense of control.'

Such responses illuminate that addiction originates in a person's attempt to solve genuine human problems: those of emotional loss, of overwhelming stress, of lost connection. It is a forlorn and ultimately futile attempt to solve the dilemma of human suffering.

Not all addictions stem from such severe hurt, but all are rooted in sorrow, helplessness and alienation, so there is no effective way of addressing addiction without addressing its fundamental psychosocial origins.¹

For several years Australia21 has presented strong evidence that a law enforcement approach does not address these fundamental psychosocial issues and in fact can exacerbate them. Consulting with those in the health and social services sectors who deal with this human suffering every day has reinforced the need to work together to increase empathy for those who experience problematic drug use and to implement more rational, compassionate and effective responses for the benefit of everyone in our society.

Much is known about creating social environments that are less conducive to debilitating drug use. Our problem lies in acquiring the commitment to fund those long-term efforts, which would achieve a more equal, inclusive democratic society – a society where people are valued for their human essence and if they find themselves in difficulty they can access personal and communal support.

1 Mate G, 'Don't ostracize drugs users – empathize with them' *The Globe and Mail*, 17 August 2018. <https://www.theglobeandmail.com/opinion/article-dont-ostracize-drugs-users-empathize-with-them/> accessed 17/8/18

DIFFERENTIATING HARM FROM DRUG USE AND HARM FROM DRUG POLICY

Differentiating harm from illicit drugs and harm resulting from our illicit drugs policy is critical to understanding the need for reform. With the legal drugs – alcohol and tobacco – consumption and harm are closely linked. Casualties from alcohol, such as deaths from cirrhosis, are closely correlated at the individual or community level with the quantity of pure alcohol consumed over a period of time. Similarly for tobacco: the risk of lung cancer, for example, is highly correlated with the number of cigarettes smoked over the years. However, many of the harms associated with illicit drugs are more the result of the black market distribution system, and of social responses to people who use drugs, than the pharmacology of the drug itself. When pharmaceutical heroin is provided medically to people severely dependent on street heroin, they will often improve even though no previous treatment had helped. As well, the difficulties of accurately estimating the consumption and quality of illegal drugs means that it is very difficult to correlate quantities of illicit drug consumption with harm.

Drug policy often has unanticipated counterproductive effects. Many drug policy decisions are based on intuitive guesses about the likely effect of future policy changes. But in practice, these guesses are often quite wrong. When communities rely heavily on drug law enforcement to control illicit drugs, the so-called 'iron law of prohibition' often takes over. The 'iron law of prohibition' posits that, as law enforcement becomes more intense, the potency of prohibited substances increases.²

Traffickers trying to evade detection search for more powerful and more concentrated drugs for their lucrative trade. The 'iron law of prohibition' was evident in the USA when, soon after alcohol was prohibited in 1920, beer disappeared only to be replaced by more lucrative wine or spirits. After prohibition was repealed in 1933, beer quickly returned. We are now once again observing the iron law of prohibition in a number of first-world countries when street opioid is contaminated with extremely powerful and concentrated drugs such as fentanyl and carfentanyl. The emergence of 'ice' in the Australian drug market is another example of the iron law of prohibition.

It is also hard to ever be sure whether the adverse effects that the community is concerned about are in reality due to the effects of the drugs themselves or are the effect of drug policy. Robbing banks is not a likely side effect that could be confidently predicted from what is known about the pharmacology of heroin. Yet when demand for heroin is strong – despite prohibition – and legal heroin is in short supply, the black market supplies heroin at very high prices. Some of the people who have become dependent on street heroin will rob banks to pay the excessive price. It is more accurate to attribute bank robberies among some people who use heroin to an unintended adverse effect of drug prohibition than to blame heroin itself. Many examples exist to illustrate that it is not necessarily drug use itself which causes or increases harms but it is our drug policy which leads many people who are not criminals to become involved in criminal activities, causing lasting harm to them and their families.

Population studies indicate that between a third and a half of the Australian population have at some stage used illicit drugs. A war against drugs is thus a war against perhaps a third of our young population.

Many successful lawyers, teachers, plumbers, technicians, doctors and parents have used illicit drugs at some time in their lives, especially when younger. Some, or too many of their peers, have had their lives interrupted by prosecution for their use of these same drugs in a similar manner. Many of these people have found their lives significantly stigmatised and disadvantaged as a result of this response. They struggle to live as full citizens and to fulfil their expected role in our community.

Significant numbers of people start using during their late teens and early 20s and by the late 20s most of them have stopped using without any treatment. Of all the people who use illicit drugs, perhaps between a quarter and a third of them at some stage during their drug use end up with a 'drug use disorder', meaning that they use heavily without the capacity to modify that use. While the vast majority recover without recourse to treatment, some will need help.

² Beletsky, I & Davis, CS 2017, 'Today's fentanyl crisis: prohibition's Iron Law, revisited', *International Journal of Drug Policy*, vol. 46, pp. 156–9; Cowan, RC 1986, 'How the narcs created crack: a war against ourselves', *National Review*, vol. 38, no. 23, pp. 26–34.

Making illicit drug use a punishable crime can create barriers to accessing needed treatment and support. The priority should be to keep people who use drugs alive and healthy during their period of drug experimentation.

A Roundtable participant shared this experience:

The interference of the law in what may be a health issue can drive people away from the help they need. The shame, stigma and marginalisation, which goes hand in hand with prohibition drug policies, stops many families from speaking out or seeking help. Prohibition policies curtail informed discussion, stifle effective response to drug use in schools and alienate parent from child. An incident two weeks before my son died in 1992 convinced me that prohibition drug laws do not protect our young people from drugs, and that without prohibition my son might still be alive today.

EXAMPLES OF THE INTERACTION OF DRUG POLICY AND OTHER SOCIAL POLICIES

DRUG POLICY AND CRIMINAL JUSTICE

According to the Australian Bureau of Statistics, between 2007 and 2017 our prison population increased by 40 per cent. Meanwhile some estimates suggest that in any prison 80 per cent of inmates have a substance dependence problem. This is hardly surprising, given that our prisons are overwhelmingly crowded with the most marginalised and disadvantaged, and disadvantage and psychological trauma are known to predispose some people to self-medicate using illicit drugs.

Once in the criminal system, institutionalisation, cumulative trauma, exposure to hardened criminals and the availability of harder drugs within prisons impact dramatically on an individual's ability to gain control over their drug use and to rebuild their lives on release.

Continued misuse of drugs and alcohol will, for many, lead to repeated incarceration, especially where long term, chronic drug use has prompted criminal behaviour to support a habit. So a conviction often contributes to further marginalisation and disadvantage.

As a direct provider of services pre-and post-release from prison in Victoria, we are seeing a high percentage of remandees coming through at the moment with drug-related aggravated assault as the reason for being imprisoned. ...The consequences of people being imprisoned are horrendous. There is no easy way out of the justice system once people have been incarcerated.

The prison environment harms rather than helps the mental health of inmates, undermines their capacity to function in the community afterwards and reinforces their disconnection from society.

Imprisonment is not a therapeutic response to the use of drugs and the criminal justice system should not be a gatekeeper for health and support interventions.

DRUG POLICY AND CHILD PROTECTION

Where parents are convicted of drug related offences the cost is borne by their children and the community. While some programs do exist to support people who are known to use drugs to sustain parental roles, the children are often removed. As one expert in this area says: The "state is a cold breast" and many of these children then become part of a next generation of 'problem youth', troubled adults and parents. Removal of criminal sanctions for possession could help to break this cycle of disadvantage. If we stop criminalising parents, providing support would cost less both financially and socially than punishment, and it would give people who use drugs a reasonable chance of maintaining their parenting roles and providing more promising futures for their children. The current approach punishes not only the parent who uses drugs, but also their children.

Another participant commented:

The illegal nature of particular substances gets in the way of making objective assessments of the impact of substance use on parenting and children. Similar to the drug-driving tests which only consider the presence of a substance in the system, not impairment, and testing of welfare recipients, the presence of drug-using equipment or evidence of use at some point in time is often seen as a reason for child protection interventions regardless of the impacts of drug use on parenting and children. Alcohol is associated with more harms to families, in terms of impacts on a developing foetus and on parenting, than are most illicit drugs.

Fear of the law and its impacts can also make difficult situations worse:

Stigma, judgement and fear of the child protection system becoming involved with and/or removing their child(ren) lead to parents who use illicit drugs being deterred from accessing services. Pregnant substance-using women are more likely to present late or unbooked to antenatal care, which in turn increases the likelihood of child protection involvement. Substance-using parents may also have difficulties accessing support and treatment at the time required to meet the requirements of the child protection system.

Parents with substance use issues often increase their substance use following the removal of a child, as they are unable to deal with the grief and loss, but also are likely to have further children to replace the child they have lost, the next baby then being at higher risk of removal.

In addition to a more nuanced approach to child protection action in families who use drugs, there needs to be a focus on other child protection issues associated with drug use. Severe childhood physical and sexual trauma and other very negative early experiences are believed to be not uncommon in young people who go on to develop major drug problems, but the nature and extent of these experiences and their connection to drug use is still poorly understood. How young children at risk could be identified, how the potential for subsequent progression to problematic drug use might be prevented, and effective ways of managing people with significant drug problems and a history of childhood trauma – these are questions that require more research.

DRUG POLICY AND MENTAL HEALTH COMORBIDITY

There is a particularly intimate link between risk factors associated with harmful drug use and mental illness to the extent that, as a Senate Select Committee reported in 2006, comorbid (co-occurring) mental illness and substance dependence are the expectation rather than the exception. People who use drugs who have been arrested are then stressed by the coercive processes of the criminal law, notably arrest, incurring fines and possibly even imprisonment. This stress typically aggravates existing mental health problems and precipitates others.

At the same time, problematic drug use is complex and it is difficult to determine to what degree drug use causes mental health problems, and to what degree mental health problems give rise to problematic drug use. Data from the National Drug Strategy Household Survey 2016 shows that among people who had recently (in the last 12 months) used an illicit drug, about 27% had been diagnosed or treated for a mental illness— an increase from 21% in 2013. Rates of mental illness were particularly high, and saw the most significant increases, for meth/amphetamine and ecstasy users. In 2016, 42% of meth/amphetamine users had a mental illness, up from 29% in 2013, while the rate of mental illness among ecstasy users also rose from 18% to 27%.³

³ Australian Institute of Health and Welfare media release 28/9/2017 <https://www.aihw.gov.au/news-media/media-releases/2017/september/mental-illness-rising-among-meth-amphetamine-and-e> Accessed 12/5/2018

The Victorian Association for the Care and Resettlement of Offenders (VACRO) reported that an estimated 46% of clients in their post-release program in the first quarter of 2018 self-identified both as using drugs and having a mental illness. VACRO sees lack of dual diagnosis treatment as a massive gap in the system, which makes accessing effective treatment extremely difficult. People with this comorbidity can receive alcohol and drug treatment that focuses on harm minimisation without addressing the underlying mental health factors that have contributed to their drug use, such as trauma. Some clients can receive alcohol and drug treatment from one practitioner and separately see a bulk-billing psychologist through a mental health care plan. Although these issues are intertwined, they receive treatment and support for them separately. Attending two different appointments is an impediment for people who experience a number of other barriers to treatment, such as coping with a lack of local services or practitioners, potential loss of work shifts, limited access to transport, the need to care for dependents and low capacity for self-motivation, as well as discrimination and stigmatisation.

