



Families and Friends for Drug Law Reform (ACT) Inc

committed to preventing tragedy that arises from illicit drug use

NEWSLETTER

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NEXT MEETING

Thursday 22 September, 2011, 7.30pm
St Ninian's Uniting Church hall,
cnr Mouat and Brigalow Sts, LYNEHAM
Meetings are followed by refreshments and
time for a chat.

Editorial

NSP – legal obligations

It is well established that needle and syringe programs in the community are beneficial in that they reduce the transmission of blood borne viruses and save precious health dollars.

They are accepted in the community - sure some people may not like them - but they are there for the greater good of the community and have been shown to be so. They can also be a life saver for the drug user because BBV like HepC or AIDS can at worst be fatal and at best debilitating.

The concerns relating to issuing syringes for an illegal act, or the conundrum that may face police if they find someone who has clean syringes in his/her possession, have all been resolved over the years.

This position has not been reached by prison officer in Australia. No prison in Australia has implemented an NSP in a prison. The reason for such neglect is in part the opposition by the unions and the reluctance of governments. Perhaps it also has to do with how prisoners are viewed by the community ie that they are somehow lesser citizens because of their crimes and deserve what they get.

The ACT is supposed to be different. The legislation that has established and provides the rules by which the prison is to be run states: "Sentences are imposed on offenders as punishment, not for punishment." Thus they are not sent to jail for additional punishment and no one should insist on further punishment whilst in jail.

But the legislation goes much further than that. The legislation also states: "The criminal justice system should respect and protect all human rights in accordance with the *Human Rights Act 2004* and international law." These are matters that will be examined shortly.

In respect of the health treatment that prisoners receive one would hope that when they are released from prison

they are in no worse health than when they first entered but ideally are in better health and able to rejoin society as a contributing member. The legislation covers the health aspects for prisoners and includes the following:

- (2) *The doctor's functions are—*
- (a) *to provide health services to detainees; and*
 - (b) *to protect the health of detainees (including preventing the spread of disease at correctional centres).*

Without the full range of measures implemented in the prison, such as a needle and syringe program, the doctor appointed by the minister cannot carry out his function of protecting the health of detainees and preventing the spread of disease. The fact that at least one person has contracted HepC whilst in the prison reaffirms that failure.

In some of the overseas prisons that now have NSP programs, the programs started with an act of civil disobedience by a doctor who simply issued clean syringes within the prison. In the ACT such an option may not be practical and may jeopardise future implementation.

It is however essential that the doctor and his staff keep accurate records of every approach by a prisoner for a clean syringe and every case of infection contracted in the prison.

There is a great deal more support or rather, legal obligation, to implement an NSP in the prison in the ACT Human Rights Act which says:

Anyone deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.... and... An accused person must be treated in a way that is appropriate for a person who has not been convicted.

And then there is a whole body of international law from the United Nations. In particular the principles of medical ethics for health personnel that was adopted by the General Assembly in 1982 says:

Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

Thus the logic of it is quite clear: there is an international obligation to provide the same health treatment at the same standard inside the prison as for that outside; ACT legislation, including that which relates to the prison, requires human rights compliance; and the doctor is required to take measures to protect health.



Annual Remembrance Ceremonies

for those who lose their life to illicit drugs

NEWCASTLE

Christ Church Cathedral, Church St, Newcastle
Saturday 24th September, at 4.30pm
Supper follows the service
All Welcome. Further information 0401305522

SYDNEY

Ashfield Uniting Church, 180 Liverpool Rd,
Ashfield
Saturday 15th October, 6pm
Followed by a light supper.
Enquiries: (02) 4782 9222

CANBERRA

Weston Park, Yarralumla, ACT
Monday 17th October, 12.30pm – 1.30pm
Light refreshments follow the ceremony.
All welcome. Further details on enclosed leaflet.
Enquiries: (02) 62542961

USA National Survey Shows a Rise in Illicit Drug Use From 2008 to 2010

SAMSA 9 Aug 2011

The use of illicit drugs among Americans increased between 2008 and 2010, according to a national survey conducted by SAMHSA. The National Survey on Drug Use and Health (NSDUH) shows that 22.6 million Americans age 12 or older (8.9 percent of the population) were current illicit drug users. The rate of use in 2010 was similar to the rate in 2009 (8.7 percent), but remained above the 2008 rate (8.0 percent).

Another disturbing trend is the continuing rise in the rate of current illicit drug use among young adults age 18 to 25—from 19.6 percent in 2008 to 21.2 percent in 2009 and 21.5 percent in 2010. This increase was also driven in large part by a rise in the rate of current marijuana use among this population.

“We stand at a crossroads in our Nation’s efforts to prevent substance abuse and addiction,” said SAMHSA Administrator Pamela S. Hyde, J.D. “These statistics represent real lives that are at risk from the harmful and sometimes devastating effects of illicit drug

use. This Nation cannot afford to risk losing more individuals, families, and communities to illicit drugs or from other types of substance abuse—instead, we must do everything we can to effectively promote prevention, treatment, and recovery programs across our country.”

The annual NSDUH survey, released by SAMHSA at the kickoff of the 22nd annual *National Recovery Month* observance, is a scientifically conducted annual survey of approximately 67,500 people throughout the country, age 12 and older. Because of its statistical power, NSDUH is the Nation’s premier source of statistical information on the scope and nature of many behavioural health issues.

High Court ruling could force change to state drug laws

Farah Farouque, September 9, 2011, The Age

A HIGH Court ruling has cast doubt on some drug trafficking convictions in Victoria, prompting the state government to consider changing the law.

Attorney-General Robert Clark is considering amending a key part of the Drugs Act after the court set aside the drug conviction of a Melbourne lawyer.

Vera Momcilovic was convicted of trafficking amphetamines after they were found in the apartment she owned and regularly shared with her then partner, a convicted drug dealer. She denied having anything to do with the drugs.

After the High Court yesterday ordered a retrial, doubt has been cast on other drug trafficking convictions in similar circumstances, although a spokesman for the Attorney-General said early indications were that the number of cases affected was likely to be small.

Lawyers who spoke to The Age said the court’s decision could especially impede prosecutions where marijuana was grown hydroponically.

“It’s going to make it more difficult to prosecute trafficking offences,” Peter Faris, QC, said.

Momcilovic was found guilty in the County Court in 2008 under sections of the Drugs Act that said if a trafficable drug were found on the premises that you occupied, you were effectively in “possession” of them, unless you could satisfy a court otherwise.

This reversed the burden of proof that normally applies in criminal cases and makes it much easier to prosecute drug cases.

At her trial, Momcilovic’s partner gave evidence claiming possession of the drugs and backed her denial of any knowledge of the drugs found in her fridge. After a jury found her guilty, she appealed to the Court of Appeal, which said it was unable, under law, to set aside her conviction, though it reduced her sentence.

The Court of Appeal noted, however, that the law under which she was convicted shifted the burden of proof in such a way that it was an unjustified breach of her right to a presumption of innocence under Victoria's Charter of Human Rights.

The matter then wound its way to the nation's highest appellate court, which yesterday found by a majority in Momcilovic's favour. They said the burden of proof could not be shifted in the way it had been interpreted.

The ruling also raises questions about the operation of the much-debated charter, which is being reviewed by a state parliamentary committee.

Professor Sarah Joseph, of Monash University, said while the charter had been found valid, the case raised important questions about its practical workings.

Phil Lynch, of the Human Rights Law Centre, hailed the decision as an affirmation of the charter.

The decision was particularly important and timely in light of the Baillieu government's current review, he said.

2010 National Drug Strategy Household Survey report

released: 27 Jul 2011 author: AIHW

Summary

The 2010 National Drug Strategy Household Survey was conducted between late-April and early-September 2010. This was the 10th survey in a series which began in 1985, and was the fifth to be managed by the Australian Institute of Health and Welfare (AIHW). More than 26,000 people aged 12 years or older participated in the survey, in which they were asked about their knowledge of and attitudes towards drugs, their drug consumption histories, and related behaviours. Most of the analysis presented is of people aged 14 years or older, so that results can be compared with previous reports.

Use and attitudes

Tobacco

In 2010, the proportion of people aged 14 years or older smoking daily (15.1%) declined, continuing a downward trend that began in 1995. The decline in daily smoking was largest for those aged in their early-20s to mid-40s, while the proportion of those aged over 45 years who smoked daily remained relatively stable or slightly increased between 2007 and 2010. Despite the decline in the proportion of people in Australia smoking tobacco, the number of smokers has remained stable between 2007 and 2010, at about 3.3 million.

In the 12–17 years age group, girls were more likely to smoke daily than boys (3.2% to 1.8%). This was the only age group where females were more likely than males than to smoke daily.

Support for policies aimed at reducing harm caused by tobacco remained high in 2010. In particular, there were increasing levels of support for a rise in tax on tobacco

products to pay for health education and to contribute to treatment costs.

Alcohol

The proportion of the population aged 14 years or older who consumed alcohol daily declined between 2007 (8.1%) and 2010 (7.2%). However, there was little change in the proportion of people drinking alcohol at levels that put them at risk of harm over their lifetime (20.3% in 2007 and 20.1% in 2010), or from a single drinking occasion at least once a month (28.7% in 2007 and 28.4% in 2010). As the Australian population has increased, the number of people drinking at risky levels increased between 2007 and 2010. Around 7% of recent drinkers changed their drink preference, shifting away from pre-mixed spirits; this preference was particularly evident for those aged less than 29 years.

There was higher support in 2010 (compared with 2007) given to alcohol measures related to venues, such as restricted trading and limiting the number of venues. Abstainers and those drinking at low-risk levels were more likely than risky drinkers to support policies aimed at reducing alcohol-related harm.

Illicit drugs

Recent illicit drug use increased in 2010, mainly due to an increase in the proportion of people who had used cannabis (from 9.1% in 2007 to 10.3% in 2010), pharmaceuticals for non-medical purposes (3.7% to 4.2%), cocaine (1.6% to 2.1%) and hallucinogens (0.6% to 1.4%). However, recent ecstasy use decreased, and there was no change in the use of meth/amphetamines, heroin, ketamine, GHB, inhalants and injecting drug use.