While at the grass roots level, many alcohol and drug services conduct case conferencing with mental health services, there is a need for more attention to coordinated research, practice and policy in this area. Prisons in particular need to introduce a healing, trauma based therapeutic model established specifically for comorbid mental health/substance use disorder inmates.

CHANGED DRUG POLICY LEADING TO BETTER SOCIAL OUTCOMES

Currently, the diversion programs in most (but not all) of the Australian states and territories give police the opportunity to divert some people who have been apprehended using or possessing illicit drugs away from the criminal justice system into assessment for drug education, treatment and rehabilitation. There is firm evidence that for those who have been diverted in this way, there is a trend to improved employment, better housing stability, better family stability and better relationships with others. However, once people are diverted, positive outcomes are also dependent on having adequate resources available for assessment, education, treatment and rehabilitation. These services may not be provided or are unavailable to new clients because of existing caseloads.

The best example of changes to drug policy leading to better social outcomes is from Portugal (see Appendix 4) where personal possession of all drugs has been decriminalised and comprehensive treatment and rehabilitation is available across the country, not just in large centres. The results are very positive, with both improved health and social outcomes.

The Portuguese drug policy is arguably the most striking example of the benefits of incorporating social policy into the drug law reform discussions, as exemplified by the significant reductions in HIV/AIDS and overdose, as well as the burden on the prison system and the reduced social costs of responding to illicit drugs.

By contrast, countries that have pursued an aggressive war on drugs and rely on law enforcement to try to stamp out illicit drug use have experienced huge community violence. One example is the Philippines experience of about 12,000 extra-judicial killings of people deemed by government agencies to be associated with drugs.

In addition to the limited diversion programs in Australia, some states and territories have quietly introduced a number of *de facto* and *de jure* decriminalisation options, whereby frontline law enforcers are able to take a discretionary approach to charging people for personal use and possession. These have not had the dire consequences feared by proponents of tough on drugs policies, but the laws are applied inconsistently across the various jurisdictions.

THE IMPACT OF DRUG POLICY ON ACCESSING TREATMENT

One compelling reason behind the need to remove criminal sanctions for drug use is the impact of stigma and discrimination on access to care. Although there are diverse views about drug use or people who use drugs in the community, there is strong support for people with problematic drug use being able to access treatment readily – yet demonising and criminalising them creates an enormous barrier to treatment and support.

The quality, distribution and funding of treatment services for people with drug use problems in Australia is often criticised as grossly inadequate, particularly given that Australia's death rates from drug overdose are currently well above the levels reported in Europe (2.18 per 100,000 of population). In 2016, Australia registered 7.5 drug-induced deaths per 100,000. This is the highest number in twenty years and is similar to the late 1990s, when there was a steep increase in opioid use, specifically heroin.

Changes in the nature of drug deaths have been significant over this period. In 2016, a drug-induced death in Australia was most likely to have involved a middle aged male, living outside of a capital city, who was misusing prescription drugs such as benzodiazepines or oxycodone in a multiple drug use setting, with the death most likely being considered accidental. This profile is quite different from that seen in 1999, when a person who died from a drug-induced death was most likely to have been in their early 30s, with morphine, heroin or benzodiazepines detected on toxicology at death.

Across the whole population, younger Australians (under 35 years of age) have lower rates of drug-induced death when compared to 1999, while older Australians (45 and over) generally have higher rates. This also reflects changes in the types of drugs causing death. Deaths from illicit substances like heroin and methamphetamines tend to occur among younger age groups, while deaths from benzodiazepines and prescription opiates tend to occur among older people.⁴

This statistical information is important when considering the most effective approaches to minimising harms from psychoactive drug use in Australia. Substance use patterns and associated harms evolve over time and, to address changing contexts, strategies to deal with those harms also need to change. At present, some 64% of Australian government expenditure on illicit drugs is directed at disrupting the supply policing and enforcing laws – and yet the problems persist. It is clear there needs to be a more nuanced social and health treatment response.

In addition, there has been a concentration of services in the larger cities, although drug problems are clearly evident in regional and remote areas which are substantially under-served. Workforce development and education in this field is also inadequate and policy frameworks need to link education, prevention and treatment of the currently legal drugs – alcohol and tobacco – with those for currently illicit drugs.

Easier access to the short acting opioid antagonist, naloxone, is also needed to address opioid related harm. Free and readily-available naloxone is now a common practice in many settings abroad, but not in Australia. As our nation struggles to deal with its current epidemic of opioid-related morbidity and mortality (illness and death), increased and easier access to naloxone would be relatively low cost and would save lives, as recommended in the Penington Institute report *Saving Lives: Australian naloxone access model*, released in September 2018.

BARRIERS TO ACCESSING TREATMENT

Australia's national drugs strategy has three "pillars," aimed at reducing demand, supply and harm from drug use. Given the repeated concern at the Roundtable that insufficient attention is being given to treatment, it was suggested that it might be more effective to make treatment a separate fourth pillar of Australian drug policy. Separating treatment from supply reduction, demand reduction and harm minimisation could help to bring new emphasis to treatment and facilitate trials of new approaches, such as the use of hydromorphone. In addition, there should be legal codification of "diversion" across all Australian jurisdictions, so that 100 per cent of those who are apprehended for possession and use of drugs could be diverted from the criminal justice system if treatment for their drug use was deemed to be warranted.

⁴ Australian Bureau of Statistics 2018, Drug induced deaths in Australia: a changing story, *Causes of death, Australia, 2016*, catalogue no.3303.0, Australian Bureau of Statistics, Canberra; European Monitoring Centre for Drugs and Drug Addiction 2018, *European Drug Report 2018: trends and developments*, EMCDDA, Lisbon.

The high cost of private rehabilitation services, their frequent poor quality, and the typically long waiting lists for treatment and rehabilitation services provided in the not-for-profit sector are often discussed, but there are also other cost barriers. The ongoing problem of very high fees for opioid substitution therapy (OST) continues to cause considerable social problems and challenges. OST is well known to be an evidence-based, cost-effective public health strategy for managing opioid dependence in other countries and yet in Australia the cost is still a barrier to access. This continues to have a profound effect on individuals and families, with people in some cases having to choose between paying for their daily OST and paying their rent, or buying basic items such as shoes for their children. Inability to access OST exacerbates broader social problems.

Research into the return on investment relating to current priorities and investments detailed in the 2017–2026 National Drug Strategy would be extremely useful and there is a role for the Productivity Commission here. For example, the research that documented the return on investment of needle and syringe programs in 2002 and 2009 provided valuable supporting evidence for those, which is still used today.

IMPLICATIONS FOR POLICY MAKERS

In several European countries there are some encouraging signs of a broader movement to recognise the connection between drug laws and social policy. On 8 March 2018 the European Council issued a resolution (6931/18) stressing the need for all nations to provide and consider expanding alternatives to imprisonment for drug using offenders, noting that this “might reduce repeat offending rates and relieve the financial and administrative burden and social costs, while also increasing social inclusion”.

While agreeing that this kind of drug law reform could make a significant difference to social outcomes, it must be acknowledged that social policy reform does not happen cheaply or quickly or in isolation from service infrastructure development. For example, prescription drug monitoring programs were recently introduced in Victoria to reduce the incidence of abuse of opioid analgesics. However, their impact has been undermined because there is grossly inadequate infrastructure to support the reform in the treatment sector, which is responsible for providing services to people who are now being denied prescriptions for the pharmaceutical analgesics on which they are dependent.

In the Australian context, it is still easier to identify the disadvantages of current prohibition policy than to validate the likely benefits of reform. However, there is a growing view that it is highly likely that removal of criminal sanctions could lead to more cohesion, less division, more inclusion, less stigma and discrimination, as well as less corruption and less violence – and, last but not least, a better quality of life for those who are vulnerable to harmful drug use, and for their families. This has the potential to significantly reduce the health, social and economic costs of drug harms ultimately borne by all Australians.

While drug law reform is not a panacea for all social problems, it was agreed that if it was accompanied by more compassionate community attitudes, it could produce many beneficial social outcomes for all of us:

It is time to move away from punitive laws and look at the research and evidence of policies that put the welfare of the person ahead of the ideology of a policy that doesn't work. We need to look at policies that connect people with their community rather than disconnect them. We need to seriously consider things like decriminalisation as in Portugal, heroin assisted treatment, first class rehabilitation and counselling. These changes will not only help the individual and the family but society as a whole and be cost effective for governments.

3. AN INVITATION TO THE HEALTH AND SOCIAL SERVICES SECTOR

Imagine a world where:

- People who use drugs do not face the threat of prosecution, possible imprisonment and its aftermath.
- Those who use drugs in a problematic way can access treatment, rehabilitation and broad social support when they need it.
- Law enforcement officers and the courts focus on reducing criminal control of the drug market and are released from spending time criminalising people who use drugs.

Think about the impact of those changes on the people who seek help and on the services that deliver it, think about how such changes could release resources to improve the effectiveness of services that are offered. There are clear benefits of a concerted approach from the health and social services sector around drug law reform:

While drug law reform is not a panacea for all social problems, and it is not the only goal, I do see that law reform could go some way to reducing significant stigma around drug use in the social policy environment. So, for example, we say we want more public housing – but not for people who use drugs. We want to support people into employment – but not if they use drugs. There is a divide according to whether they use of drugs or not. People who use drugs are not just drug users they are also people who may have complex health needs and social disadvantage that often includes homelessness. I hope we can explore the development of coalitions between our sectors so that we can achieve more by working together rather than advocating for change only in our respective areas. Drug law reform is one area that we can advocate for together.

People who support sensible drug law reform will need to work together more, perhaps starting by supporting the removal of criminal penalties for personal use and possession of all illicit drugs. The evidence suggests that would bring benefits to health and social service organisations and better outcomes for the people they serve, and this position could be argued even more powerfully if it were supported publicly by the broad health and social services sectors.

WHY WORKING TOGETHER MAKES SENSE

Many policies that affect people who use drugs are not considered drug policy, and many specific drug policies have large effects outside the drug domain – on social problems such as crime, poverty and child abuse. A clear example can be found in efforts to reduce property crime and public disorder.

The evidence suggests that in many societies, the best method of pursuing this goal would be to expand opioid substitution therapy for opioid dependent individuals. Yet many policy planning groups seeking to reduce street crime include not a single expert in services for people who use drugs. The same point holds for societal efforts to reduce child abuse or to curtail the spread of blood borne diseases, both of which could be a substantially enhanced by coordination with drug policies.

The harms associated with current drug policies are too serious and widespread to be left to the attention of the few civil society voices and researchers who give attention to that subject. People and organisations focusing on improved health and social policy broadly have much to gain from incorporating drug law reform into their advocacy work. This reform could be achieved rapidly and at relatively low expense, potentially producing valued outcomes across both sectors.

That this is a profitable focus of attention is demonstrated by the improved health and social outcomes experienced by countries like Portugal which have abandoned criminal processing of drug users (though not of drug traffickers). It is therefore timely for those civil society organisations which promote broader welfare in the community to pay attention to the benefits that could accrue to the whole community from doing the same in Australia.

UNDERSTANDING EACH OTHER – PERCEPTIONS AND OBSERVATIONS

The perception of those within the drug law reform community is that civil society organisations with a broad interest in ameliorating disadvantage and fostering social capital have not paid much attention to the potential for drug law reform to promote their objectives. The field of drug policy seems to have been left to those who focus upon crime, prisons and health. Even within each of these domains, interest in drug policy is restricted to a relatively small number of researchers, specialists in addiction medicine and blood borne viruses, public servants, and some drug prevention and treatment workers. It is particularly surprising that the mental health professions appear to pay so little attention to drug policy. Substance use disorders are a recognised mental health condition and those with common mental health conditions like depression and anxiety are at a particularly high risk of developing a substance use disorder.

Observation indicates that practitioners in the social and health fields are – understandably and admirably – highly focused on providing treatment and support, often with severely limited resources. This may divert their attention from policy levers, such as removing criminal sanctions from possession and use of drugs, that could potentially make significant improvement in the lives of their clients and enable treatment and support to be much more effective.

We need to build the coalition beyond the usual suspects. An example from my experience is involvement with the Cancer Council tackling tobacco. We promoted it not just as a health issue but also as a social justice and human rights issue, because it affects lower socio-economic strata more than others. ...We were wanting them not only to change policy but asking them to change service delivery practices and prioritise programs to reduce tobacco use.

Gaining support for removing criminal sanctions on personal drug possession and use should be easier because the evidence on the impact is quite strong and you're not asking people to change their service delivery practice but to support a change in social policy. There is tremendous potential to engage the whole non-government and government service sector beyond the things being done already.

In addition, people working at the coalface may have the same concerns about drug law reform as other members of the community. Acknowledging and responding to these concerns is important:

Talking to people in my two areas of work in a hospital setting and in a women's alcohol and drug service, there is general agreement that prohibition has not worked. But people are also concerned that the alternative to this will be seen to be laissez-faire – that is free for everyone, any time, anything goes about drugs. As... Ted Noffs [said] way back in 1973, laissez-faire is not the answer either. So we have to be really clear about what we mean by drug law reform.

Despite these possible differences, the invitation to connect in the interests of better social policy still stands. Australia21 supports exploring the potential for a more concerted approach and believes the evidence linking improved social outcomes with removal of criminal penalties for personal drug possession and use is compelling.

BUILDING ON SHARED FOUNDATIONS

While it is useful to understand differences, it is also beneficial to concentrate on what unites. Articulating a shared conceptual base for reform would assist in bringing together people from the expert fields around drug and alcohol reform and the broader social sciences sector. Without limiting the scope of shared foundational concepts, the following issues were raised.

AN EMPHASIS ON HUMAN RIGHTS

The need to better protect the human rights of often vulnerable people who use drugs underpinned almost all of the discussion and featured in several pre-Roundtable statements:

Human rights principles have been successfully used in some parts of the world to advocate for reform to drug law and policy. Australia has a burgeoning but insufficiently entrenched culture of human rights and a selective approach to rights recognition. More active advocacy is needed in Australia in favour of overarching expansive human rights protections, since these can be used to position people who consume drugs as rights-bearing citizens like other citizens.

Serious human rights breaches of people who use drugs have often had high costs for these people, their families and communities. Just as punishing people with minority sexual preferences is now increasingly accepted as barbaric, so too is punishing people with minority drug preferences who do no harm to others. Removing the possibility of punishment simply for personal possession and use would be a step towards creating a more fair, just and compassionate society.

Drug laws need to be understood within broader legislative and policy frameworks, which force some people (especially those receiving social security payments) into inadequate, heavily scrutinised and stigmatised circumstances. Current proposed changes to welfare regimes such as drug testing and cashless welfare cards are made intelligible by ongoing efforts to construct people living in poverty as defective and needing paternalistic correction.

Human rights also featured in these comments:

I think we need to keep in mind the big picture things like human rights. Increasingly, in that highly conservative law enforcement 'tough on drugs' environment the United Nations Commission on Narcotic Drugs – which is traditionally the most conservative drug policy area you can be in – the resolutions coming out have a different flavour. There is much more expression of human rights, the rights of prisoners, and a whole range of resolutions that are innovative and interesting to see. We need to be at least up with them, we need to be bringing in the global sustainable development goals.

Others supported this approach, noting that the Australian government will be obliged to report on progress against the United Nations Sustainable Development Goals. The data from this big picture approach could provide a shared framework for policy advocacy, develop more inclusive language and increase broader drug law reform literacy, all of which could make a valuable contribution to building the necessary aptitude for change.

SOCIAL DETERMINANTS OF HEALTH

The World Health Organisation defines the social determinants of health as the conditions in which people are born, grow, live, work and age. These circumstances are shaped by the distribution of money, power and resources at global, national and local levels. The importance of acting on the social determinants of health to reduce the drivers of problematic drug use should be more strongly acknowledged and acted upon. This approach forms a conceptual base that is likely to be shared by drug law reform supporters and the health and social services sectors.

RESTORATIVE PRACTICE

Restorative practice evolved from the concept and practices of restorative justice. It integrates developments from various disciplines and fields – including education, psychology, social work, criminology, sociology, organisational development and leadership – in order to build healthy communities, increase social capital, decrease crime and antisocial behaviour, repair harm and restore relationships. These are all objectives that fit with the objectives of drug law reform and restorative practice could add another shared foundational concept:

At the moment drug activity and consumption is seen as an offence against the state. So the whole thing becomes an issue between the state and the individual. In restorative practice we talk about offences against people. And it becomes not an issue about punishment and sanctions, but about harm reduction, life affirmation, problem-solving and a future focus on things being better for all parties in the dispute. It enables the introduction of a trauma-informed approach; thinking about the causes and the consequences of current drug policy and legal processes. ...If we are talking about bringing a broader group of people into the conversation, one way to do it is by changing the focus from drug use being about the relationship between an individual and the state to a system in which the focus is on those who are affected by the drug use.

WHOLE OF SYSTEMS APPROACH AND BREAKING DOWN THE SILOS

In almost any gathering in the community services field, the importance of taking a whole of system approach and 'breaking down silos' is seen as a strategic priority. However, to date there has not been a strong emphasis on the relevance of a systems approach for illicit drugs policy and services:

One of the things Australia needs to do – and there is almost no commitment at all – is to focus on research that is not only about treatment and treatment effects but research into treatment systems and social response systems. There is very little funding for this. It is not being funded by the federal agencies such as the Australian Research Council and the National Health and Medical Research Council. It's really a lack, particularly in the alcohol and drug field – looking at it as a system and looking at it in terms of what happens if you switch service emphasis from one area to another. We talk about the silos but we don't study the silos and how you can break them down and how we can make the move from one to the other more effective. So I think it is trying to look at it as a response system, which is split up into all these little bits like law enforcement, social welfare and health treatment. I know it's not close to the front line of what's engaging the Australian community but we really need it.

Another participant added:

The EU have done Health Atlas work that has mapped systems and looked at what happens when resources and other efforts go into the system at different places and what that does to access and other parts of the system. So that could be a useful tool for us to look at. Also, what often happens in social policy and health policy is we try to pick the solution and we implement it, but we've never done sophisticated modelling [about the] potential unexpected consequences the unexpected benefits [across the whole system]

Breaking down silos can also be difficult, as this example from the interface between health and the law illustrates:

We still operate in silos. We have health and we have the police and we have the judicial system. And it is really hard to get essential conversations happening between them. Recently, a magistrate who had done a six-month stint in rural and regional Victoria told me that he had processed 30 odd ice traffickers through his courts. I asked him "What did you do with them?" His answer was "I sent them all to jail because there was nothing else to do." I thought, "My goodness, that is just an indictment of our silos." I said to him "Why didn't you ring me? I could have helped to develop a plan." The episode highlighted for me that we operate in silos and we are not having the conversations that could lead to constructive approaches.

Working across silos where law enforcement is concerned can be hugely beneficial. The family and domestic violence field provides a good example – after years of patient and sometimes contentious outreach, in many Australian precincts effective collaboration between family and domestic violence agencies, police and the courts has been achieved, with improved safety and better outcomes for all concerned. A similar outcome may be more difficult to achieve while possession and use remain criminal offences, but it is not out of the question.

There is an opportunity to harness a great deal more support from police and law enforcement agencies. While police have an obligation to enforce the law as it stands, many are uncomfortable with it. They recognise that most drug issues are not really about criminality and that the courts are becoming clogged with drug matters that they should not be dealing with. There is potential for them to support more effective ways of managing drug use than arrest and conviction:

There is a gradual recognition in senior levels of the police force about the faults and fallacies and indeed dismal failure of the war on drugs and the difficulty associated with the laws that lawmakers have put into place. I think we have an important opportunity. It's important not to talk about the law enforcers as the enemy. They are not the enemy. They understand the problem as well as we do. I have had many conversations with many police officers, who are as upset about the laws they find themselves having to enforce as we are. Recognising that is a very important part of the equation.

While it was acknowledged that generally the law is a fairly conservative profession, there are also people in the legal profession who are very progressive on these issues.

I am doing some research at the moment with lawyers and judges to explore their understanding of drug use. Almost all of the judges I have interviewed for my research have very progressive views on drug use. ...I have been interviewing judges and magistrates both retired and current. I think a number of retired judges and magistrates could be harnessed who would be influential and influential in particular within the legal community. It is very important to see how they could be engaged and involved in this discussion.⁵

PRACTICE EXAMPLES OF WORKING ACROSS SILOS

Ideological differences might inhibit the development of cross-sector alliances in some cases. For example, service experience suggests that problematic use of alcohol and other drugs may have an association with issues like domestic and family violence or homelessness, but there is not necessarily a causal relationship. In a practical sense, provided different ideological frameworks are acknowledged and respected, they should not necessarily prohibit productive collaboration, as the following examples illustrate.