Between 2007 and 2010, ecstasy and meth/amphetamines were perceived to be less readily available, with less opportunity to use, but cocaine, hallucinogens, pain-killers/analgesics (both prescription and over-the-counter) and tranquilisers/sleeping pills for non-medical purposes were perceived to be more readily available.

Of all illicit drugs, community tolerance has increased for cannabis use, while people in Australia still consider heroin to be the drug most associated with a drug problem.

Population groups

Sex and age

Males were far more likely than females to use all drugs (both illicit and licit), except for pharmaceuticals which were used by a similar proportion of males and females. Females were considerably less likely than males to drink alcohol daily and in quantities that placed them at risk of harm. Females were also more likely than males to support measures aimed at reducing problems associated with drug use, and to support penalties for the sale and supply of illicit drugs.

Across Australia, those aged 18–29 years were the most likely to report using illicit drugs and drinking alcohol at risky levels in the previous 12 months. The proportion of 12–17-year-olds abstaining from alcohol increased in

2010. Those aged 40–49 years were most likely to smoke daily.

Other groups

Patterns of drug use differ by other population characteristics depending on the drug type of interest. In general, high proportions of Aboriginal and Torres Strait Islander people smoked tobacco, drank alcohol at risky levels and used cannabis in the last 12 months compared with non-Indigenous Australians, as did people living in the Northern Territory compared with other states/territories. People living in *Remote* and *Very remote* areas were more likely to smoke and drink at risky levels, but less likely to use illicit drugs such as cocaine compared with those in *Major cities* and *Inner regional* areas. Other differences were apparent for people who were unemployed, identified as homosexual/bisexual, did not have post-school qualifications, and were never married, as well as for students.

Attitudes

People who used drugs generally had a more accepting attitudes towards drugs, and were less likely to support measures to reduce harm. Recent drug users (both licit and illicit), males, and younger people were all more likely to support policies that legalised drugs, and to approve of regular drug use, and showed less support for measures aimed at reducing harm associated with drugs.

In 2010, as in previous years, excessive alcohol use was mentioned more often than other drugs as being the most serious concern to the community, followed by tobacco and heroin. The proportion of people nominating marijuana, alcohol and tobacco as a ‘drug problem’ all decreased, whereas the proportion nominating cocaine, hallucinogens and pain killers increased.

Support for policies

Key findings

- In 2010, support for policies aimed at reducing harm caused by tobacco received the highest levels of support overall when compared with policies for alcohol, cannabis and heroin. Specifically, those involving minors were highly supported (88.8% supported stricter enforcement of the law against supplying cigarettes to minors and 86.6% supported stricter penalties for the sale and supply of tobacco products to minors).
- The most supported policy to reduce alcohol harm was to establish more severe penalties for drink driving (85.7%).
- Compared with 2007, there was more support in 2010 for alcohol measures related to venues, including monitoring late night venues (79.2%), restricting late night trade (63.9%), reducing trading hours (48.2%), and reducing the number of outlets (34.4%).
- About two-thirds of people aged 14 years or older supported the use of cannabis for medicinal purposes (68.8%), or did not think possession of cannabis should be a criminal offence (66.0%). In addition, 24.8%

thought that cannabis should be made legal, and 38.0% indicated that they thought possession should result in a caution/warning or no action.

- Between the sexes, higher proportions of females than males supported measures aiming to reduce problems associated with drug use, and penalties for the sale and supply of illicit drugs. Conversely, males gave higher support to legalising personal use of illicit drugs.

Table 13.11: Support(a) for measures to reduce the problems associated with heroin, people aged 14 years or older (per cent)

Measure	Aust
Needle and syringe programs	68.5
Methadone maintenance programs	69.3
Treatment with drugs other than methadone	69.4
Regulated injecting rooms	51.5
Trial of prescribed heroin	34.8
Rapid detoxification therapy	77.9
Use of Naltrexone	75.5

(a) Support or strongly support (calculations based on those respondents who were informed enough to indicate their level of support).

My Comment

Bill Colley

The Australian constitution gives States the constitutional power to make laws for peace, order and good governance to all without favour.

Why then do all governments refuse to provide such laws for the good governance of the drug industry? Both major parties take donations from the alcohol industry but, when in government, jail and criminalise citizens who exercise a choice for other drugs.

I see this as a form of corruption at the highest level and I have no confidence in this current two party political system to ever consider reform of drug laws.

Hence I announce my candidacy for the Queensland state seat of Noosa in the upcoming state election. My major policies will relate to consumption of alcohol and other drugs, gambling, tobacco products, euthanasia and abortion.

I see merit in a regulatory licencing system which I believe will result in large improvements in public health, a large reduction in crime and its associated costs, and increased revenue for the public coffers. My policy is available on my Facebook site.

So far in Australian history the people have never been given a chance to decide on this issue, and I am proud to be the first political candidate to give the people of my home town, Noosa, the chance to be the first people in history to end this unjust war with their votes.

Bill Colley, independent candidate for Noosa.