THE ACT ALCOHOL AND OTHER DRUG SAFER FAMILIES PROGRAM

This is an example of practical collaboration. In its first year of operation in the ACT, the program has brought together partners from the relevant sectors to develop and launch an Australian-first set of Safer Families Program Tools. These aim to inform more effective responses for people who use alcohol and other drugs in harmful ways and either experience domestic and family violence and/or are at risk of doing so.

JUSTICE REINVESTMENT

Significant work is being done by Aboriginal and Torres Strait Islander leaders around "Justice Reinvestment". While this is a criminal justice initiative, current drug policy makes it highly relevant for people who use drugs. This approach is based on evidence showing that strategic community-driven investment in localised early intervention, prevention and diversionary solutions can reduce crime, build local capacity and strengthen local communities. This means that instead of treating criminal justice matters separately from health or social or education matters, there is a framework for bringing all these matters together when considering whether to spend \$100,000 on putting someone in prison or spending the same money on a more positive and effective strategy. An approach associated with Justice Reinvestment could be a good way to engage Aboriginal communities with the issues discussed at the Roundtable.

CORRECTIONS VICTORIA REINTEGRATION PATHWAY

It is also important to strengthen links between policy and practice:

As a service provider I'm a little bit concerned about a disconnect between high level policy and those of us on the ground. What I'd like to see is a cohesive plan across various sectors. Corrections Victoria has introduced a Reintegration Pathway, which is a really good integrated approach both at the service level and the policy level.

The Corrections Victoria Reintegration Pathway provides an opportunity for those in prison to access support for making the transition back into the community. The support starts on entry to prison and continues throughout the prison sentence to assist with release. The pathway is delivered by prison staff and contracted community organisations. Post-release support is available to prisoners who require more intensive support. The program is able to offer assistance in areas such as: employment, education and training, independent living skills, mental health, alcohol and other drugs, family and community connectedness, and housing.

⁵ See also Australia21's third drug law reform report, "Can Australia respond to drugs more effectively and safely?", which brought together law enforcement and other practitioners, researchers and advocates. <http://australia21.org.au/wp-content/uploads/2017/02/Can-Australia-respond-to-drugs-more-effectively-and-safely-Roundtable-report.pdf>

BROADENING DIVERSION IN VICTORIA

Broadening diversion illustrates the benefits of taking a holistic, systemic approach, which could be applied across Australia. In the ideal, a gradation of diversion would start with some of the drug education modules already in place for the current Victorian diversion program. With significant treatment diversion at the upper end, the new broader model would also pick up aspects of the Portuguese model and would encompass issues like housing, education, training, employment and family support.

LISTENING AND TALKING TO EACH OTHER

Finding allies who actually understand the issues and who appreciate the benefits of drug law reform is still a challenge in Australia. If those in the drug law community want to build collaboration across the broader health and social services sectors, engaging honestly with colleagues in those sectors is needed:

What we need to do to achieve partnerships at the grassroots level is to actually talk with colleagues in homelessness, in child protection, in mental health and ask them 'What's your sense of the impact of the way we deal with drug issues and what do you think would make things better for the people you work with, the things you are concerned about.'

This means being prepared to acknowledge the concerns of colleagues working in related fields who may not have well developed understandings of the issues:

Often when you talk to people who use drugs they will say it was a trauma-related response that they were self-medicating, but that the drug use made it worse. The harms done by poverty and disadvantage are very real and they can be exacerbated by drug use. When I speak to social policy people I talk about risk and protection factors and the importance of taking an ecological approach about the things that protect and the things that harm, but when I speak to child protection case workers, who may be just out of Uni, they say drugs make things worse why on earth would you legalise drugs? There is work to be done in looking at that gap between what health practitioners recognise and what people working in social work and other areas, who haven't had that education, understand.

Another participant suggested:

It would be important to compile evidence, case studies and personal stories that illustrate the positive impact of drug policy change on each social problem area/social service sector e.g. homelessness, child protection, mental health etc. Very specific examples of the positive impacts of specific policy changes e.g. provision of opioid substitution therapy, take home naloxone, will be useful. If plain language, evidence and stories can be mustered there is a strong case for intentionally developing a broad-based community sector alliance in support of specific drug law reform.

Others commented that how a problem is framed matters, because the framing sets up the actions that are taken to address it. It was suggested that appealing to a shared commitment to positive outcomes is a practical way forward and that the language used needs to reflect shared social objectives rather than divisions:

I think it would be possible for even community service stakeholders who hold discriminatory views and stigmatising attitudes to sign up to rejecting laws that result in death, disease, crime, violence and corruption, and to supporting changes in policy and law that will increase safety for all, including people who are using illicit substances, their families, neighbours and community. That would be hard for anyone to argue against.

ONGOING COLLABORATIVE NETWORKING

By inviting a range of people from the health and social services sectors to attend the Roundtable, Australia21 has made a start at reaching out to a broader community which could have an interest in drug law reform. Further outreach is required, particularly to people with lived experience of the impact of current drug law, including those from Indigenous communities and multicultural communities. As well, those working towards drug law reform could make a commitment to reach out to colleagues in the health and social services sectors at the personal, practice and policy levels to better understand the concerns of their contemporaries and to provide information on drug law reform.

An outcome of the Roundtable was agreement to support a network of organisations interested in drug law reform so that each organisation is aware of other initiatives and can support them where appropriate. At the time of writing this report, it is encouraging to see the emergence of a number of campaigns for change based on taking a collaborative and broad approach. Examples include the *Fair Treatment* campaign initiated by the NSW and ACT Synod of the Uniting Church and the Noffs Foundation's *Take Control* campaign.

UNITING'S CALL FOR FAIR TREATMENT

This campaign, launched in October 2018, is supported by around 60 partner organisations in the health and social services sectors. The premise behind the campaign is that "We have lost the so-called war on drugs, but the battle rages on and Australians are being made to live in the wreckage. Drug-induced deaths have hit their highest number in 20 years and 200,000 Australians are unable to get the treatment they need each year. Now is the time for meaningful and effective drug policy reform. For a courageous movement forging a new path for people affected by drug policy. A hand that reaches out with help and not handcuffs."⁶

Fair Treatment calls on government leaders and policy makers to rethink their stance on illegal drugs and to support one based in compassion. Uniting will join with members of the legal and medical community to argue the case for decriminalisation. Peter Worland, Executive Director of Uniting said, "There is a compelling case for us to take a new approach on drugs; a more compassionate response, a Christian response. People using illegal drugs in the community often resist help out of fear of arrest. This fear prevents them from seeking help, and it ends up being either too little or too late. The consequences of drug use have touched almost every Australian family. We're calling for some difficult conversations, but as a society, we can no longer ignore the evidence."

NOFFS FOUNDATION'S TAKE CONTROL CAMPAIGN

Launched in September 2018, this campaign aims at educating parents, their children and the broader community that we can get drug use under control by putting health and safety first. According to the *Take Control* website⁷, "This is the start of something big. The more people and organisations who join the campaign, the more powerful we will be. Together we will demand our leaders act to take control." As well as pill testing, the plan for safer and saner drug laws includes ending criminal charges for minor possession of illicit drugs, establishing more drug monitoring rooms (such as heroin injecting rooms), expanding the number of treatment centres for those with drug problems and enhancing engagement services for disadvantaged young people.

Collaborative support for evidence-based initiatives such as these has the potential to amplify their impact. As the network proposed at the Roundtable becomes more established, the membership can be broadened. It is hoped that it can provide a hosting space for collaboration and the sharing of practice, research and communication approaches – and that we can build on and support evidence-based reform initiatives from any part of the sector. The common objective is better outcomes for those who use drugs and for the community.

6 See <https://www.insights.uca.org.au/events/unitings-fair-treatment-campaign-launch-with-sir-richard-branson> accessed 27/9/18

7 See <https://www.takecontrol.org.au/> accessed 27/9/2018

4. REFRAMING HOW WE TALK ABOUT DRUG USE AND PEOPLE WHO USE DRUGS

There are many reasons why communicating about drug policy is difficult. The objectives of drug policy are rarely discussed.

Existing drug policy is based on the assumption, never empirically verified, that the threat of coercive processes of the criminal law will achieve a therapeutic objective of deterring people from the harmful use of addictive drugs.

Politicians and others often assume that decreasing drug availability and consumption are the critical goals, but for many community members a safer community and reduced harm are the top priorities. This means reducing deaths, disease, crime, corruption or violence.

If we want to achieve that safer outcome, it is necessary to reframe communication about how we talk about drug use and people who use drugs, and to do this we need to understand the concepts which underpin attitudes to both. Some of the themes around this topic that emerged at the Roundtable are outlined below.

AGREEING A DIRECTION FOR DRUG LAW REFORM

If we are going to reframe attitudes to drug use we need to know where we are heading. As described in the joint statement from the Roundtable, the target is to remove criminal sanctions for the personal use and possession of consumer-level quantities of drugs. Some argue that in the long term all mind-altering substances should be legal and regulated under similar provisions that cover alcohol, nicotine and psychoactive pharmaceuticals. Others consider that this may be a bridge too far at this stage, for some in the community and for some politicians.

Putting that target in context, if it was felt that the community is more likely to rally around a positive statement and the vision developed at Australia21's third Roundtable in 2016 is worth repeating here, noting that the 2018 Roundtable's joint statement fits neatly with it.

By 2030 Australia will be a country where laws and strategies that ensure the least harm from illicit substance use contribute to a peaceful existence, where policies on mind-altering drugs contribute to a society characterised by hope, compassion, greater equality and improved safety for all people – for those who use drugs, for all children, and for the community as a whole.

To achieve this vision the community needs to be on board and, while support for drug law reform is growing, there is still a need for attitude change.

MOVING AWAY FROM SEEING DRUG USE AS ESSENTIALLY CRIMINAL

Common sense may suggest that nothing could be more effective to eliminate or reduce supply of drugs than making possession of drugs a punishable offence, but that is not the case. Supporters of cannabis prohibition, for example, frequently assert that punitive approaches to drug use reduce consumption. The evidence contradicts this point of view. Cannabis arrests have accounted for the largest proportion of illicit drug arrests in Australia. In 2015–16, of the estimated two million Australians who use cannabis every year almost 80,000 people were arrested for possession of cannabis.⁸ This represents a 6 per cent increase from the previous year. Of these arrests, the overwhelming majority (90 per cent) were consumers, while the remainder (10 per cent) were providers. Yet this arrest rate seems to have had little impact on demand, which has been met easily by an increased illicit supply. In 2017, 92 per cent of people who use drugs who participated in a national survey reported that obtaining hydroponic cannabis was "easy" or "very easy" while 75 per cent reported obtaining bush cannabis was "easy" or "very easy".⁹

⁸ Australian Criminal Intelligence Commission Illicit Drug Data Report 2015–16 quoted in Wodak A, Australia should tax and regulate cannabis, not prohibit it, ABC News, 18 April 2018 <http://www.abc.net.au/news/2018-04-19/why-australia-should-scrap-prohibiting-cannabis-and-start-tax/9671240> accessed 19/4/2018

⁹ Karlsson, A and Burns, L (2018). Australian Drug Trends 2017. Findings from the Illicit Drug Reporting System (IDRS). Australian Drug Trend Series. No. 181. Sydney, National Drug and Alcohol Research Centre, UNSW Australia.

Underlying the punitive approach is the implicit goal of decreasing drug consumption, rather than drug harm – at all costs. This goal is often pursued using scare tactics, which aim to illustrate the assumed harms associated with drug use under a criminal law framework. A significant consequence of this is that people who use drugs are stigmatised as 'other' and as criminals, worthy of fear and contempt.

People fear illicit drugs and need to be shown how they CAN be successfully managed on a different basis. The shining example of better outcomes on shifting to a health-care model is Portugal, with good evidence showing it has figures for deaths from illicit drugs per 100m of population at risk which are far the lowest in Western and Central Europe and Scandinavia – approximately a thirtieth of the US figures and fifteenth of ours.

Conflating all kinds of drug use and all people who use drugs into single categories is a practice to be avoided – for example an individual may shun methamphetamine, but embrace cannabis. There is also a wide spectrum of people who use drugs, and drug use patterns may vary over time as indicated in the statistics on drug induced deaths. While the voice of fear is well represented in mainstream media communication, the evidence paints a more nuanced picture:

The national drug and alcohol surveys show there is already strong support for decriminalisation or removal of legal sanctions. This has remained stable over many years – 64% for heroin, 88% for cannabis (2013). The other area where there is a shift is when people are asked if you are given \$100 where would you like that to be spent in responding to drugs in Australia? There has been a big shift in the extent to which people wanted that money spent on law enforcement – 44% in 2004 to 36% in 2016. It might be a useful message to be able to say, while we continue with our current laws we will continue to spend most of our money in the law-enforcement domain. If you want to spend more in other areas in health, in social policy, in harm reduction, then you do need to look at criminal laws around possession.

EMPHASISING SOCIAL POLICY AS WELL AS HEALTH RESPONSES TO PROBLEMATIC DRUG USE

The current orthodoxy on problematic drug use among the most enlightened people in Australia is that it is not a criminal issue but should be seen as a health issue. However there is also a view that confining this complex issue to just the health model may be unhelpful:

I consider that the health model has, to some extent become an obstacle to change. I think it would be more useful to present it as a social policy issue. Because the health model brings into mind, issues of disease; issues of cure and the kinds of questions that tend to create a sense of pathology, and it encourages a degree of siloing around treatment, which may not be particularly helpful. ...when we say that the harms from drug use are clustered among the marginalised and disadvantaged we are recognising that drug use is essentially a social policy issue, that the effects of the substances are variable and that what we are looking at is broadly a social policy concern. I think we need to do much more to engage the community through public opinion discussions and exploring the central elements of what makes change possible. I don't think we've done nearly enough of that.

There is growing support for moving possession and use of drugs away from the law enforcement sector. Rather, problematic drug use should be seen as a health and social issue.

SHOWING THAT DRUG POLICY IS ABOUT 'US' NOT ABOUT 'THEM'

The Australian Institute of Health and Welfare's 2016 National Drug Strategy Household Survey on the use of drugs (and related matters) indicates that drug policy is not a small minority issue. Without underplaying the suffering and tragedy of problematic drug use or the burgeoning of our prison population, it is clear that many people in Australia are using illicit drugs without coming into contact with the criminal justice system, as these results from the survey show:

- About 8.5 million (or 43%) people in Australia aged 14 or older had used an illicit drug in their lifetime (including misuse of pharmaceuticals).
- Around 3.1 million (or 15.6%) had illicitly used in the last 12 months.
- 2.5 million (12.6%) had used an illegal drug not including pharmaceuticals.

- A gradual increase in use has occurred since 2007 (13.4% to 15.6%) and the number of people illicitly using drugs has increased from about 2.3 to 3.1 million.

Overall, between 2013 and 2016 there was no significant change in use of any illicit drug, but changes were evident among certain age groups.

- More people in their 40s used illicit drugs in 2016 than in 2013 (increased significantly from 13.6% to 16.2%), particularly among males in their 40s (increased from 15.4% to 20%).
- Females aged 18 or older reported a significant increase in recent use of any illicit drug between 2013 and 2016 (from 12.1% to 13.2%), mainly driven by an increase among females in their 30s (from 12.1% to 16.1%). Females in their 30s were significantly more likely to have recently used cannabis, ecstasy and cocaine in 2016 than in 2013.
- Generally, people under 40 have reported a decrease in recent illicit drug usage since 2001, while people 40 or older have reported an increase, particularly in recent years.
- The largest per cent change was among people aged 60 or older (recent use of any illicit drug increased from 3.9% in 2001 to 6.9% in 2016) followed by people in their 50s (from 6.7% to 11.7%). People aged 60 or older were mainly misusing pharmaceuticals (4.5% in 2016) and people in their 50s were mainly using cannabis (7.2% in 2016).
- People in their 40s in 2016 were more likely to have recently used cannabis, meth/amphetamines and cocaine than people in their 40s in 2001.
- While people aged 14–19 in 2016 were less likely to have used cannabis, ecstasy and meth/amphetamines than 14–19 year olds in 2001.

As these figures show, between a third and a half of the Australian population at some stage in their lives has used illicit drugs. This means that most people will know someone who uses drugs, if they do not use drugs themselves – which makes the policy certainly about ‘us’ rather than about ‘them’.

PEOPLE WHO USE DRUGS ARE NOT ALWAYS THE ‘OTHER’

While not discussed extensively at the Roundtable, the public’s stigmatised profile of someone who uses drugs as the ‘outsider’ and ‘other’ must now adjust to take account of the growing problem of misuse of prescription painkillers – a trend revealed in household surveys, media and official concern. A new ‘respectable’ demography now has a stake in avoiding exposure to prosecution, if they are forced to secure medication for pain relief through the black market. Although the suffering associated with problematic drug use does not respect socioeconomic status, there is more likely to be more mainstream sympathy for the predicament of this group and support for adjustment of drug policy to remove them from exposure to the punitive elements and social harms of existing drug policy. The prescription painkiller issue is complex and not the main focus of this report, but the opportunities it offers for a more considered approach to broader drug policy should not be ignored.

In this context the Roundtable also discussed the impact of the shocking ‘Grim Reaper’ campaign in the 1980s. While many today would not support the scare tactics employed in this campaign, the point was made at the Roundtable that it helped to transform public opinion around the AIDS epidemic in the 80s by showing that AIDS was not a disease of gay men only but a disease that could affect the whole community. A similar message, albeit using different tactics, is needed in the illicit drugs area. Finding an approach to drug policy that helps people understand its impact on the entire community, rather than simply on people who use drugs and their families, will be important in enlisting community support for change. If the community comes to the view that there is a much better way than our current approach, the politicians are likely to follow.

THE IMPORTANCE OF INFORMED COMMUNITY INVOLVEMENT

Demonstrating that people who use drugs could be anyone in the community – including any individual's family and friends – can bridge the divide that moral judgement and stigma create. For example, the change from community opposition to support for a medically supervised injecting centre in Victoria was heavily influenced by the death of a 30-year-old mother of two children. She did not fit the stereotype and evoked a compassionate response that stimulated the broader community to action.

This does not mean of course that we should only act once a 'problem' is seen to affect white middle class people, but it can be a gateway to the empathy necessary to see the suffering of all people affected by problematic drug use.

Such a change is not just a feel good reaction, the experience of the Penington Institute is that locally controlled responses to drug use are needed. If communities can move beyond moral judgement and fear, they are more able to own the problem and take an active role in prevention and early intervention before drug use in their community becomes a problem to be dealt with by the criminal justice system.

BRINGING IN LIVED EXPERIENCE

Noting that "Facts tell but stories sell", some participants advised that not all publicity is good publicity and that sharing the stories of people who use drugs can have unintended consequences including reinforcement of stigma and, paradoxically, glamourising drug use. They felt that such stories should be handled carefully and with selective use of the media. Some participants promoted the usefulness of 'sliding door' narratives, where the trajectories of people who used drugs but were not caught in the criminal justice system are compared to those who were caught. Such comparisons help to expose the harms caused by criminal justice intervention, rather than simply by drug use itself. However, it was also emphasised that there are potential risks for people who choose to share their stories of drug use publicly, and that care should be taken to minimise such risks.

The website www.livesofsubstance.org is an example of how the lived experience of people who use drugs can be shared in a way that minimises the risks to the individuals involved. This website has grown from a carefully conducted research project that collected detailed life stories of people who consider themselves to have an addiction, dependence or drug habit. These stories are analysed by a team of experienced researchers, and the key themes are presented using video re-enactments, original audio recordings and written extracts from the interviews.

Another participant cautioned against privileging the stories of people who had experienced drug dependence but then 'turned their lives around' to become 'successful'. While these are inspiring stories, they are not the only ones, and they risk reinforcing a very normative version of citizenship which can devalue the lives of people who continue to struggle, whether it be with problematic drugs use or other issues. This was reinforced by the lived experience of one participant who has spent 10 years in jail for issues associated with drug dependency and who, despite major difficulties, now works as a lawyer assisting people with similar experiences to her own – she has attended seven funerals this year of people who had been on similar pathways to her own.

There is also the risk of asymmetrical story telling which can skew the public narrative by focusing on people who experience or have overcome problematic drug use, when the evidence suggests that the majority of people who use drugs will not experience harm unless they come in contact with the justice system. For example, in the current climate, it would be risky for a young partner in a law firm or a successful young police officer to reveal a history of recreational drug use. However, despite all these caveats, this is an area that needs more careful and sensitive attention:

I see the alcohol and other drugs area as lagging behind the mental health field in terms of the active and meaningful engagement of the affected community. I believe we can do far more to ensure those with lived experience are given a voice.

DEVELOPING MESSAGES WHICH RESONATE

The point was made that we need to communicate with people using messages that appeal to common values, in similar ways to those adopted by the 2018 marriage equality campaign. We need to show that decriminalisation, as evidenced in Portugal, can lead to more people being productive members of society, fewer people dying, and fewer people becoming collateral damage of other people's drug use:

We need to reject current policies that increase death, disease, violence and corruption and support changes in policy and law that will increase safety for all, including people who are using illicit substances, their families, neighbours and community. Anyone would sign up to that.

COMMUNITY FEARS

Although research shows that support for drug law reform is growing, we need to understand the level of fear about drugs in the community and concerns around community safety. In many cases these are the gist of the mainstream narrative which supplies harrowing stories of lived experience – not only of people who use drugs but of the victims of crimes that may be committed to sustain drug habits. We must not lose sight of the fact that drug-related crime can and does hurt partners, children, parents and strangers in the community. While many of these harms can be attributed to drug policy that criminalises people who use drugs rather than to drug use itself, the fears and concerns of the community are real and need to be acknowledged.

People fear illicit drugs and need to be shown how they CAN be successfully managed on a different basis.

THE FAIR GO AND THE SOCIAL DETERMINANTS OF HEALTH

In a culture where the notion of the 'fair go' still has resonance, messages framed around the impact of the social determinants of health can have common appeal. A participant commented

It is about so much more than the drugs. It brings in social inequity, and the social determinants of health. And I would say that most people... do not know what health inequity is or what the social determinants of health are. So I think if we're going to change the way we talk about drugs in the community and how that plays just a part of the whole mosaic of things that are happening in our community, we will need to be much clearer about what we mean in regard to health inequity and social determinants.

For context, the social determinants of health are complex, integrated, and overlapping. Health inequities can be inherent in the social structures and economic systems themselves, including the social environment, physical environment, health services, and structural and societal factors. Social determinants of health are shaped by the distribution of money, power, and resources throughout local communities, nations, and the world. Factors that contribute to a person's current state of health include:

- Biology and genetics e.g. sex and age
- Individual behaviour e.g. alcohol use, injection drug use (needles), unprotected sex, smoking, lack of exercise
- Social environment e.g. discrimination, income, and gender
- Physical environment e.g. where a person lives and crowding conditions
- Health services e.g., access to quality health care.

Framing some messages about currently illicit drug use in these terms could help build an empathetic response in a community where a fair go still matters.

DRUG USE AS A MORAL ISSUE

We must also recognise that for many in the community, including some faith-based welfare groups, there may be a tendency to see drug use in black and white terms as a moral issue. This tendency can be ameliorated by examples of how drug dependency can afflict the lived experience of those to whom they feel connected – former Prime Minister Hawke struggling to help his daughter, the ordinary parent whose children prone to anxiety or depression dabble with drugs when navigating their adolescent years, or those injured at work who become dependent on prescribed pain killers.

PRAGMATIC APPROACHES

Existing drug policy is costly and ineffective. Reform could be made politically attractive because it is likely to ameliorate a wide range of social problems at minimal cost to budgets – and perhaps with results in one electoral term. Similarly, some business interests might be amenable to the arguments that show a business benefit as well as broader positive social impact e.g. insurance companies wanting to reduce burglary rates. While these arguments are a given in drug law reform circles, the case still needs to be made for many in the public sphere:

People want reassurance that drug law reform will have those valued social impacts: that there will be less road trauma; that the busload of elderly people out for a day will not be killed by an ice-intoxicated driver; that there will be less assault and less family violence. That is really hard to show and it takes time.

BUILDING SOCIAL INFLUENCE

To reach a variety of audiences, it was suggested that we should seek out a variety of authentic and influential voices. For example, when a police commissioner says that we 'can't arrest our way out of the problem', people listen. We also need media, doctors, judges and magistrates explaining the new safer approaches. The marriage equality campaign has lessons for us also in its use of high profile social influencers and bringing big business on board.

ENGAGING YOUNG PEOPLE

A further learning from the marriage equality debate was the importance of young people's active support. Young people are often disproportionately affected by harmful drug policies, and yet also often excluded from the development of those policies. They become a major focus of the law enforcement effort – as one participant said, 'the war on drugs is in reality a war on young people' and they are also vulnerable via their exposure to the criminal drug trade. Criminalisation of currently illicit drugs places control of those drug markets in the hands of criminal gangs who not only profit from them but have an active interest in encouraging young and/or vulnerable people to consume their products. It was noted that a joint initiative of Australia²¹ and the Australian Lions Drug Awareness Foundation is a good example of how young people can be engaged and encouraged to participate in drug policy discussions. The Smarter about Drugs project is a youth-led initiative that works with schools to encourage critical thinking around drug use in young people's communities, as well as to empowering them to contribute to drug policy debates at a national level.

POLLING

The need for more opinion polling on drug policy reform is well appreciated, but experienced researchers warn that responses depend very much on the way the questions are crafted.

OUTCOMES OF THE ROUNDTABLE

VISION

By 2030 Australia will be a country where laws and strategies ensure the least harm from illicit substance use and contribute to a peaceful existence, and where drug policies contribute to a society characterised by hope, compassion, greater equality and improved safety for all people – for those who use drugs, for all children, and for the community as a whole.

STRATEGY

Minimise death, disease, crime, corruption, stigma, discrimination and violence by:

1. Redefining illicit drug use as primarily a health and social issue rather than primarily one of law enforcement.
2. Expanding and improving drug treatment to the same standard as other healthcare provisions.
3. Removing criminal and civil sanctions for personal possession, self-administration and cultivation of defined weights of currently illicit drugs.
4. Considering the option of regulating the drug market as a means of disrupting the illicit trade and reducing the potential harms that result from the absence of quality control in manufacturing, distribution and marketing – recognising both that the market is already regulated to some degree (e.g. needle syringe programs, drug consumption rooms, methadone treatment and pill testing) and that the illegal trade in any goods can never be quashed entirely.
5. Reducing the extent and severity of adverse community conditions which exacerbate demand for psychoactive drugs.

ASSUMPTIONS

- Whether we like it or not, mind-altering drugs are a part of life and their use will continue into the future – noting that some mind-altering drugs, such as alcohol and nicotine, are harmful but are not treated as a law enforcement issue.
- Social problems associated with illicit drugs in our community are complex and multifactorial with no simple solutions.
- People living in adverse circumstances may be more likely to use drugs to cope with trauma and to come in contact with law enforcement responses.
- Law enforcement should continue to have a role tackling large scale drug trafficking but have no role in managing people who possess and use drugs.
- Australia needs to ramp up its prevention, treatment, rehabilitation and harm reduction infrastructure to make it more accessible across the nation, not just in metropolitan areas.
- The process of drug law reform will involve:
 - consideration of evidence and human rights-based factors;
 - extensive and respectful consideration in parliaments and among diverse community members;
 - incremental implementation;
 - independent evaluation.

DIRECTIONS DERIVED FROM THE ROUNDTABLE

Deliberations from the Roundtable revealed a consensus that our current drug laws impose unintended and unacceptable social and health harms on people who use drugs and their families and friends, with adverse consequences across the whole community. It was also agreed that the health and social sectors need to work together to engage broad community support for evidence-based changes to our drug laws in order to reduce those harms.

These directions on achieving change emerged from the Roundtable discussion:

1. Focus on a positive aspirational future as outlined in the vision. We should be talking about the future focused on safety and wellbeing rather than on punishment and stigmatisation. If we are to change the legislative frameworks that would enable our drug policies to truly minimise the harms of drug use, we will need to garner strong support from the community so that they will back politicians who propose change. To do this we will need to engage a range of authentic voices, including from people with lived experience, who are able to talk about the benefits for everyone if we adopt a more compassionate, rational and effective approach to drugs.
2. Draw on a range of international experience not only from pioneering Portugal, but now also from countries like Canada and Uruguay.
3. Provide credible alternative policies or interventions rather than criticising the present arrangements without offering robust options. Effective advocacy will need substantial modelling of the various effects of the likely changes, to be considered credible by decisionmakers and those who vote for them.
4. Settle on agreed targets for reform rather than a scattergun approach covering myriad issues. In line with the joint statement released after the Roundtable, all associated organisations should work together to achieve:
 - the repeal of criminal penalties for consumer level drug offences;
 - the creation or expansion of police and court diversion programs for minor drug offenders;
 - significant expansion of the drug treatment system, which is currently unable to provide services to at least half the people who could benefit from treatment.
5. Reach out to colleagues in the health and social services sectors at the personal, practice and policy levels to better understand the concerns of these sectors and to provide information on drug law reform.
6. Engage allies from the various health and social service organisations who know first-hand the harms that can be associated not only with drug use itself but with our current drug policies. To achieve better outcomes for everyone, move beyond good intentions and set up collaborative mechanisms to support such alliances in order to share good practice, research and relevant campaign information.
7. Support collaboration between communications professionals from like-minded organisations, to coordinate messaging about drug law reform where appropriate. Craft values-based messages about drug use and drug policy options – work done by the Asylum Seeker Resource Centre in Victoria on reframing messages about people who seek asylum and the successful messaging that accompanied the marriage equality plebiscite could be useful models.

CONCLUSION

As with its three previous expert Roundtables on the impact of Australian drug laws, Australia21 concludes from these 2018 expert deliberations that the 'war on drugs' has failed.

It is hurting people who use drugs and exposing our children to dangerous criminal markets, which are making huge profits and have no concern for the health and welfare of their customers. It is also having unexpected negative health and social impacts across the wider community. As many law enforcement professionals attest, 'we cannot arrest our way out of this' and it is time to reach out to people who use drugs with a hand instead of handcuffs.

Decriminalisation for personal use and possession is a first step and there is sound evidence that we can destroy the business model of the big traffickers by working towards managing and regulating currently illicit drugs. We regulate and work to minimise the harms associated with other recreational drugs such as alcohol and tobacco; international experience indicates that it is also possible to use this approach with currently illicit drugs.

Such changes can be implemented carefully and incrementally, assessing the impact as we work towards a world where people who experience problematic use of drugs are offered treatment not punishment. The outcomes of such reforms would be better for everyone.

FROM THE AUSTRALIA21 FACEBOOK PAGE

Hey Australia21 – I really respect the work you are doing on drug policy. I wish NSW had taken your recommendations before I made this life-changing mistake. The consequences are so severe and yet not so well known. This is my story below...

On a fateful February night in a quiet Sydney pub in Glebe, Australia my life changed forever. I was attending a friend's birthday party, I was passed one cap of MDMA which slipped my memory for the next half an hour. As it was to be, NSW police had decided to launch one of their gestapo style sniffer dog raids on this quiet pub in Glebe. Within a blink of the eye there were 15 police, and three sniffer dogs almost doubling the patrons of the pub – I got arrested.

That was until I was part of the 1% of all party goers that actually get caught. So for a 29 year old woman who had never spoken to Police, let alone being thrown against a wall and strip searched this was a traumatising experience. After they found the pill I was released with a court attendance ticket, the rest of my friends who also had MDMA had been quick enough to dispose of it prior to the Police raid. The pre-court process from there was truly traumatising – calling parents, visiting lawyers, going to an addiction counselling service (for an addiction I didn't have), and getting references from family friends.

Lawyers advised I would likely get a section 10 bond and luckily that occurred (I feel sorrow for those that get convicted), however the sheer fact of pleading guilty would dash any USA plans I had made. This was not good. As expected I let work know of the situation regarding travel to the USA. I got fired as I could no longer do my job. I couldn't pay my rent, I moved back to my parents at the Blue Mountains. My life slowly ended and I spiraled into depression. Often spending the hours on end lying on the floor of the shower wishing to not wake up. I dreamt of the days prior to the incident where I was seemingly carefree, the world at my feet. Plagued by recurring nightmares of the event, thinking about all the possibilities and permutations of events that would not have led to this situation. I spent time with GPs, psychologists and psychiatrists trying to help me deal with the grief I was experiencing. I spent a short time in a mental ward, to try and ensure I was safe from my feelings.

Why does NSW see this a fit punishment for a crime in which the majority of other Australian states, and a good chunk of the developed world does not? NSW has invested so much on in terms of my public education and university, why does such a small hiccup warrant such life altering repercussions? The definition of draconian is 'excessively harsh and severe', I think it is safe to say NSW has a draconian view of drug policy. Upon doing more research into the topic, I am not alone in my outcry. Drug Policy think tanks based out of UNSW, and a 2006 review in the Police Dogs indicate that there is no correlation between heavy handed policing for first time offenders with small quantities and reduced usage. NSW Police are directly contributing to drug deaths due to preloading before festivals.

The criminal justice system is meant to rehabilitate; how is handing out life altering repercussions rehabilitation?. The sentencing magistrate commented on how he does not agree with the law. How is NSW so out of touch? Countries like Portugal have completely decriminalised simple possession with positive results. I hope one day we can drive change in the government and start treating possession as a health issue rather than a criminal matter.

SOME PARTICIPANT COMMENTS



LAURENCE ALVIS

Executive Officer, Uniting ReGen AOD Treatment & Education Service

There is no question that Australia's drug policy settings create and exacerbate social problems beyond the drugs field, narrowly defined. ReGen regularly encounters people experiencing multiple social issues, with drug policy negatively impacting not just on their experience as a drug user but their experiences of mental health issues, family violence and housing/homelessness.

The well-recognised imbalance between public funding for supply reduction and demand reduction measures within Australia's National Drug Strategy 2017-2026 contributes to the ongoing funding pressures on treatment and harm reduction services. It provides perhaps the clearest case for a reassessment of Australian drug policy priorities and the consideration of a drug law reform as a key enabler of improved outcomes at all levels.



KASY CHAMBERS

Executive Director, Anglicare Australia

A large number of social outcomes could be improved rapidly if we had law reform in the drug area. We are constantly dealing with homelessness and people using drugs are getting into desperate financial difficulties.

I work in the welfare system and cannot stress strongly enough, the relationship between many of the social disadvantages with which we deal, being linked with the disadvantages and serious consequences of the operation of our drug laws.



DR MARIANNE JAUNCEY

Medical Director, Uniting Medically Supervised Injecting Centre, Sydney

For me, one of the driving factors behind the need to remove criminal sanctions for drug use, is the impact of stigma and discrimination on access to care. Regardless of our views about drug use for people who use drugs, we all want to see those with problematic use be able to access care – yet demonising and criminalising them, creates an enormous barrier to treatment and support.

We are finally seeing some momentum globally around drug law reform. To me there is increasing acceptance that the current approach is not working, and I hope that all of us, will see some meaningful change within our lifetimes.



MICK PALMER AO APM

Former Commissioner, Australian Federal Police;
Emeritus Director Australia21

As a society we need to recognise that the drug situation is serious and getting worse. For Australians, “standing still” should be a totally unacceptable option. The journey, importantly, will need to be one of many small, incremental steps, but it is a journey which our leaders must be prepared to commence and which our society should demand. There simply has to be a better way.

To trigger action it may be important to more strongly emphasise and personalise the reality of the problem – the multitude of underlying causes – the nature and reality of the isolation and suffering that drug abuse and addiction so frequently causes – the social reasons which lead to drug use – and the avoidable harm and discrimination which our current policy so often creates, all too often on the most vulnerable and defenceless of our people.



SUSAN HELYAR

Director, ACT Council of Social Services

My overall view is yes, we can impact positively on apparently intractable social problems through improved social policy to address the currently illegal drugs. The harder question is "What will shift our country from the current state of complacency and resistance to a state of willingness to adopt harm reducing, life affirming laws and policies across all the domains outlined in the paper?"

We know that decision-makers are not operating as rational, dispassionate or disinterested actors, they are acting according to their values, sectional interests, personal experiences and fears. A case in point is lack of willingness to adopt non-custodial sentences in the criminal justice system despite costs, harms and lack of deterrence effect associated with incarceration.



KAT ARMSTRONG

Lawyer and former drug user

I spent 10 years in prison because I used drugs and I committed crime to support my drug habit.

Until people are educated in local rural and regional areas as well as in the cities, and until the legislators and the people who have the power actually "get it" and understand what and why people do what they do, and change the legislation, you are not going to get any kind of drug law reform.



PROFESSOR PETER NORDEN AO

Fellow, Australian & New Zealand Society of Criminology;
Hon. Fellow, Humanities & Social Sciences, Deakin University

My personal professional history of four decades working within the criminal justice system, highlights the intense negative impact of the application of current drug law enforcement policies on individuals, families and the wider community.

Massive expansion of the correctional facilities, with a fourfold increase in the national prison population compared to national population growth over the last 20 years includes massive financial and social costs to the states and territories.



CAROL NIKAKIS

CEO, Victorian Association for the Care and Resettlement of Offenders

The issue of men and women becoming involved in the justice system because of their drug use, needs to be addressed, given the increasing cost of building and servicing new prisons and the poor outcomes achieved. State Governments are building prisons to perpetuate the myth that the community is 'safe' because of law and order campaigns. Addiction should be treated as a medical/ psycho/social issue, not a criminal matter.

Once in the criminal system, continued misuse of drugs and alcohol will for many, lead to repeated incarceration, especially where long term, chronic drug use has led to criminal behaviour to support a habit. Cumulative trauma and institutionalisation impacts dramatically on an individual's ability to gain control over their drug use and rebuild their lives upon release, if it is not addressed early.



BILL BUSH

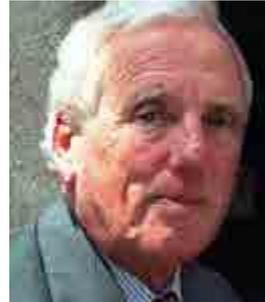
President, Families and Friends for Drug Law Reform;
retired international lawyer

Existing drug policy is based on the assumption, never empirically verified, that the threat of coercive processes of the criminal law will achieve a therapeutic objective of deterring people from the harmful use of addictive drugs.

Addiction, should it develop, and the stresses of the criminal process, should the young person become entangled with the police, are likely to have lifelong negative implications for the individual, thus entrenching disadvantage in their own life and those of their dependents. Arrest and prosecution entails a sudden disruption to an individual's life, often involving loss of employment and housing and family and community support. The disruption is linked to issues like domestic violence, suicide, child protection, unemployment and homelessness.

Criminologists work on the assumption that some 80% of those in prison suffer from both a drug addiction and some other mental health problem. The prison environment harms rather than helps the mental health of inmates, undermines capacity to function in the community and reinforces their disconnection: "sadly thriving in total institutions is rarely conducive to coping in the community"

Drug policy undermines the capacity of people to take responsibility for their own lives and compounds virtually all of Australia's most intractable and complex social problem.



DAVID PENINGTON AC

Former Vice Chancellor, University of Melbourne

The shining example of better outcomes is Portugal, with good evidence showing it has figures for deaths from illicit drugs per 100 of population at risk, which are far the lowest in Western and Central Europe and Scandinavia – approximately a thirtieth of the US figures and fifteenth of ours.

The key elements are:

- a. The system for care of all drug users since 2001 has been in their Health Sector, not law enforcement.
- b. In every 'Department' of the country there is an Institute Against Addiction (CDT)
- c. These operate in local communities or regions.
- d. Opioid substitution is widely used where treatment and community-based rehabilitation are not the answer.
- e. Education and preventive strategies are strongly supported in schools.
- f. Law enforcement is restricted to large scale trafficking and Customs processes.



DR CAITLIN HUGHES

Criminologist; Senior Research Fellow,
Drug Policy Modelling Program, University of NSW

The Portuguese drug policy is arguably the most striking example of the benefits of incorporating social policy into the drug law reform discussions, as exemplified by the significant reductions in HIV/AIDS and overdose, as well the burden on the prison system and the reduced social costs of responding to illicit drugs. The question is how and what might that mean for Australia? This is worth clarifying as there can be some misconceptions about this reform.

- First, the Portuguese government removed criminal penalties for the use and possession of all illicit drugs, thereby eliminating one of the biggest causes of harm to people who use drugs – namely harms associated with criminal records, prison and stigma. Importantly this reform was not just targeted at cannabis as they recognised that the biggest burden from drugs is associated with use of drugs such as heroin.
- Second, they significantly expanded their health and social system – including employment assistance via subsidies for employers hiring drug-dependent individuals – and referral routes to these systems, thereby providing many more avenues to reduce social marginalisation amongst people who use drugs, including in particular lack of employment opportunities.
- Third, they have brought to the fore the interrelationships between social and economic factors and drug-related harms in society, including how rising unemployment levels and increasing inequity can increase the vulnerability of many people in society to drug dependence, as well as the necessity of good social supports



PROFESSOR MARGARET HAMILTON AO

Foundation Director, Turning Point Alcohol and Drug Centre

While drug law reform is not a panacea for all social problems, and it is not the only goal, I do see that it could go some way to reducing significant stigma around drug use in the social policy environment. So for example, we say we want more public housing – but not for people who use drugs. We want to support people into employment – but not if they use drugs. There is a divide according to whether they use drugs or not.

People who use drugs are not just drug users they are also people who may have complex health needs and social disadvantage that often includes homelessness. I hope we can explore the development of coalitions between our sectors so that we can achieve more by working together rather than advocating for change in our respective areas. Drug law reform is one area that we can advocate for together.



EMERITUS PROFESSOR JAKE NAJMAN

Sociologist University of Queensland

As a sociologist I have spent the past 20 or so years dealing with Government on issues to do with alcohol and illicit drugs.

It is remarkable that there is general agreement by those in the field that current policies don't work. Arguably current policies criminalise a sector of the young Australian population, most of whom would otherwise cease using drugs when they reach their mid-20s.

Governments and those in the community fundamentally do not believe that current policies don't work. This lack of knowledge and existing stereotypes about those who use illicit drugs mean that Governments persistently make claims about the need for more coercive strategies to deal with drugs.



MARION MCCONNELL OAM

Founding member, Families and Friends for Drug Law Reform

An incident 2 weeks before my son died in 1992 convinced me that prohibition drug laws did not protect our young people from drugs.

The interference of the law in what is a health issue can drive people away from the help they need. The shame, stigma and marginalisation which goes hand in hand with prohibition drug policies stops many families from speaking out or seeking help. Contrary to popular belief it is not 'bad' kids who use drugs, but it could be anyone's child.

Society's punitive, judgemental, response to illicit drug use and drug users exacerbates the problems. Prohibition policies curtail informed discussion, stifle effective response to drug use in schools and alienate parent from child.



DAVID MCDONALD

Author of Discussion Paper for the Roundtable

Domains as broad as income security, housing, parenting, child protection, domestic and family violence, family breakdown, mental health, employment, crime, social welfare, recreation, road safety, the environment, could potentially benefit from a changed approach to illicit drugs in Australia and we are committing massive resources to drug law enforcement that are making the problems worse.

People and organisations focusing on improved social policy broadly, would have much to gain from incorporating drug law reform into their policy advocacy work. This could be done rapidly, and at relatively low expense, potentially producing valued outcomes in the many areas of social policy listed above.



FIONA PATTEN MLC

Co-Host of the Roundtable; Independent politician

The recent Victorian parliamentary enquiry for which I was a member of the committee took a very broad view of drug policy in Victoria. The committee included three Labor members, three Liberal members and me – and we travelled as a committee to Canada, Portugal, the UK, Colorado, California and New Zealand to look at how people are doing drug policy differently.

We recommended that 100% of those who are apprehended for possession and use of drugs should be diverted away from the criminal justice system and that there should be a much greater emphasis on treatment and rehabilitation of people with drug problems than is currently happening. Treatment will become the fourth pillar alongside the other three pillars of supply reduction, demand reduction and harm reduction.



EMERITUS PROFESSOR BOB DOUGLAS AO

Co-Host of the Roundtable; Director Australia21

Whether we are interested in income security, housing, parenting, child protection, domestic and family violence, family breakdown, mental health, employment, crime, social welfare, recreation, or road safety, our antiquated approach to illicit drugs plays a hugely negative role.

Policy makers need to hear not only from those in the drug reform movement, but also from a broad cross-section of people engaged in these fields.

Perhaps the reason that the Drug Law Reform Movement has not yet prevailed in its approaches to policymakers is that “appearing to go soft on drug use” is still perceived by many politicians as an option for which the Australian electorate is not yet prepared.

APPENDIX 1: AUSTRALIA21'S PREVIOUS WORK ON DRUG POLICY

This project builds on three previous Australia21 projects on illicit drug policy. The first Roundtable, held in Sydney in 2012, addressed the question 'What are the likely costs and benefits of a change in Australia's current policy on illicit drugs?' and concluded that:

- Prohibition puts the production, distribution and control of illicit drugs into the hands of criminals and exposes young people, police and politicians to their corrupting influence.
- The harms resulting from prohibition substantially outweigh the gains from efforts by police to suppress the criminal drug industry—an assessment now accepted by many politicians, police, researchers and leaders of civil society across the world. The cure has turned out to be worse than the disease.
- It is time to stop sloganeering and strongly encourage our politicians and media to start an informed national debate about the alternatives to a policy that has clearly failed disastrously and is now criminalising many of our young.

The second Roundtable, held in Melbourne in 2012, focussed on 'What can Australia learn from different approaches to drugs in Europe including especially Portugal, Switzerland, the Netherlands and Sweden?'. Outcomes of this project included:

- Confirmation that prohibition has failed to reduce harms associated with psychoactive drugs.
- Recognition that there are evidence-based effective drug policy options beyond prohibition.
- Professor David Pennington's proposal to investigate options for providing some of the currently illegal drugs, specifically MDMA, to people who use drugs within a highly regulated, legal policy framework.

The third Roundtable included the law enforcement community, researchers and advocates. Held in Sydney in 2015, it addressed the question 'If changes were to be made to our current illicit drugs policy, what options and processes would be most likely to reduce harms to people who use drugs and increase the effectiveness of our policy?'. It yielded 13 recommendations including:

- The overriding emphasis in national drug policy should be on minimisation of harm to those who chose to use psychoactive drugs and those around them.
- There is a need to promote community understanding that current drug policy and practice includes disproportionate funding for law enforcement and inadequate funding for harm minimisation and treatment.
- Despite many suggested reforms being supported by international experience, local implementation will require carefully evaluated local evidence.

APPENDIX 2: DISCUSSION PAPER FOR THE ROUNDTABLE

The discussion paper entitled “Can we impact positively on apparently intractable social problems through improved social policy to address the currently illegal drugs?” was prepared by social science and drug researcher, Mr David McDonald, in collaboration with the steering group appointed by Australia21.

The paper argued that Australia could achieve significant social benefits by improving policy addressing the currently illegal drugs. It stated that this will be most effective when people and organisations in the drug law reform movement collaborate closely with people and organisations in other sectors that advocate for improved social policy settings across the nation. Drug law reform was defined as ‘an international campaign conducted by people who advocate international changes to laws and the ways they are implemented away from a total prohibition or “War on Drugs” approach’.

The paper suggested that social agencies, in diverse sectors, could enable improvements in social outcomes at the individual, family and community levels. For this to happen, it argued, multi-sectoral involvement in drug law reform would be required. The paper proposed that such reform could ameliorate the nature and extent of social problems generally, reducing their human and financial costs to the Australian community. The paper suggested that domains as broad as income security, housing, parenting, child protection, domestic and family violence, family breakdown, mental health, employment, crime, social welfare, recreation, road safety, the environment, could potentially benefit from a changed approach. It also pointed out that Australian governments are committing massive resources to drug law enforcement (some two-thirds of Australia’s drug budget), and that, in many ways Australia’s patterns of drug law enforcement are making the problems worse.

The paper concluded that people and organisations that are focusing on improved social policy broadly would have much to gain from incorporating drug law reform into their policy advocacy work. This could be done rapidly, and at relatively low expense, potentially producing valued outcomes in the many areas of social policy listed above

APPENDIX 3: USE OF TERMS IN DRUG LAW REFORM

Drug law reform is generally taken to mean changes to law and practice away from total prohibition and the 'War on Drugs' approach.

Advocates of drug law reform argue that no consistent rational basis exists for declaring some drugs legal and others illegal, citing the fact that some of the most harmful drugs (e.g. alcohol and tobacco) are legal and others that create far less harm (e.g. cannabis) are illegal. They further argue that prohibition actually curtails the capacity of governments to control and regulate harms from the the drugs deemed illicit. Communication about drug law reform is often confused by conflating different aspects of those reforms.

Commonly used terms are described below.

DRUG LAW REFORM TERM	MEANING
Prohibition	Drugs determined to be prohibited or dangerous are proscribed under schedules to the Statute/s in the various States or Territories (e.g. The Drug Misuse and Trafficking Act of NSW, Misuse of Drugs Act of Queensland and the Drugs, Poisons and Controlled Substances Act of Victoria). If a drug is so proscribed, the use, possession, production, trafficking or supply of the drug, together with relevant connected behaviours captured within the legislation, are subject to the criminal law and are dealt with as either "offences" or "crimes" depending upon the seriousness of the behaviour. Punishments for a criminal matter often include imprisonment or a fine (or both), or a suspended sentence, good behaviour bond or community service order.
Decriminalisation	The repeal or amendment of Statutes which made certain acts criminal, so that the acts are no longer crimes or subject to prosecution. In some circumstances, however, limits or boundaries to decriminalised conduct may apply and fines or other penalties may still be imposed for breaches (e.g. for possessing more than the permitted amount of a decriminalised drug).
Legalisation	The specified drugs or forms of behaviour (e.g. consuming the drugs) are determined to be legal and do not attract criminal or civil law sanction.
Regulation	There is a framework of rules and requirements under which, and by whom, a drug may be sold or supplied, as is the case with pharmaceutical drugs, alcohol and cigarettes.

APPENDIX 4: THE PORTUGUESE APPROACH

Throughout this report reference is made to the Portuguese approach to drug law and drug treatment as a model of good practice.

Portugal implemented a drug law reform package in 2001. Criminal sanctions for persons found in possession of personal (defined) quantities of illicit drugs were scrapped. Under this system those people are now sent to an assessment panel to evaluate the extent to which they are functioning as citizens carrying out their responsibilities to their families, employers and communities. People found to be functioning poorly are referred urgently to health and social agencies while those functioning well are largely left alone. Persons found in possession of quantities of drugs deemed to be of trafficable amounts are referred to the criminal justice system as before.

After the reforms were implemented there was a substantial improvement in outcomes with a reduction in the very high rates of drug overdose deaths, HIV infections among people who inject drugs, and crime. Problematic drug use declined including the proportion of prison inmates with drug problems.

The Portuguese stress that the reforms would not have been successful without the considerable expansion and improvement of drug treatment which is regarded as a key component of the drug law reform package.

The community regards the now very public nature of drug dealing as the major negative of these reforms. However, since 2001 Portugal's annual overdose death rate has dropped to 0.35 per 100,000. Australia's death rate is more than 20 times that and rising.

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we are committing massive resources to drug law enforcement that are making the problems worse

A large number of social outcomes could be improved rapidly if we had law reform in the drug area.

Domains as broad as income security, housing, parenting, child protection, domestic and family violence, family breakdown, mental health, employment, crime, social welfare, recreation, road safety, the environment, could potentially benefit from a changed approach to illicit drugs

demonising and criminalising [people who use drugs] creates an enormous barrier to treatment and support

we can impact positively on apparently intractable social problems through improved social policy to address the currently illegal drugs

Portuguese drug policy is arguably the most striking example of the benefits of incorporating social policy into the drug law reform discussions

I ... cannot stress strongly enough, the relationship between many of the social disadvantages with which we deal, ... and serious consequences of the operation of our drug laws.

the application of current drug law enforcement policies on individuals, families and the wider community [has an intense negative impact]

For more information, please visit:
australia21.org.au

